SENATE DOCKET, NO. 1948 FILED ON: 4/28/2011

SENATE . . . . . No. 1900

The Commonwealth of Massachusetts

PRESENTED BY:

Therese Murray

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Therese Murray	
Kenneth J. Donnelly	
Brian A. Joyce	*Norfolk, Bristol, and Plymouth*
Richard T. Moore	
Mark C. Montigny	
Bruce E. Tarr	
Michael R. Knapik	
Robert L. Hedlund	
Richard J. Ross	*Norfolk, Bristol, and Middlesex*

SENATE DOCKET, NO. 1948 FILED ON: 4/28/2011

SENATE . . . . . No. 1900

By Ms. Murray, a petition (accompanied by bill, Senate, No. 1900) of Therese Murray, Kenneth J. Donnelly, Brian A. Joyce, Richard T. Moore and other members of the General Court for legislation to improve the administration of state government and finance. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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

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

SECTION 1. The General Laws are hereby amended by inserting after chapter 3 the following chapter:-

CHAPTER 3A.

THE SUNSET ACT.

Section 1. There is hereby established a procedure for the identification and elimination of waste, duplication and inefficiency in state government agencies and authorities established by statute, regulation or executive order to be known as the Sunset Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Advisory committee", a committee, council, commission or other entity established under state law whose primary function is to advise a state agency.

12 “ Agency”, an agency as defined in section 1 of chapter 29.

13 " Authority", an authority as defined in section 1 of chapter 29.

14 “Commission”, the Sunset Advisory Commission established in section 3.

15 Section 3.

16 (a) There shall be a Sunset Advisory Commission consisting of 3 members of the senate,
17 1 of whom shall be appointed by the minority leader of the senate, 3 members of house, 1 of
18 whom shall be appointed by the minority leader of the house of representatives, 1 member from
19 the Pioneer Institute, 1 member from Common Cause, 1 member from the McCormack Institute
20 for Public Affairs and one member from the Associated Industries of Massachusetts. The
21 president of the senate and the speaker of the house may serve as legislative appointees.

22 (b) An individual shall not be eligible for appointment as a public member if the
23 individual or the individual’s spouse is:

24 (1) employed by an agency, advisory committee or authority that the commission
25 will review during the term for which the individual would serve;

26 (2) employed by, participating in the management of, or having, directly or
27 indirectly, more than a 10 per cent interest in a business entity or other organization regulated by
28 an agency, advisory committee or authority that the commission will review during the term for
29 which the individual would serve; or

30 (3) required to register as an executive or legislative agent under section 41 of
31 chapter 3.

32 (c) A public member of the commission shall be removed if the member does not have
33 the qualifications required by subsection (b) for appointment to the commission at the time of
34 appointment or does not maintain the qualifications while serving on the commission; provided,
35 however that the validity of the commission's action shall be unaffected if taken when a ground
36 for removal of a public member from the commission exists.

37 (d) Legislative members shall serve 2-year terms, conterminous with their service as
38 elected members of the legislature. If a legislative member ceases to be a member of the
39 legislature, the legislator's position shall be declared vacant, and the balance of the term filled by
40 another legislator appointed in the same manner as the previous appointee. If the president of the
41 senate or the speaker of the house serves on the commission, service continues until resignation
42 from the commission or until the individual ceases to hold the office. Public members shall
43 serve 2-year terms expiring January 1 of each odd-numbered year.

44 (e) Members other than the president of the senate and the speaker of the house are
45 subject to the following restrictions:

46 (1) after a public member serves 6 consecutive years on the commission, the
47 individual shall not be eligible for appointment to another term or part of a term until the
48 expiration of 2 years;

49 (2) a legislative member who serves a full term may not be appointed to an
50 immediately succeeding term; and

51 (3) a public member may not serve more than 3 consecutive 2-year terms;
52 provided, however, that, for purposes of this prohibition, a member is considered to have served
53 a term only if the member has served more than half of the term.

54 (f) The president of the senate and the speaker of the house shall make their appointments
55 before February 1 of each odd-numbered year.

56 (g) If a legislative member ceases to be a member of the house from which the member
57 was appointed, the seat held by that member shall be considered vacant.

58 (h) If a vacancy occurs, the appropriate appointing authority shall appoint a person to
59 serve for the remainder of the unexpired term in the same manner as the original appointment.

60 (i) The commission shall have a chair and a vice-chair as presiding officers. The chair
61 and vice-chair positions must alternate every 2 years between the 2 membership groups
62 appointed by the president of the senate and the speaker of the house. The chair and vice-chair
63 shall not be from the same membership group. The president of the senate shall designate a
64 presiding officer from the president's appointed membership group and the speaker shall
65 designate the other presiding officer from the speaker's appointed membership group.

66 (j) Seven members of the commission shall constitute a quorum. A final action or
67 recommendation may not be made unless approved by a recorded roll call vote of a majority of
68 members appointed by the president of the senate and the speaker of the house. All other actions
69 by the commission shall be decided by a majority of the members present and voting, so long as
70 a quorum is present.

71 (k) Subject to appropriation, each public member of the commission shall be entitled to
72 reimbursement for actual and necessary expenses incurred in performing commission duties.

73 Section 5. The commission shall adopt rules necessary to carry out this chapter.

74 Section 6. Before July 1 of the odd-numbered year before the year in which an agency,
75 advisory committee or authority subject to this chapter is abolished, the agency, advisory
76 committee or authority shall report to the commission:

77 (1) information regarding the application to the agency, advisory committee or authority
78 of the criteria set forth in section 10; and

79 (2) any other information that the agency, advisory committee or authority considers
80 appropriate or that the commission requests.

81 Section 7. (a) Within 1 year of the appointment and qualification of the members of the
82 commission, and the organization of the commission staff, the commission shall assign sunset
83 dates for each agency, authority and advisory committee of the commonwealth, and shall notify
84 the head of such agency, authority and advisory committee of the date selected. The commission
85 shall then file legislation with the general court to implement the abolition schedule.

86 (b) Before January 1 of the year in which an agency, advisory committee or authority
87 subject to this chapter is scheduled to be abolished, the commission shall:

88 (1) review and take action necessary to verify the reports submitted by the agency,
89 advisory committee or authority under this chapter;

90 (2) consult the house and senate committees on post audit and oversight, the state
91 auditor, the inspector general and the state comptroller, or their successors, on the application to
92 the agency, advisory committee or authority of the criteria in section 10;

93 (3) conduct a review of the agency, advisory committee or authority based on the
94 criteria in section 10 and prepare a written report; and

95 (4) review the implementation of commission recommendations contained in the
96 reports presented to the legislature during the preceding legislative session and the resulting
97 legislation.

98 (c) The written report prepared by the commission under clause (3) of subsection (b) shall
99 be a public record.

100 Section 8. (a) Before February 1 of the year in which an agency, advisory committee or
101 authority subject to this chapter and is to be abolished, the commission shall conduct public
102 hearings concerning, but not limited to, the application to the agency, advisory committee or
103 authority of the criteria in section 10.

104 (b) The commission may hold the public hearings after the review of the agency,
105 advisory committee or authority is complete and available to the public.

106 Section 9. (a) At each regular legislative session, the commission shall present to the
107 legislature and the governor a report on the agencies, authorities and advisory committees
108 reviewed.

109 (b) In the report the commission shall include:

110 (1) its findings under section 10;

111 (2) its recommendations under this chapter; and

112 (3) other information the commission considers necessary for a complete review
113 of the agency, advisory committee or authority.

114 Section 10. The commission and its staff shall consider the following criteria in
115 determining whether a public need exists for the continuation of a state agency, authority or
116 advisory committee or for the performance of the functions of the agency, authority or advisory
117 committee:

118 (1) the efficiency and effectiveness with which the agency, authority or advisory
119 committee operates;

120 (2) (a) an identification of the mission, goals, and objectives intended for the agency,
121 authority or advisory committee and of the problem or need that the agency, authority or
122 advisory committee was intended to address; and

123 (b) the extent to which the mission, goals and objectives have been achieved and the
124 problem or need has been addressed;

125 (3) (a) an identification of any activities of the agency, authority or advisory committee in
126 addition to those granted by statute and of the authority, agency or advisory committee for those
127 activities; and

128 (b) the extent to which those activities are needed;

129 (4) an assessment of authority of the agency, authority or advisory committee relating to
130 fees, inspections, enforcement and penalties;

131 (5) whether less restrictive or alternative methods of performing a function that the
132 agency, authority or advisory committee performs could adequately protect or provide service to
133 the public;

134 (6) the extent to which the jurisdiction of the agency, authority or advisory committee
135 and the programs administered by the agency, authority or advisory committee overlap or
136 duplicate those of other agencies, authorities or advisory committees, the extent to which the
137 agency, authority or advisory committee coordinates with those agencies, authorities or advisory
138 committees, and the extent to which the programs administered by the agency, authority or
139 advisory committee can be consolidated with the programs of other authorities, agencies or
140 advisory committees;

141 (7) the promptness and effectiveness with which the agency, authority or advisory
142 committee addresses complaints concerning entities or other persons affected by the agency,
143 authority or advisory committee, including an assessment of the agency's, authority's or advisory
144 committee's administrative hearings process;

145 (8) an assessment of the agency's, authority's or advisory committee's rulemaking
146 process and the extent to which the agency, authority or advisory committee has encouraged
147 participation by the public in making its rules and decisions and the extent to which the public
148 participation has resulted in rules that benefit the public;

149 (9) the extent to which the agency, authority or advisory committee has complied with:

150 (a) federal and state laws and applicable rules regarding equality of employment
151 opportunity and the rights and privacy of individuals; and

152 (b) state law and applicable rules of any state agency, authority or advisory
153 committee regarding purchasing guidelines and programs for historically underutilized
154 businesses;

155 (10) the extent to which the agency, authority or advisory committee issues and enforces
156 rules relating to potential conflicts of interest of its employees and chapter 268A;

157 (11) the extent to which the agency or authority complies with chapters 66 and 66A and
158 follows records management practices that enable the agency to respond efficiently to requests
159 for public information;

160 (12) the effect of federal intervention or loss of federal funds if the agency, authority or
161 advisory committee is abolished;

162 (13) the extent to which the authority has issued bonds or otherwise incurred similar
163 long-term obligations, the amount of outstanding bonded indebtedness for which the authority is
164 responsible and the sustainability of another authority assuming responsibility for such long-term
165 obligations;

166 (14) whether the authority is responsible for a retirement system for its employees, and
167 the extent of the authority's obligations and available funding under such retirement system and
168 for other post-employment benefits for retired employees; and

169 (15) whether the agency, authority or advisory committee utilizes an open and
170 competitive bid process for third party contracts related to legal representation, bonds and fiscal
171 management.

172 Section 11. (a) In its report on an agency, authority or advisory committee, the
173 commission shall:

174 (1) make recommendations on the abolition, continuation or reorganization of
175 each affected agency, authority or advisory committee, and on the need for performance of the
176 functions of the agency, authority or advisory committee;

177 (2) make recommendations on the consolidation, transfer or reorganization of
178 programs within agencies or authorities not under review when the programs duplicate functions
179 performed in agencies or authorities under review;

180 (3) make recommendations to improve the operations of the agency, its policy
181 body, authority or advisory committee, including management recommendations that do not
182 require a change in the agency's or authority's enabling statute; and

183 (4) make recommendations to improve the efficiency and transparency in third
184 party contract awards related to legal representation, bonds and fiscal management, including,
185 but not limited to, recommending utilization of an open and competitive bid process.

186 (b) The commission shall include the estimated fiscal impact of its recommendations and
187 may recommend appropriation levels for certain programs to improve the operations of the
188 agency, authority or advisory committee, to be forwarded to the house and senate committees on
189 ways and means and the executive office for administration and finance.

190 (c) The commission shall prepare drafts of legislation to carry out the commission's
191 recommendations under this section.

192 (d) After the legislature acts on the report, the commission shall present to the secretary
193 of administration and finance, the commission's recommendations that do not require a statutory
194 change to be put into effect.

195 Section 12. In the 2-year period preceding the date scheduled for the abolition of a state
196 agency, authority or advisory committee under this chapter, the commission may exempt certain
197 agencies, authorities or advisory committees from the requirements of this chapter relating to
198 staff reports, hearings, and reviews.

199 (a) The commission may only exempt an agency, authority or advisory committee
200 that has been inactive for a period of 2 years preceding the date the agency, authority or advisory
201 committee is scheduled for abolition or that has been rendered inactive by an action of the
202 legislature.

203 (b) The commission's action in exempting an agency, authority or advisory
204 committee under this section must be done by an affirmative record vote and must be decided by
205 a majority of all members present and voting.

206 Section 13. During each legislative session, the staff of the commission shall monitor
207 legislation affecting agencies, authorities and advisory committees that have undergone sunset
208 review and shall periodically report to the members of the commission on proposed changes
209 which would modify prior recommendations of the commission.

210 Section 14. An advisory committee, the primary function of which is to advise a
211 particular agency or authority, shall be abolished on the date set for abolition of the agency or
212 authority unless the advisory committee shall have been expressly continued by law.

213 Section 15. (a) During the annual session immediately before the abolition of an agency,
214 authority or an advisory committee that is subject to this chapter, the legislature may continue the
215 agency, authority or advisory committee for a period not to exceed 12 years.

216 (b) This chapter shall not prohibit the legislature from:

217 (1) terminating a state agency, authority or advisory committee subject to this
218 chapter at a date earlier than that provided in this chapter; or

219 (2) considering other legislation relative to a state agency, authority or
220 advisory committee subject to this chapter.

221 Section 16.

222 (a) An agency, authority or advisory committee that is abolished in an odd-numbered
223 year may continue in existence until June 30 of the following year to conclude its business.
224 Unless the law provides otherwise, abolition does not reduce or otherwise limit the powers and
225 authority of the agency or authority during the concluding year. An agency or authority is
226 terminated and shall cease all activities at the expiration of the 1-year period. Unless the law
227 provides otherwise, all rules that have been adopted by the agency or authority expire at the
228 expiration of the 1-year period.

229 (b) An un-obligated or unexpended appropriation of an abolished agency or advisory
230 committee shall lapse on September 1 of the year after abolition.

231 (c) Except as provided by subsection (f) or as otherwise provided by law, all money
232 in a dedicated fund of an abolished state agency, authority or advisory committee on September
233 1 of the year after abolition shall be transferred to the General Fund. The part of the law
234 dedicating the money to a specific fund of an abolished agency becomes void on September 1 of
235 the year after abolition.

236 (d) Unless otherwise provided otherwise, an abolished state agency, authority or
237 advisory committee funded by the legislature may not spend or obligate any of the money
238 appropriated beyond 1 year from the date of abolition.

239 (e) Unless the governor designates an appropriate agency as prescribed by subsection
240 (f), property and records in the custody of an abolished state agency, authority or advisory
241 committee on September 1 of the year after abolition shall be transferred to the state archives. If
242 the governor designates an appropriate agency, the property and records shall be transferred to
243 the designated agency.

244 (f) The legislature recognizes the state's continuing obligation to pay bonded
245 indebtedness and all other obligations, including lease, contract, and other written obligations,
246 incurred by an agency or authority abolished under this chapter, and this chapter shall not impair
247 or impede the payment of bonded indebtedness and all other obligations, including lease,
248 contract and other written obligations, in accordance with their terms. If an abolished agency or
249 authority has outstanding bonded indebtedness or other outstanding obligations, including lease,
250 contract or other written obligations, the bonds and all other obligations, including lease, contract
251 and other written obligations shall remain valid and enforceable in accordance with their terms
252 and subject to all applicable terms and conditions of the laws and proceedings authorizing the
253 bonds and all other obligations, including lease, contract and other written obligations. The
254 governor shall designate an appropriate agency or authority that shall continue to carry out all
255 covenants contained in the bonds and in all other obligations, including lease, contract and other
256 written obligations, to complete the construction of projects or the performance of other
257 obligations, including lease, contract, and other written obligations. The designated agency or
258 authority shall provide payment from the sources of payment of the bond under the terms of the

259 bonds and shall provide payment from the sources of payment of all other obligations, including
260 lease, contract and other written obligations, under their terms, whether from taxes, revenues, or
261 otherwise, until the bonds and interest on the bonds are paid in full and all other obligations,
262 including lease, contract and other written obligations, are performed and paid in full. If the
263 proceedings so provide, all funds established by laws or proceedings authorizing the bonds or
264 authorizing other obligations, including lease, contract and other written obligations, shall remain
265 with the comptroller or the previously designated trustees. If the proceedings do not provide that
266 the funds remain with the comptroller or the previously designated trustees, the funds shall be
267 transferred to the designated agency or authority.

268 Section 17. (a) The commission may issue a subpoena to compel the attendance of
269 witnesses and the production of books, records, papers and other objects necessary or proper for
270 the purposes of the commission proceedings. The subpoena may be served on a witness at any
271 place in the commonwealth.

272 (b) If a majority of the commission directs the issuance of a subpoena, the chairman
273 shall issue the subpoena in the name of the commission.

274 (c) If the chairman is absent, the chairman's designee may issue a subpoena or other
275 process in the same manner as the chairman.

276 (d) If necessary to obtain compliance with a subpoena or other process, the
277 commission may issue attachments. The attachments may be addressed to and served by a
278 constable, sheriff or deputy sheriff in the commonwealth.

279 (e) Testimony taken under subpoena must be reduced to writing and given under oath
280 subject to the penalties of perjury.

281 (f) A witness who attends a commission proceeding under process shall be paid the
282 same fees and mileage paid witnesses in courts of the commonwealth.

283 Section 18. (a) The commission may request the assistance of agencies. When assistance
284 is requested, an agency or an agency officer shall reasonably assist the commission.

285 (b) In carrying out its functions under this chapter, the commission or its designated
286 staff member may inspect the records, documents and files of any agency or authority.

287 Section 19. (a) A working paper, including all documentary or other information,
288 prepared and maintained by the commission staff in performing its duties under this chapter or
289 other law to conduct an evaluation and prepare a report is exempted from the public disclosure
290 requirements of chapter 66.

291 (b) A record held by another entity that is considered to be confidential by law and
292 that the commission receives in connection with the performance of the commission's functions
293 under this chapter or another law remains confidential and is exempted from the public
294 disclosure requirements of chapter 66.

295 Section 20. If an employee is displaced because an agency, authority or advisory
296 committee is abolished, reorganized or continued, the head of the agency, authority or advisory
297 committee and the personnel administrator of the commonwealth shall make a reasonable effort
298 to relocate the displaced employee. Except as otherwise expressly provided, abolition of an
299 agency, authority or advisory committee shall not affect the rights and duties that matured,
300 penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were
301 begun before the effective date of abolition.

302 Section 21. (a) Each bill filed in the legislature that would create a new agency, authority
303 or advisory committee to an agency shall be reviewed by the commission.

304 (b) The commission shall review the bill to determine whether:

305 (1) the proposed functions of the agency, authority or committee could be
306 administered by 1 or more existing agencies, authorities or advisory committees;

307 (2) the form of regulation, if any, proposed by the bill is the least restrictive
308 form of regulation that will adequately protect the public;

309 (3) the bill provides for adequate public input regarding any regulatory
310 function proposed by the bill; and

311 (4) the bill provides for adequate protection against conflicts of interest within
312 the agency, authority or advisory committee.

313 (c) On request, the commission shall forward a written comment on the legislation to
314 the author of the bill and to the presiding officer of the legislative committee to which the bill has
315 been referred.

316 Section 22. (a) The commission may accept from any source any grant, donation, gift or
317 other form of conveyance of land, money, other real or personal property or other item of value
318 made to the commonwealth or the commission for carrying out the purpose of this section and
319 sections 1 to 21, inclusive.

320 SECTION 2. Chapter 5 of the General Laws is hereby repealed.

321 SECTION 3. Chapter 6 of the General Laws is hereby amended by striking out section 5,
322 as appearing in the 2008 Official Edition, and inserting in place thereof the following section:

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

326 SECTION 4. Sections 6 to 7, inclusive, of said chapter 6 are hereby repealed.

327 SECTION 5. Section 10 of said chapter 6, as so appearing, is hereby amended by striking
328 out the last sentence.

329 SECTION 6. Section 11 of said chapter 6 is hereby repealed.

330 SECTION 7. Section 12 of said chapter 6, as so appearing, is hereby amended by striking
331 out, in lines 3 and 4, the words "and council, who shall approve such claims before they are sent
332 to the comptroller".

333 SECTION 8. Section 97 of said chapter 6, as so appearing, is hereby amended by striking
334 out, in line 4, the words ", with the advice and consent of the council".

335 SECTION 9. Said section 97 of said chapter 6, as so appearing, is hereby further
336 amended by striking out, in line 13, the words "commission on" and inserting in place thereof the
337 following words:- secretary of.

338 SECTION 10. Section 1 of chapter 6A of the General Laws, as so appearing, is hereby
339 amended by striking out the definition of "State agency" and inserting in place thereof the
340 following definition:-

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

342 SECTION 11. Section 4 of said chapter 6A, as so appearing, is hereby amended by
343 striking out, in lines 13 and 14, the words “sections two C, three, three A, four, nine B and
344 twenty-nine of.”

345 SECTION 12. Said chapter 6A is hereby further amended by inserting after section 4 the
346 following section:-

347 Section 4A. Each secretary shall establish a performance measurement system for the
348 agencies within the executive office, which shall establish program goals, measure program
349 performance against those goals and report publicly on progress to improve the effectiveness of
350 the programs offered by the agencies within the executive office, service delivery and policy
351 decision-making. The performance measurement system shall require each agency to develop a
352 strategic plan for program activities and performance goals. Each executive office shall report
353 results from its performance measurement system to the office for performance management and
354 innovation in the executive office of administration and finance, established under section 4R of
355 chapter 7.

356 SECTION 13. Section 6 of said chapter 6A, as appearing in the 2008 Official Edition, is
357 hereby amended by striking out, in lines 1 and 2, the words “commissioner of administration”
358 and inserting in place thereof the following words:- secretary of administration and finance.

359 SECTION 14. Said section 6 of said chapter 6A, as so appearing, is hereby further
360 amended by striking out the last sentence and inserting in place thereof the following sentence:-
361 All such funds may be expended by the secretary, in accordance with chapter 29 and any rules or
362 regulations promulgated thereunder.

363 SECTION 15. Section 16 of said chapter 6A, as so appearing, is hereby amended by
364 striking out the seventh paragraph.

365 SECTION 16. Section 1 of chapter 7 of the General Laws, as so appearing, is hereby
366 amended by striking out the definitions of “Commissioner” and “Finance committee”.

367 SECTION 17. Said section 1 of said chapter 7, as so appearing, is hereby further
368 amended by adding the following definition:-

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

370 SECTION 18. Said chapter 7 is hereby amended by striking out section 2, as so
371 appearing, and inserting in place thereof the following section:-

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

374 SECTION 19. Section 3B of said chapter 7, as so appearing, is hereby amended by
375 striking out the first 3 paragraphs.

376 SECTION 20. Said section 3B of said chapter 7, as so appearing, is hereby further
377 amended by striking out in lines 26 to 28, inclusive, the words “Notwithstanding any other
378 general or special law to the contrary, for the period beginning March first, nineteen hundred and
379 ninety-one, the secretary of administration” and inserting in place thereof the following words:-
380 Each fiscal year, in accordance with a schedule promulgated by the secretary, the secretary:.

381 SECTION 21. Said section 3B of said chapter 7, as so appearing, is hereby further
382 amended by striking out, in line 45, the words “of administration and finance”.

383 SECTION 22. The fourth sentence of the fourth paragraph of said section 3B of said
384 chapter 7, as so appearing, is hereby amended by striking out the last sentence.

385 SECTION 23. Said chapter 7 is hereby further amended by inserting after section 3B the
386 following 3 sections:-

387 Section 3D. The state purchasing agent shall supervise the state printing and all
388 publications by the commonwealth shall be printed under his direction; provided, that the
389 foregoing provisions shall not apply to topographic maps issued by state departments, to
390 legislative printing or to publications required to be issued by the state secretary under sections
391 two to four, inclusive, or under chapter ninety of the resolves of nineteen hundred and twenty or
392 any other special provision of law. All publications by the commonwealth shall be distributed
393 under the direction of the state secretary unless otherwise provided.

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

397 Section 3F. Each state agency shall also provide 2 copies of its publication, as defined in
398 section 39 of chapter 6 to the state secretary, 1 of which shall be retained for 2 years as a
399 reference copy. The state secretary shall determine which publications are of sufficient public
400 interest and may then either provide for electronic availability of such publications, reproduce
401 the publications in appropriate quantities or acquire the publications in appropriate quantities
402 directly from the issuing agency, at the cost of printing, for distribution by said secretary.

403 SECTION 24. Section 4 of said chapter 7, as appearing in the 2008 Official Edition, is
404 hereby amended by striking out the first sentence and inserting in place thereof the following
405 sentence:- The governor shall appoint the secretary of administration and finance.

406 SECTION 25. Said chapter 7 is hereby further amended by striking out section 4A, as so
407 appearing, and inserting in place thereof the following section:-

408 Section 4A. The executive office for administration and finance shall include a division
409 of capital asset management and maintenance, which shall be headed by a commissioner as
410 provided in chapter 7B, and a department of revenue as provided in chapter 14. In addition, the
411 executive office for administration and finance shall include the following divisions: human
412 resources, information technology, fiscal affairs and operational services, which divisions shall
413 develop policy and standards to govern the conduct of commonwealth secretariats, departments,
414 agencies, boards and commissions in each of these areas, and shall provide expertise and
415 centralized processing to said secretariats, departments, agencies, boards, commissions and other
416 entities of state government.

417 (a) The operational services division shall be headed by a state purchasing agent who
418 shall also serve as assistant secretary for operational services. The state purchasing agent shall
419 be appointed by the secretary with the approval of the governor. The state purchasing agent shall
420 give bond to the state treasurer in a sum fixed by the governor for the faithful performance of the
421 purchasing agent's duties and for the rendering of a proper account of all money entrusted to the
422 purchasing agent for the use of the commonwealth. The purchasing agent may establish within
423 the division such bureaus and other units as are deemed necessary by the commissioner of
424 administration to carry out the functions of the division. Such functions shall include, but not be

425 limited to, the management of the acquisition of all goods, supplies, equipment and services,
426 excepting the acquisition of such goods, supplies, equipment and services as otherwise provided
427 for in any general or special law or in any administrative rule or regulation promulgated by the
428 secretary, the provision of assistance and advice for such acquisitions, the administration of the
429 state and federal surplus property programs, the administration of the collective purchasing
430 program for the political subdivisions of the commonwealth, the administration and management
431 of reproduction facilities, the management of state acquired vehicles including the use and
432 maintenance of such vehicles and such other functions as the purchasing agent, with the approval
433 of the secretary, may from time to time deem necessary for the efficient and economical
434 administration of the work of said division. The operational services division may charge and
435 collect from statewide contractors a statewide contract administrative fee, to be established by
436 the executive office for administration and finance; provided, however, that such fee shall not
437 exceed 1 per cent of the total value of a contract awarded to a statewide contractor.

438 (b) The human resources division shall he headed by a personnel administrator who shall
439 also serve as assistant secretary for human resources. The personnel administrator shall be
440 appointed by the secretary with the approval of the governor. Such personnel administrator shall
441 be a person familiar with the principles and experienced in the methods and practices of
442 personnel administration. The personnel administrator shall serve for a term of 4 years, which
443 term shall end on June 30 of the first year of the term of the governor, except that the personnel
444 administrator may be removed by the secretary, with the prior approval of the governor. A
445 person so appointed shall serve until the qualification of the administrator's successor; provided,
446 however, that in the case of a person appointed to fill a vacancy occurring during the prescribed
447 term by reason of death, resignation or otherwise, the term of the successor in said office shall

448 end on the next succeeding June 30 of the first year of the term of the governor. Within the
449 human resources division shall also be the state office of affirmative action, the office of
450 employee relations, the office of dispute resolution and the office of workers' compensation
451 administration.

452 (c) The information technology division shall be headed by the chief information officer
453 who shall also serve as assistant secretary for information technology. The chief information
454 officer shall be appointed by the secretary. The chief information officer shall carry out such
455 functions as the commissioner may deem necessary for the efficient and economical
456 administration of information technology systems within the executive departments including,
457 but not limited to, setting information technology standards, reviewing and approving secretariat
458 and department information technology strategic plans, reviewing and approving the planning,
459 design, acquisition and operation of information technology systems, assessing the performance
460 of information technology systems and operations, managing central information technology
461 systems, and managing the commonwealth's mailing operations. The chief information officer
462 may establish such bureaus, offices and other functional units within the division as the chief
463 information officer deems appropriate.

464 The division shall include an office of geographic information through which the chief
465 information officer shall develop, maintain, update and distribute geographic information,
466 technology, data and services for use by state agencies, municipalities and the public. The office
467 shall coordinate all geographic information activities in state and local government, and shall
468 collect, manage and distribute geographic information maintained by state agencies and local
469 government agencies. It shall also provide technical services related to geographic information
470 to state agencies and municipalities. The chief information officer shall set standards for the

471 acquisition, management and reporting of geographical information and the acquisition, creation
472 or use of applications employing such information, by any executive department agency, and the
473 reporting of such information by municipalities.

474 (d) Except in the case of agencies named in section 4G, the secretary may also establish
475 within the executive office for administration and finance such other bureaus, sections and other
476 administrative units not otherwise established by law as may be necessary for the efficient and
477 economical administration of the work of said office and when necessary for such purpose, the
478 secretary may abolish any bureau, section or other unit or merge any 2 or more of them. The
479 secretary shall prepare and keep current a general statement of the organization of said office and
480 of the assignment of functions to its various administrative units, officials and employees. The
481 general statement shall be known as the Description of Organization of said office and shall be
482 kept on file in said office. A copy shall be kept on file in the office of the governor.

483 (e) If a new governmental mandate effective on or after July 1, 2004 is imposed upon a
484 contractor providing a social service program, as defined in section 274 of chapter 110 of the
485 acts of 1993, to a governmental unit, as defined in said section 274 of said chapter 110, and
486 compliance with such governmental mandate has or will have a material adverse financial impact
487 on the contractor, except a contractor for goods or services related to special education as defined
488 in section 1 of chapter 71B, the governmental unit shall negotiate a contract amendment with the
489 contractor to increase the maximum obligation amount or unit price to offset the material adverse
490 financial impact of the new governmental mandate; provided, that the contractor furnishes
491 substantial evidence to the governmental unit of such material adverse financial impact along
492 with a request to renegotiate based on a new governmental mandate.

493 For the purposes of this subsection, a “new governmental mandate" shall mean a statutory
494 requirement, administrative rule, regulation, assessment, executive order, judicial order or other
495 governmental requirement that was not in effect when the contract was originally entered into
496 and directly or indirectly imposes an obligation upon the contractor to take any action or to
497 refrain from taking any action in order to fulfill its contractual duties.

498 For the purposes of this subsection, a “material adverse financial impact" shall mean: (1)
499 an increase in the reasonable costs to the contractor in performing the contract of the lesser of:
500 (i) 3 per cent of the maximum obligation amount or unit price of the contract; or (ii) $5,000, in
501 the aggregate as a result of all such mandates in effect during the contract year; or (2) an action
502 that affects the core purpose and primary intent of the contract.

503 Any contractor aggrieved by a decision of a governmental unit denying or failing to
504 negotiate a contract amendment to remedy a material adverse impact of a new governmental
505 mandate under this section may appeal such adverse decision to the division of administrative
506 law appeals under section 4H for a hearing and decision de novo on all issues. A contractor's
507 request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a
508 determination is not received within 30 days of the governmental unit's receipt of the request. A
509 contractor or governmental unit may appeal an adverse decision of the division of administrative
510 law appeals to the superior court, Suffolk division, under chapter 30A.

511 SECTION 26. Section 4D of said chapter 7 is hereby amended by striking out the first 2
512 paragraphs, as amended by section 9 of chapter 56 of the acts of 2010, and inserting in place
513 thereof the following 2 paragraphs:-

514 Except as otherwise provided by law, the secretary shall appoint all employees of the
515 executive office for administration and finance. Unless otherwise provided by law, all such
516 appointments shall be made in accordance with chapter 31; provided, however, that in staffing at
517 any time said office, the secretary may, without regard to chapter 31 but subject to the approval
518 of the governor, appoint such experts and other assistants in said office as the secretary shall
519 deem necessary; provided, that no person while holding any such appointment shall be subject to
520 section 9A of chapter 30. The secretary may, without regard to section 45 of chapter 30 or
521 chapter 31, but subject to approval of the governor, appoint no more than 4 assistant secretaries.
522 Each such assistant secretary shall be a person of ability and experience, shall devote the
523 assistant secretary's entire time to the duties of the assistant secretary's office, and shall receive
524 such salary as the commissioner shall determine, with the approval of the governor.

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

530 SECTION 27. Said chapter 7 is hereby further amended by striking out sections 4E and
531 4F, as appearing in the 2008 Official Edition, and inserting in place thereof the following
532 section:-

533 Section 4E. In addition to any powers provided in chapter 6A, in making any examination
534 or investigation authorized under this chapter, the secretary may require the production of books,
535 papers, contracts and documents in the custody of any agency other than those within the

536 executive office of administration and finance, which relate to any matter within the scope of
537 such examination or investigation.

538 SECTION 28. Section 4G of said chapter 7, as so appearing, is hereby amended by
539 striking out, in line 6, the words “the board of economic advisors.”

540 SECTION 29. Said chapter 7 is hereby amended by inserting after section 4Q the
541 following section:-

542 Section 4R. There shall be within the executive office of administration and finance an
543 office of performance management and innovation charged with overseeing and coordinating the
544 output of the performance measurement systems developed by each executive office under
545 section 4A of chapter 6A. The office shall report quarterly to the house and senate chairs of ways
546 and means, the house and senate chairs of post-audit and oversight and the chairs of the joint
547 committee on state administration and regulatory oversight the results reported by the
548 performance measurement systems and progress on implementing the systems by each executive
549 office.

550 SECTION 30. Said chapter 7 is hereby further amended by striking out section 5, as
551 appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

552 Section 5. The secretary may, with the consent of the governor, appoint a first deputy
553 commissioner of administration who shall also serve as undersecretary. The first deputy
554 commissioner shall be a person of ability and experience; shall serve at the pleasure of the
555 secretary; shall receive such salary as the secretary, with the approval of the governor, shall
556 determine, and, shall devote the first deputy commissioner’s entire time to the duties of the first
557 deputy commissioner’s office. The first deputy commissioner shall exercise such authority and

558 discharge such duties of the secretary as the secretary may delegate to the first deputy
559 commissioner; and in the absence or incapacity of the secretary or in the event of a vacancy in
560 the position of the secretary, the said first deputy commissioner shall act as the secretary until the
561 absence or incapacity shall have terminated or the vacancy shall have been filled.

562 SECTION 31. Sections 6B and 6E of said chapter 7 are hereby repealed.

563 SECTION 32. Section 7 of said chapter 7, as appearing in the 2008 Official Edition, is
564 hereby amended by striking out, in line 1, the words "commissioner of administration" and
565 inserting in place thereof the following word:- secretary.

566 SECTION 33. Said section 7 of said chapter 7, as so appearing, is hereby further
567 amended by striking out, in line 13, the word "commissioner" and inserting in place thereof the
568 following word:- secretary.

569 SECTION 34. Section 7A of said chapter 7, as so appearing, is hereby amended by
570 striking out, in line 1, the words "commissioner of administration is hereby authorized" and
571 inserting in place thereof the following words:- secretary may.

572 SECTION 35. Said section 7A of said chapter 7, as so appearing, is hereby further
573 amended by striking out, in line 5, the words "said commissioner" and inserting in place thereof
574 the following words:- the secretary.

575 SECTION 36. Section 8 of said chapter 7, as so appearing, is hereby amended by striking
576 out, in lines 2 and 3, the words "or of the council, or of the finance committee, the
577 commissioner" and inserting in place thereof the following words:- the secretary.

578 SECTION 37. Said chapter 7 is hereby further amended by striking out section 9, as so
579 appearing, and inserting in place thereof the following section:-

580 Section 9. On request of either branch of the general court or of the ways and means
581 committee of either branch, or of the governor, the secretary shall make a special examination of,
582 and give to them any information in the secretary's possession relative to, any matter affecting
583 the management or finances of any department, officer, commission or undertaking which
584 receives an annual appropriation of money from the commonwealth, including annual
585 appropriations to be met by assessments.

586 SECTION 38. Section 9A of said chapter 7, as so appearing, is hereby amended by
587 striking out in lines 1, 16 and 48, each time they appear, the words "of administration and
588 finance".

589 SECTION 39. Said section 9A of said chapter 7, as so appearing, is hereby further
590 amended by striking out, in lines 26 and 27, the words "provided in administrative bulletin 896
591 issued by the executive office of administration and finance" and inserting in place thereof the
592 following words:- established by the executive office for administration and finance through
593 administrative action.

594 SECTION 40. Said section 9A of said chapter 7, as so appearing, is hereby further
595 amended by striking out, in line 69, the words "division of capital asset management and
596 maintenance" and inserting in place thereof the following words:- operational services division.

597 SECTION 41. Said chapter 7 is hereby further amended by striking out sections 10 and
598 11, as so appearing, and inserting in place thereof the following 2 sections:-

599 Section 10. The secretary may make a special examination of the management or
600 finances of any department, officer, commission or undertaking which receives annual
601 appropriations of money from the commonwealth, including annual appropriations to be met by
602 assessments, and may report on the management or finances to the governor and to the general
603 court.

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

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

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

613 (1) attend;

614 (2) be sworn or to affirm;

615 (3) answer any question; or

616 (4) produce any book, contract, document or paper pertinent to the matter before
617 the secretary, a justice of the supreme judicial or the superior court, upon application by the
618 secretary, may issue an order requiring such person to appear before the secretary, and to

619 produce his books, contracts, documents and papers and to give evidence touching the matter in
620 question.

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

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

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

634 SECTION 42. Section 14C of said chapter 7, as appearing in section 8 of chapter 131 of
635 the acts of 2010, is hereby amended by striking out the definition of "Secretary".

636 SECTION 43. Section 22 of said chapter 7, as appearing in the 2008 Official Edition, is
637 hereby amended by striking out, in lines 1, 77, 89 and 90, and 111, the words "commissioner of
638 administration" and inserting in place thereof, in each instance, the following word:- secretary.

639 SECTION 44. Said section 22 of said chapter 7, as so appearing, is hereby further
640 amended by striking out, in lines 14 and 116, the word “commissioner” and inserting in place
641 thereof, in each instance, the following word:- secretary.

642 SECTION 45. Section 22B1/2 of said chapter 7 is hereby amended by striking out the
643 definition of “State authority”, as most recently amended by section 10 of chapter 25 of the acts
644 of 2009, and inserting in place thereof the following definition:-

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

646 SECTION 46. Section 22G of said chapter 7 is hereby amended by striking out the
647 definition of “State authority”, as amended by section 11 of said chapter 25, and inserting in
648 place thereof the following definition:-

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

650 SECTION 47. Section 28 of said chapter 7, as appearing in the 2008 Official Edition, is
651 hereby amended by striking out, in lines 6, 57 and 58, 65 and 66, and 72, the words
652 “commissioner of administration” and inserting in place thereof, in each instance, the following
653 word:- secretary.

654 SECTION 48. Said section 28 of said chapter 7, as so appearing, is hereby further
655 amended by striking out, in line 68, the word “industries” and inserting in place thereof the
656 following words:- workforce development.

657 SECTION 49. Section 28A of said chapter 7, as so appearing, is hereby amended by
658 striking out, in lines 8 and 9, the words “commissioner of administration” and inserting in place
659 thereof the following word:- secretary.

660 SECTION 50. Section 29 of said chapter 7, as so appearing, is hereby amended by
661 striking out in lines 1 and 2, the words “, including the board of education and the department of
662 education,”.

663 SECTION 51. Said section 29 of said chapter 7, as so appearing, is hereby further
664 amended by striking out, in line 18, the words “commissioner of administration” and inserting in
665 place thereof the following word:- secretary.

666 SECTION 52. Section 31A of said chapter 7, as so appearing, is hereby further amended
667 by striking out, in lines 2 and 3, the words “commissioner of administration” and inserting in
668 place thereof the following word:- secretary.

669 SECTION 53. Sections 38A1/2 to 43I, inclusive, of said chapter 7 are hereby repealed.

670 SECTION 54. Section 50 of said chapter 7, as appearing in the 2008 Official Edition, is
671 hereby amended by striking out, in line 2, the figure “4A” and inserting in place thereof the
672 following figure:- 49.

673 SECTION 55. Section 61 of said chapter 7, as appearing in section 2 of chapter 56 of the
674 acts of 2010, is hereby amended by striking out the words “section 40N of chapter 7”, each time
675 they appear, and inserting in place thereof the following words:- section 6 of chapter 7C.

676 SECTION 56. Section 1 of chapter 7A of the General Laws, as appearing in the 2008
677 Official Edition, is hereby amended by striking out the first sentence and inserting in place
678 thereof the following sentence:- There shall be an office of the comptroller which shall be an
679 independent state agency.

680 SECTION 57. Section 2 of said chapter 7A, as so appearing, is hereby amended by
681 striking out, in lines 2 and 3, the words “commissioner of administration” and inserting in place
682 thereof the following words:- secretary of administration and finance.

683 SECTION 58. Said chapter 7A is hereby further amended by striking out section 3, as so
684 appearing, and inserting in place thereof the following section:-

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

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

700 The comptroller may exclude from such certificate any amount otherwise due to any
701 person owing an overdue debt to the commonwealth or any agency of the commonwealth;

702 provided, however, that the head of such agency has filed with the comptroller a paper or
703 electronic affidavit specifying that such debt exists, the amount due and the name of the debtor.
704 Any such debt may be charged by the comptroller against any amount otherwise due from the
705 commonwealth to such debtor, subject to regulations promulgated by the comptroller. Such
706 regulations shall include, but not be limited to, the following requirements:

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

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

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

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

715 The comptroller shall not include on such certificate any amount for any account for
716 which an appropriation is required under section 6 of chapter 29 if no such appropriation or no
717 allotment has been made or if the amount of such appropriation and allotment for the current
718 fiscal year is insufficient to meet the amount of the demand. The comptroller is prohibited from
719 making or authorizing any spending authority to make a journal entry, so-called, between
720 accounts if the account ultimately to be charged had insufficient monies to support the entry at
721 the time the amount being entered was expended, unless prior notification of the intent to make
722 such a journal entry, indentifying the accounts involved and the amount of the entry, is sent to
723 the house and senate committees on ways and means. The comptroller is further prohibited from

724 certifying any amounts for payment in the event that there is an interim period at the beginning
725 of a fiscal year prior to the final passage of the fiscal year appropriation act or any interim
726 appropriation act, subject to the condition that any amounts otherwise authorized by law to be
727 paid during such interim period may be so certified by the comptroller.

728 SECTION 59. Section 4 of said chapter 7A is hereby repealed.

729 SECTION 60. Section 5 of said chapter 7A, as appearing in the 2008 Official Edition, is
730 hereby amended by striking out the first sentence and inserting in place thereof the following
731 sentence:- All bills and vouchers on which money has been or may be paid from the treasury
732 upon the certificate of the comptroller or the warrant of the governor shall be kept as prescribed
733 by the office of the comptroller; and all departments, offices, commissions and institutions
734 authorized to make contracts under which money may be payable from the treasury shall submit
735 as directed by the comptroller, before payment, certified copies of the contracts.

736 SECTION 61. The last sentence of said section 5 of said chapter 7A, as so appearing, is
737 hereby amended by adding the following words:- and for the smallest possible issuance of
738 revenue anticipation notes necessary under section 47 of chapter 29.

739 SECTION 62. Section 6 of said chapter 7A is hereby repealed.

740 SECTION 63. Section 8 of said chapter 7A, as appearing in the 2008 Official Edition, is
741 hereby amended by inserting after the word “accounts”, in line 5, the following words:- ,
742 including adjustments for current or prior periods.

743 SECTION 64. Said chapter 7A is hereby further amended by striking out section 10, as
744 so appearing, and inserting in place thereof the following section:-

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

750 SECTION 65. Section 11 of said chapter 7A, as so appearing, is hereby amended by
751 inserting after the word "equipped", in line 1, the following words:- , subject to appropriation,.

752 SECTION 66. Section 13 of said chapter 7A, as so appearing, is hereby amended by
753 striking out, in lines 1 and 2, the words "commissioner of capital asset management and
754 maintenance".

755 SECTION 67. Said chapter 7A is hereby further amended by striking out section 16 and
756 inserting in place thereof the following section:-

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

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

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

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

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

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

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

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

781 (D) any extraordinary factors warranting an adjustment in the discretion of
782 the comptroller;

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

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

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

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

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

799 SECTION 68. The General Laws are hereby amended by inserting after chapter 7B the
800 following chapter:-

801 CHAPTER 7C

802 CAPITAL ASSET MANAGEMENT AND MAINTENANCE

803 Section 1. As used in this chapter and chapter 29 of the General Laws, the following
804 words and terms shall have the following meanings, unless the context shall clearly indicate a
805 different meaning or intent:

806 (a) “acquisition”, obtaining by gift, purchase, devise, grant, eminent domain, rental,
807 rental-purchase, or otherwise;

808 (b) “addition, expansion and extension”, work which will result in an increase in the
809 overall external dimension of a facility;

810 (c) “administering agency”, the public agency acting on behalf of a using agency;

811 (d) “alteration”, work required to modify or adjust the interior space arrangement or other
812 physical characteristics of an existing facility so that it may be more effectively utilized for its
813 presently designated functional purpose;

814 (e) “building authority”, the University of Massachusetts Building Authority, the
815 Massachusetts State College Building Authority or any other building authority which may be
816 established for similar purposes;

817 (f) “capital facility”, a public improvement such as a building or other structure; a utility,
818 fire protection, and other major system and facility; a power plant facility and appurtenances; a
819 heating, ventilating, air conditioning or other system; initial equipment and furnishings for a new
820 building or building added to or remodeled for some other use; a public parking facility; an
821 airport or port facility; a recreational improvement such as a facility or development in a park or
822 other recreational facility; or any other facility which, by statute or under standards as they may
823 be prescribed from time to time by the commissioner of capital asset management and
824 maintenance, according to the provisions of this section, may be defined as such, provided
825 however that a highway improvement such as a highway, bridge or tunnel or other structure or
826 building integral to the operation of the Central Artery/Ted Williams Tunnel Project in the city
827 of Boston and the city of Cambridge; a transportation improvement such as a mass transportation
828 or other public transit facility, but not including a department of transportation building in the
829 Park Square area of the city of Boston, shall not be considered a capital facility as defined herein;

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

832 (g) “capital facility project”, an undertaking by a public agency for the planning,
833 acquisition, design, construction, demolition, installation, repair or maintenance of a capital
834 facility.

835 (g1/2) “building project”, a capital facility project undertaken for the planning,
836 acquisition, design, construction, demolition, installation, repair or maintenance of any building
837 and appurtenant structures, facilities and utilities, including initial equipment and furnishings
838 thereof; provided, however, that appurtenant buildings or structures which are required to be
839 constructed as integral parts of the development of sewer, water and highway systems shall not
840 be subject to section 46.

841 (h) “construction”, new construction, alteration, renovation, rehabilitation or other
842 activity that is intended to result in a significant increase in internal usable space;

843 (i) “control and supervision”, authority to perform or contract for performance;

844 (j) “conversion”, work required to modify or adjust the interior space arrangement or
845 other physical characteristics of an existing facility so that it may be effectively utilized for a
846 new functional purpose;

847 (k) “energy audit”, in-depth engineering analysis of factors causing energy waste in
848 building that investigates the amount and cost of energy waste and compares the energy waste
849 with the expense of remedying the energy waste on a cost-effective basis;

850 (l) “energy conservation projects”, projects to promote energy conservation, including but
851 not limited to energy conserving modification to windows and doors; caulking and
852 weatherstripping; insulation, automatic energy control systems; hot water systems; plant and
853 distribution system modifications including replacement of burners, furnaces or boilers; devices
854 for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant
855 system conversions; replacement or modification of lighting fixtures; energy recovery systems;
856 and, cogeneration systems;

857 (m) “maintenance”, day-to-day, routine, normally recurring repairs and upkeep;

858 (n) “master plan”, a study or description of a complex or group of buildings or any large
859 or multi-faceted project which is intended to ensure that the various components of the complex
860 shall be compatible with each other, and that the project as a whole shall be compatible with its
861 surroundings;

862 (o) “oversight”, control and supervision, except for final approval of any contract, pre-
863 design or design document or any alteration or modification thereof, payment, certificate of
864 substantial completion, use and occupancy, or final acceptance;

865 (p) “planning”, in reference to a particular capital facility project, the preparation of a
866 master plan, study, program or similar report or analysis the purpose of which is to define the
867 content, cost, and schedule of the project so as to establish a frame of reference prior to design,
868 acquisition, construction, demolition, installation, or maintenance;

869 (q) “program”, a document which defines a capital facility project in terms of its content,
870 time, and cost so that it provides a clear and detailed frame of reference for the design and
871 implementation process, the preparation of such document involving the gathering of data and

872 the analysis of cost necessary to (i) the production of content, time and cost plans based on
873 criteria deriving from those originally defined by any study or similar report and as finally stated
874 within the body of the program itself and (ii) the evaluation of those plans in terms of such
875 criteria;

876 (r) “public agency”, a department, agency, board, commission, authority, or other
877 instrumentality of the commonwealth or political subdivision of the commonwealth or two or
878 more subdivisions thereof;

879 (s) “real property”, land, buildings, appurtenant structures and fixtures attached to
880 buildings or land, including where applicable, all interests in real property, whether created by
881 title, lease, easement or any other legal interest;

882 (t) “renovation”, work required to restore and modernize most or all of a facility in order
883 that the facility may be effectively utilized for its designated functional purpose or to comply
884 with current code requirements;

885 (u) “repair”, work required to restore a facility or system to such condition that it may
886 continue to be approximately and effectively utilized for its designated purpose by overhaul,
887 reprocessing or replacement of constituent parts or materials which have deteriorated by action
888 of the elements or wear and tear in use;

889 (v) “state agency”, also referred to as “state department”, a legal entity of state
890 government establish by the General Court as an agency, board, bureau, department, office or
891 division, of the commonwealth with a specific mission and may report to cabinet-level units of
892 government known as executive offices or secretariats or may be independent divisions or
893 departments. In sections 32 to 40, inclusive, state agency shall not include counties.

894 (w) “study”, a feasibility or other study to identify and evaluate alternative solutions to
895 and recommend a solution to the needs and requirements defined by the public agency proposing
896 a capital facility project which may involve a further definition of that agency’s needs and
897 requirements, gather additional information on the nature of the project, develop and review
898 potential solutions to those needs and requirements, evaluate the financial, environmental, and
899 other aspects of such solutions, estimate the degree to which solutions do not fulfill proposed
900 objectives and criteria, and recommend a means of project implementation and site acquisition;

901 (x) “using agency”, the public agency which will be the major user of a capital facility
902 project or the occupant of a building project;

903 (y) “utility systems projects”, installation, extension or replacement of systems for the
904 provision of sewer, water and electrical service, power plant facilities and appurtenances,
905 heating, ventilating and air conditioning, elevators, fire escapes, sprinklers and automatic fire
906 alarms and telephone communications;

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

911 Section 2. The commissioner of capital asset management and maintenance shall be
912 appointed by the commissioner of administration, with the prior written approval of the
913 governor, and may be removed in like manner. He shall be a person of ability and experience,
914 shall be familiar with the principles of the systematic and coordinated planning of capital
915 facilities and shall carry out such functions and duties as the commissioner may from time to

916 time deem necessary for the efficient and economical administration of the capital assets of the
917 commonwealth including, but not limited to, the systematic review of capital assets, the
918 scheduling of routine and schedule maintenance repairs, tracking the deferred maintenance needs
919 of capital assets and the coordinated planning of capital facilities in relation to the programmatic
920 needs of state agencies. The commissioner shall devote his entire time to the duties of his office.
921 No person holding such position shall be subject to the provisions of chapter 31 or section 9A of
922 chapter 30.

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

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

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

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

931 (d) efficient management of the operation of the division of capital asset management and
932 maintenance as a whole and the proper coordination of the work of and effective operation of
933 individual offices, bureaus, and other sections which might be located therein. The commissioner
934 may, subject to appropriation, appoint deputy commissioners and associate deputy
935 commissioners and legal counsel as appropriate and may authorize such deputy commissioners
936 or associate deputy commissioners or legal counsel to act in his stead in particular matters or
937 classes of matters.

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

940 The commissioner shall promulgate rules and regulations pursuant to the provisions of
941 chapter 30A.

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

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

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

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

954 Section 3. The commissioner of capital asset management and maintenance shall advise
955 the governor and the commissioner of administration on the means and methods available to
956 coordinate capital facility project plans and programs of all public agencies and the federal
957 government in order to establish relative priorities and to avoid duplication and conflicts. He
958 shall create a central depository for planning documents as they relate to that end, and

959 amendments thereto and revisions thereof prepared by or for public agencies. Effective on the
960 effective date of this act, every public agency shall submit a list and description of such
961 documents as currently exist and as they are promulgated and upon the commissioner's request,
962 submit to him a copy thereof. The commissioner may by rule and regulation identify the
963 documents required to be submitted.

964 The division of capital asset management and maintenance, if it is not designated as the
965 state clearinghouse as provided for by the federal Intergovernmental Cooperation Act of nineteen
966 hundred and sixty-eight, as amended, and regulations promulgated pursuant thereto, shall be
967 notified in a timely manner by the agency designated as the state clearinghouse as to any capital
968 facility projects being reviewed by said agency. The commissioner of capital asset management
969 and maintenance shall review such projects in light of current long range capital facility plans
970 and other programs and policies of the commonwealth and submit his comments and
971 recommendations to the agency designated as the state clearinghouse.

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

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

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

985 (3) For housing projects within the jurisdiction of the department of housing and
986 community development as defined by section 1 of chapter 121B, the division of capital asset
987 management and maintenance shall provide only for the establishment of minimum requirements
988 for record keeping and reporting by the department and operating agencies, as each is defined by
989 section 1 of chapter 121B, and review of and recommendation as to the standards and guidelines
990 for, direction, control, and supervision of their building projects. The department and operating
991 agencies shall cooperate with the division of capital asset management and maintenance,
992 regarding inquiries and inspections conducted as to housing projects within their respective
993 jurisdictions.

994 (4) For all capital facility projects of cities and towns for which specific approval or
995 authorization by the general court or a state agency is otherwise required and for all capital
996 facility projects of all other public agencies not included within the scope of paragraphs (1), (2),
997 and (3), establishment of requirements for record keeping and reporting by the administering
998 agency as to control and supervision of capital facility projects, so that the division of capital
999 asset management and maintenance may assess the nature, scope and programs of all planned or
1000 current capital facility projects and fulfill its responsibilities as defined by this chapter and other
1001 relevant statutes. For the purposes of identifying agricultural lands, the commissioner shall
1002 utilize criteria established by the secretary of environmental affairs. Such criteria shall determine
1003 agricultural land according to past and present agricultural use, and according to the agricultural

1004 production suitability of land as defined by the standards of the United States Department of
1005 Agriculture Soil Conservation Service. For all capital facility projects or programs funded in
1006 whole or in part by federal funds, the record keeping and reporting requirements established
1007 pursuant to this paragraph and other relevant statutes may be satisfied by the federal
1008 requirements, but only to the extent that the state requirements duplicate the federal requirements
1009 or materially conflict with them. State and federal requirements shall be deemed to be materially
1010 conflicting only when it would be impossible or unduly burdensome to comply with both sets of
1011 requirements. Neither this provision nor any other provision of sections 1 through 32, inclusive,
1012 and sections 32 through 40, inclusive, of this chapter is intended or shall be construed to limit the
1013 authority of any public agency — other than those specified in paragraphs (1) and (2) of this
1014 section — to control and supervise any capital facility project undertaken by that agency.

1015 Section 5. The commissioner shall, in a manner and to the extent provided by this
1016 chapter, control and supervise any building project to be undertaken by a state agency or building
1017 authority when the estimated cost of the project exceeds $250,000 and involves structural or
1018 mechanical work. The commissioner may, upon request of a state agency or building authority,
1019 delegate project control and supervision to that state agency or building authority over projects
1020 involving structural or mechanical work whose estimated cost is less than $2,000,000 if the
1021 commissioner determines that the agency or authority has the ability to control and supervise
1022 such project. Except as otherwise provided in this section, any state agency or building authority
1023 shall control and supervise its own building projects when the estimated cost of such project is
1024 less than $250,000, or if the project does not involve structural or mechanical work.

1025 Section 6. (a) The general court finds that (1) the Massachusetts commission against
1026 discrimination conducted hearings and investigations which documented a history of

1027 discrimination against minorities and women in the commonwealth; (2) and in 1994, the
1028 executive office of transportation and construction produced a disparity study which documented
1029 a history of discrimination against minority and women owned businesses, in which the
1030 commonwealth's agencies were participants; (3) this discrimination against minorities and
1031 women currently affects the use of minority and women owned businesses in state contracting;
1032 (4) the commonwealth has a compelling interest in promoting the use of minority owned
1033 business and women owned businesses through the use of the available and qualified pool of
1034 minority and women owned businesses; (5) it is the policy of the commonwealth to promote
1035 equality in the market and, to that end, to encourage full participation of minority and women
1036 owned businesses in all areas of state contracting, including contracts for construction and design
1037 services.

1038 (b) As used in this section, the following words shall, unless the context clearly requires
1039 otherwise, have the following meanings:—

1040 "Affirmative marketing program", a program of race and gender conscious goals to
1041 promote equality in, and to encourage the participation of, minority-owned businesses and
1042 women-owned businesses in contracts for capital facility projects and state assisted building
1043 projects;

1044 "Capital facility project", shall have the same meaning as found in section 1 when the
1045 project is under the control of the division of capital asset management and maintenance;

1046 "Design services", any of the following services provided by any designer, programmer,
1047 or construction manager in connection with any public building project:

1048 (i) preparation of master plans, studies, surveys, soil tests, cost estimates or
1049 programs;

1050 (ii) preparation of drawings, plans, or specifications, including, but not limited to,
1051 schematic drawings, preliminary plans and specifications, working plans and specifications or
1052 other administration of construction contracts documents;

1053 (iii) supervision or administration of a construction contract;

1054 (iv) construction management or scheduling.

1055 "Minority", a person with a permanent residence in the United States who is American
1056 Indian, Black, Cape Verdean, Western Hemisphere Hispanic, Aleut, Eskimo, or Asian.

1057 "Minority-owned business", any contracting or subcontracting business, or businesses
1058 that supply the contractors and subcontractors which is beneficially owned by one or more
1059 minority persons as follows:

1060 (i) the business must be at least 51 per cent owned by minority persons; in the
1061 case of a corporation having more than one class of stockholders, the ownership requirement
1062 must be met as to each class of stock;

1063 (ii) the minority owners shall demonstrate that they have dominant control over
1064 management;

1065 (iii) the business has not been established solely for the purpose of taking
1066 advantage of a special program which has been developed to assist minority businesses;

1067 (iv) in the case of a joint venture between a minority business meeting the
1068 requirements of clauses (i) to (iii), inclusive, and a non-minority business, the joint venture shall
1069 be found to be a minority business if the minority business meeting the requirements of said
1070 clauses (i) to (iii), inclusive, shall have more than one-half control over management of the
1071 project bid upon and shall have the right to receive more than one-half of the profits deriving
1072 from that project.

1073 "State assisted building project", a construction project undertaken by a political
1074 subdivision of the commonwealth or 2 or more subdivisions thereof for the planning, acquisition,
1075 design, construction, demolition, installation, repair or maintenance of a capital facility and
1076 whose costs are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part,
1077 by the commonwealth;

1078 "State office of minority and women business assistance" or "SOMWBA", shall have the
1079 same meaning as found in section 40 of chapter 23A.

1080 "Women-owned business", any contracting or subcontracting business which is
1081 beneficially owned by one or more women meeting the requirements set forth in clauses (1) to
1082 (4), inclusive, of the definition of minority business, except that the terms "women", "women
1083 owners", and "women-owned business", shall be substituted for the terms "minority" and
1084 "minority persons", "minority owners", and "minority business" appearing in the definition.

1085 (c) The commissioner, in consultation with the director of the state office of minority and
1086 women business assistance, may establish an affirmative marketing program to ensure the fair
1087 participation of minority-owned and women-owned businesses on capital facility projects and
1088 state assisted building projects. The affirmative marketing program shall establish participation

1089 goals for minority-owned and women-owned business in the capital facility projects and state
1090 assisted building projects. The participation goals for minority-owned business and women-
1091 owned business shall be based upon the broadest and most inclusive pool of available minority-
1092 owned businesses and women-owned businesses interested in and capable of performing
1093 construction work and design services on the capital facility projects, state funded building
1094 projects, and state assisted building projects; but, the commissioner may establish both statewide
1095 and regional participation goals based upon the availability of minority-owned businesses and
1096 women-owned businesses. The state office of minority and women business assistance, or its
1097 successor agency, shall create and maintain a current directory of certified minority-owned
1098 businesses and women-owned businesses which will serve as one source of information in
1099 determining the pool of available minority-owned businesses and women-owned businesses. The
1100 commissioner and the director of SOMWBA shall meet on a quarterly basis to determine the
1101 status of the implementation of the affirmative marketing program and what further steps both
1102 agencies consider necessary to achieve the purpose of this section.

1103 (d) Not later than January 15 of each year, the commissioner, in consultation with the
1104 director of state office of minority and women business assistance, shall establish participation
1105 goals for minority-owned businesses and women-owned businesses. The participation goals
1106 established pursuant to this section shall apply to capital facility projects and state assisted
1107 building projects. The participation goals shall be expressed as overall annual program goals
1108 which shall be applicable to the total dollar amount of contracts awarded for construction work
1109 and design services on capital facility projects and state assisted building projects for the
1110 calendar year. The commissioner shall publish in the central register, established under section
1111 20A of chapter 9, the participation goals for minority-owned businesses and for women-owned

1112 businesses on capital facility projects and state assisted building projects. The participation goals
1113 for minority owned businesses and women owned businesses shall remain in effect until revised
1114 participation goals are established and published pursuant to this paragraph. The participation
1115 goals for minority owned businesses and women owned businesses, developed before the
1116 effective date of this section, under any existing executive order and in effect as of the January
1117 preceding the effective date of this section shall remain in effect until January 15 of the
1118 following year. The participation goals for minority-owned businesses and women-owned
1119 businesses shall be revised as necessary every 2 years thereafter.

1120 (e) The commissioner, in consultation with the director of the state office of minority and
1121 women business assistance, shall develop a written procedure by which a public agency may, for
1122 an individual capital facility project, adjust the participation goals for minority-owned business
1123 and women-owned business based upon the actual availability of minority-owned businesses and
1124 women-owned businesses, the geographic location of the project, the scope of work of the capital
1125 facility project, or other relevant factors.

1126 (f) The commissioner shall develop a written, good faith efforts waiver procedure by
1127 which public agencies may determine, at any time before the award of a contract, that
1128 compliance with the goals is not feasible and by which public agencies may reduce or waive the
1129 goals for an individual contract.

1130 (g) In connection with the affirmative marketing program, the state office of minority and
1131 women business assistance shall regularly review and, where necessary, modify its certification
1132 process to ensure that it operates effectively, and shall report annually to the secretary of the
1133 executive office of administration and finance regarding these matters.

1134 (h) The commissioner shall be responsible for the overall management, monitoring, and
1135 enforcement of the affirmative marketing program, as the program relates to capital facility
1136 projects under the control of the division, established pursuant to this section. The commissioner
1137 may appoint a program director within the office of the commissioner to assist in program
1138 development, coordination and compliance. The program director shall also have responsibility
1139 for monitoring contract compliance within the division, addressing potential program violations
1140 and coordinating division enforcement activities with the state office of minority and women
1141 business assistance and the attorney general.

1142 (i) The commissioner shall by March 15 of each year submit to the joint committee on
1143 state administration, the senate committee on ways and means, the house committee on ways and
1144 means, the clerk of the house, and the clerk of the senate a report on the performance of the
1145 division's affirmative marketing program for the preceding year. The report shall, at a minimum,
1146 show the name and address of each such minority owned business and women owned business,
1147 its designation as a minority-owned or women-owned business, the contract or subcontract price,
1148 a description of the work performed on the contract by class of work, and project type, and shall
1149 show separately the total number of contracts awarded to minority-owned and women-owned
1150 businesses as a percentage of the total number of contracts awarded and as a percentage of the
1151 total contract price.

1152 (j) The commissioner shall promulgate regulations necessary to implement this section.

1153 Section 7. Except as otherwise provided in section 3 of chapter 211, the commissioner of
1154 capital asset management and maintenance shall: (1) be responsible for the acquisition, control
1155 and disposition of court facilities on behalf of the commonwealth, in the manner and to the

1156 extent provided in this chapter for other real property of the commonwealth; (2) provide facilities
1157 for the trial court, the appeals court and the supreme judicial court; (3) be responsible for
1158 planning and budgeting for such court facilities in the manner and to the extent provided in this
1159 chapter and in chapter 29 for capital facilities of state agencies; and (4) have jurisdiction over
1160 capital facility projects undertaken by the office of the chief administrative justice of the trial
1161 court for such court facilities in the manner and to the extent provided in this chapter and in
1162 chapter 149 for capital facility projects undertaken by state agencies. Notwithstanding any other
1163 general or special law to the contrary, all real property owned by the commonwealth for use as a
1164 courthouse, whenever such property was acquired, shall be held in the name of the
1165 commonwealth as provided in sections 32 and 33, and the division of capital asset management
1166 and maintenance shall hold the deeds to all such property as provided in section 39.

1167 There shall be within the division of capital asset management and maintenance a
1168 director of court facilities. The director of court facilities shall be appointed by the commissioner
1169 of capital asset management and maintenance with the advice of the chief administrative justice
1170 of the trial court and the approval of the commissioner of administration, and may be removed in
1171 like manner. Said position shall not be subject to section 9A of chapter 30 or chapter 31. Said
1172 director shall have the qualifications deemed necessary by said commissioner. Said director shall
1173 perform such duties of said commissioner with respect to court facilities as said commissioner
1174 shall assign, including at least the duty to respond to any inquiry from a county, city or town or
1175 from the office of the chief administrative justice of the trial court regarding court facilities.

1176 Section 8. The commissioner of capital asset management and maintenance shall:

1177 (1) develop and operate automated management and information systems and
1178 provide data processing services;

1179 (2) develop and maintain all necessary accounting and financial systems;

1180 (3) develop, justify and monitor internal operating budgets;

1181 (4) provide business services including central filing, printing, and reproduction,
1182 correspondence and word processing services;

1183 (5) develop and maintain all necessary systems to administer payments to those
1184 contracting for the provision of services and supply of materials;

1185 (6) develop and operate an accounting, reporting, and financial management
1186 system that will permit proper management of the capital facility program;

1187 (7) perform or contract for performance of research on innovative methods for the
1188 acquisition, planning, design, construction, demolition, installation, and repair and maintenance
1189 of capital facilities;

1190 (8) give counsel on all legal matters affecting capital facility projects provided
1191 that this provision shall not preclude the employment of counsel by any office within the division
1192 of capital asset management and maintenance;

1193 (9) approve project budgets and the award of contracts;

1194 (10) recommend and where appropriate, certify for disbursement monies
1195 appropriated or authorized for capital facility projects;

1196 (11) establish guidelines and requirements for the preparation and retention of
1197 records and reports pertaining to the nature, scope and progress of capital facility projects; and

1198 (12) perform such other acts to assure the proper management of the operation of
1199 the division of capital asset management and maintenance and the proper coordination of the
1200 work of and effective operation of the individual offices located therein.

1201 The commissioner shall, after providing an opportunity for the attorney general and other
1202 interested parties to comment, promulgate and from time to time revise uniform contract
1203 conditions appropriate to the type of service being rendered to be incorporated in all contracts for
1204 services of that type related to capital facility projects. Such uniform contract conditions may be
1205 supplemented by but shall take precedence over additional contract conditions for any particular
1206 capital facility project.

1207 The commissioner may from time to time establish within the division of capital asset
1208 management and maintenance such administrative units, in addition to the offices of
1209 programming, project management and facilities management and the bureau of state office
1210 buildings, necessary for efficient and economical administration of the work of said division; and
1211 when necessary for such purpose, he may abolish such unit or may merge any two or more of
1212 them. The said commissioner shall prepare and keep current a general statement of the
1213 organization of said division and of the assignment of functions to its various administrative
1214 units, officials, and employees. Said statement shall be known as the "description of
1215 organization" of said division, and shall be kept on file in said division.

1216 The commissioner shall develop quantitative performance measures for each individual
1217 office and other administrative units located therein and for the division as a whole. Using such

1218 measures, the commissioner shall once each year prepare and submit to the commissioner of
1219 administration a report on the performance of the individual offices and of the division as a
1220 whole, comparing that performance with that of the previous 3 years, the reasons for any change,
1221 and recommending changes in the operation of the division and its offices, as will improve their
1222 performance.

1223 The directors of individual offices and the heads of other administrative units located in
1224 the division shall, upon request by the commissioner conduct internal, operational, financial, and
1225 compliance audits.

1226 Section 9. The commissioner shall, no less often than once every 3 months, prepare a
1227 comprehensive report on the progress of all capital facility projects subject to the jurisdiction of
1228 the division of capital asset management and maintenance as defined by section 5 but not
1229 including those for which a city or town is the administering agency. At the discretion of the
1230 commissioner, said reports may exclude capital facility projects with a total project cost of less
1231 than $25,000 for which the administering agency is other than a state agency. Said report shall
1232 include, but not be limited to, a statement of the name of each project, the administering agency
1233 and the using agency, a brief current description of the project and any substantial changes in the
1234 description of the project during the past 3 months, the source of funds, the state of progress of
1235 the project, a summary of the total and major costs of the projects as originally estimated and as
1236 currently expended or currently estimated to be expended, the original project schedule and the
1237 current and estimated progress of the project, and such other information as the commissioner
1238 may require be included. Said report shall be submitted to the commissioner of administration
1239 and the clerks of the house of representatives and the senate and shall be a public document.

1240 The commissioner of capital asset management and maintenance shall by February 15 of
1241 each year prepare a comprehensive annual report on the progress of all capital facility projects
1242 subject to the jurisdiction of the division of capital asset management and maintenance defined
1243 by section 4. At the discretion of the commissioner, said annual report need not include capital
1244 facility projects with a total project cost of less than $25,000 for which the administering agency
1245 is other than a state agency. Said annual report shall constitute one of the four reports required by
1246 the previous paragraph of this section but shall contain in addition to the information required in
1247 the previous paragraph for each capital facility project, the following data: the authorizations for
1248 and sources of funds and expenditure and unencumbered balances thereof; identification of the
1249 designers and contractors who have contracted with the administering agency to provide
1250 materials or services therefor, the administering agency's project and contract numbers, the value
1251 of the contracts and the amount of money paid in accordance with the contracts; and such other
1252 information as the commissioner may require be included. The commissioner shall also include
1253 in said report a statement of the problems which have arisen in the capital facility procurement
1254 programs and procedures of public agencies and specific recommendations for administrative
1255 and legislative action which are necessary to remedy such problems. Said report shall be
1256 submitted to the commissioner of administration and the general court and shall be a public
1257 document available for general distribution.

1258 The commissioner shall by February 15 of each year prepare a comprehensive report
1259 including, but not limited to, an analysis of the utilization, cost and method of acquisition of real
1260 property acquired for the use of state agencies; the sale or rental of such real property and
1261 revenue realized therefrom; and problems which have arisen in the management of real property
1262 by the commonwealth, with specific recommendations for administrative and legislative action

1263 necessary to remedy such problems. Said report shall be submitted to the commissioner of
1264 administration, the joint committee on state administration, and the general court and shall be a
1265 public document available for general distribution.

1266 The commissioner shall develop and annually revise a proposed capital repair and
1267 maintenance plan for state buildings subject to the jurisdiction of the division of capital asset
1268 management and maintenance. The plan shall be based upon repair and maintenance schedules
1269 formulated for each building and group of buildings by the director of facilities management in
1270 accordance with the provisions of sections 24, 26, and 28. In addition to developing capital repair
1271 and maintenance schedules for state buildings, the plan shall analyze the costs and benefits of
1272 continuing minor repairs versus the costs and benefits of major renovation, rehabilitation, or
1273 replacement of the state buildings. The commissioner shall by February 15 of each year, submit
1274 the proposed capital repair and maintenance plan required by this paragraph to the house and
1275 senate ways and means committees and the chairmen of the joint committee on state
1276 administration.

1277 The commissioner shall keep an up-to-date record, by years and cumulatively, on all
1278 capital repair and maintenance projects completed, in process, or scheduled for the future, on all
1279 building projects subject to the jurisdiction of the division of capital asset management and
1280 maintenance.

1281 The commissioner shall, by February 15 of each year, prepare a report, by years and
1282 cumulatively, on all capital repair and maintenance projects completed, in process, or scheduled
1283 for the future, on all capital facility projects, said report shall include narrative statements
1284 indicating why such repairs or maintenance on such projects have been or will be postponed or

1285 cancelled. A copy of said report shall be sent to the house and senate committees on ways and
1286 means, and to the chairmen of the joint committee on state administration.

1287 The governor may, include in his capital outlay budget or request, a budget narrative
1288 statement, indicating why any and all repairs or maintenance on capital facility projects of the
1289 commonwealth, have been or will be postponed or cancelled.

1290 Upon completion of the final design of each state building project estimated to cost in
1291 excess of $5,000,000, the commissioner shall prepare an analysis detailing the maintenance costs
1292 projected annually over the useful life of the building. The commissioner shall, by February 16
1293 of each year, prepare a report summarizing the annual maintenance costs projected for each
1294 building project described in this paragraph, for which final design was completed during the
1295 prior year. The report shall be filed with the chairmen of the joint committee on state
1296 administration and the agency responsible for the operation and maintenance of the building
1297 project.

1298 In subsequent fiscal years for which the maintenance report indicates that maintenance
1299 will be required, the agency responsible for the operation and maintenance of the building shall
1300 include the projected annual maintenance costs contained in the report in its annual budget
1301 request, provided that revisions to the maintenance costs originally projected by the
1302 commissioner shall be addressed in the agency's budget narrative.

1303 The commissioner shall be responsible for providing state agencies with comprehensive
1304 maintenance manuals for all new building projects constructed on behalf of an agency.

1305 Section 10. In order to assist himself in the performance of his functions the
1306 commissioner of capital asset management and maintenance shall establish an advisory council

1307 on capital asset management and maintenance which shall meet at such times as the
1308 commissioner shall set, but no less often than once every 3 months, to seek information, advice,
1309 and counsel as to the recommendation, establishment, and evaluation of priorities and schedules
1310 for the acquisition, planning, design, construction, demolition, installation, repair and
1311 maintenance of capital facilities. Such of the executive officers of public agencies directly
1312 responsible for the acquisition, planning, design, construction, demolition, installation, repair and
1313 maintenance of capital facilities or their designees as the commissioner may request shall attend
1314 those meetings.

1315 Section 11. There shall be located within the division of capital asset management and
1316 maintenance an office of programming headed by a director of programming. Said director shall
1317 be appointed by the commissioner of capital asset management and maintenance, with the prior
1318 written approval of the commissioner of administration, and may be removed in like manner.
1319 The position of director shall not be subject to the provisions of chapter 31 or section 9A of
1320 chapter 30.

1321 No person shall be appointed director of the office of programming unless he has
1322 extensive experience in the study and programming of buildings.

1323 The commissioner of capital asset management and maintenance shall be responsible for
1324 the exercise of all powers and the performance of all duties assigned by law to the office of
1325 programming, which shall be under his direction, control, and supervision.

1326 Section 12. Except as otherwise provided in this section or by any appropriation act, the
1327 director of programming shall, in the manner and to the extent provided by this section, have

1328 control and supervision of the study and programming of all capital facility projects of state
1329 agencies and building authorities.

1330 The director may appoint such deputies and other supervisory staff as the work of the
1331 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1332 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1333 chapter 30. The director shall appoint, subject to the commissioner's approval, all other officers
1334 and employees of said office, including such programmers, architects, engineers, landscape
1335 surveyors, cost estimators, as he deems necessary to carry out the tasks assigned to the bureau.

1336 The director shall:

1337 (1) recommend to the commissioner rules and regulations, standards and
1338 guidelines for the preparation of master and other plans, studies, and programs for capital facility
1339 projects;

1340 (2) review and make a written evaluation to the commissioner as to specific
1341 project studies, programs and other predesign documents and their consistency with long range
1342 capital facilities development plans and capital facility budget requests;

1343 (3) upon request by using agencies, assist them in the development of specific
1344 project descriptions and proposals forming a part of those agencies' long range capital
1345 development plans and specific capital facility budget requests;

1346 (4) upon request of using agencies, and at his discretion, develop master and other
1347 plans, perform feasibility and other studies, or prepare programs for projects for which such
1348 plans, studies, and programs are authorized by the general court to be performed;

1349 (5) upon request by using agencies assist the staff of using agencies, and at the
1350 discretion of said director assist others providing such services to using agencies in their
1351 performance of plans, studies, or programs to assure conformity with the rules and regulations,
1352 standards and guidelines for such plans, studies, and programs;

1353 (6) provide guidance and assistance to other bureaus and sections or units within
1354 the division in the performance of their responsibilities as they relate to completed planning
1355 stages for projects;

1356 (7) recommend to the commissioner rules and regulations, standards for the
1357 conduct of post-occupancy evaluations of all projects for which the division of capital asset
1358 management and maintenance has performed or caused to be performed programming services,
1359 such post-occupancy evaluation to be based on the program so developed and appropriate in
1360 scope and detail to the type, cost and significance of the project being evaluated;

1361 (8) assist the commissioner in the evaluation of projects to determine the
1362 effectiveness of prior programming, planning, and budgeting decisions; and

1363 (9) conduct, with staff or consultants, post-occupancy evaluations for projects
1364 under the jurisdiction of the bureau of project management, the cost of which exceeds a fixed
1365 sum to be determined by the director, assume such other responsibilities as the commissioner
1366 may direct.

1367 The director shall create a depository for plans, studies, programs, and designs for
1368 building projects prepared for any using agency subject to the jurisdiction of the division of
1369 capital asset management and maintenance under section 4 of this chapter. Each such agency
1370 shall promptly send to the director a brief identification and description of each plan, study,

1371 program, and design after its completion. The designer selection board shall promptly send to the
1372 director a brief identification and description of any designs offered to it as part of any design
1373 competition administered by the board pursuant to section49. Upon request by the director, the
1374 user agency or board shall send to him a copy of said plan, study, program, or design.

1375 Section 13. There shall be within the division of capital asset management and
1376 maintenance an office of project management headed by a director of project management.

1377 The director shall be appointed by the commissioner of capital asset management and
1378 maintenance with the approval of the commissioner of administration, and may be removed in
1379 like manner. Said position shall not be subject to section 9A of chapter 30 or chapter 31. No
1380 person shall be appointed director of said bureau unless at the time thereof he shall be registered
1381 by the commonwealth as an architect or professional engineer pursuant to the provisions of
1382 chapter 112 and shall have proven ability and extensive experience in the management of the
1383 design and construction of buildings.

1384 The director may appoint such deputies and other supervisory staff as the work of the
1385 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1386 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1387 chapter 30. The director shall appoint, subject to appropriation and subject to the commissioner's
1388 approval, all other officers and employees of said office.

1389 The commissioner shall be responsible for the exercise of all powers and the performance
1390 of all duties assigned by law to said office, which shall be under his direction. The director shall
1391 advise the commissioner as to rules and regulations, standards and guidelines, and priorities and

1392 schedules to be established for the office and the division of capital asset management and
1393 maintenance.

1394 Section 14. The duties and responsibilities of the director shall include, but not be
1395 limited to, the following: review and comment on all long range capital facilities development
1396 plans and capital budget requests for building projects by any state agency or building authority
1397 for purpose of assisting in the development of schedules, cost estimates and projections; review
1398 of said plans and requests for technical feasibility; where appropriate, recommendation that a
1399 study or program be conducted; and recommendation to the commissioner of methods which
1400 might be used for the design and construction of new facilities or major additions to existing
1401 facilities.

1402 The methods recommended shall include the latest developments in construction as well
1403 as standard methods, for the purpose of insuring quality, timeliness and economy of construction,
1404 such techniques to include but not be limited to construction management, fast-tracked or phased
1405 construction, turnkey procurement and design and build procurement. The director shall also
1406 recommend to the commissioner the method for procuring design and construction services when
1407 an alternative construction method is recommended; such recommendation shall be in writing
1408 and contain the reasons for not complying with the standard selection and bidding laws provided
1409 that the legislature shall approve the method for procuring design and/or construction services
1410 for such project and provided that such procurement method shall comply with the policies and
1411 procedures of sections 44A through L, inclusive, of chapter 149, to the extent feasible.

1412 The director shall develop guidelines regarding the types of projects that would most
1413 benefit from use of alternative construction methods and shall periodically evaluate their
1414 effectiveness.

1415 The director, if otherwise permitted by statute or appropriation, may use a phased
1416 contracting procedure, provided that the contracts awarded can be accomplished (a) within the
1417 appropriation or authorization for the project or within the project cost limits specified by the
1418 appropriation or authorization and (b) in accordance with (i) any study or program which must
1419 be prepared in accordance with the provisions of section 59or (ii) any other pre-design document
1420 which must be prepared in accordance with any other statute, appropriation or authorization or
1421 administrative directive consistent therewith.

1422 If the director considers it in the best interests of the commonwealth he may employ, in
1423 addition to the standard architectural and professional contractors, quantity surveyors, network
1424 scheduling consultants and cost estimators.

1425 The director shall recommend to the commissioner standards for conducting studies,
1426 programs, and designs; for real property acquisition in anticipation of construction, including the
1427 kind and extent of testing required; for contractor selection; and for project evaluation. He may
1428 recommend to the commissioner such additional standards and guidelines as he shall deem
1429 necessary or desirable to expedite the work of the office.

1430 The director shall hire such project managers, cost estimators, and architectural,
1431 engineering, and technical personnel as he deems appropriate to: (a) estimate and review project
1432 costs and schedules; (b) monitor design and construction standards; (c) perform design services;
1433 (d) review project designs to ensure that they meet the standards established for all projects; (e)

1434 provide technical assistance to using agencies; and (f) administer and supervise design and
1435 construction contracts.

1436 The director shall recommend to the commissioner standards and procedures to be
1437 followed by project managers in overseeing individual construction projects, including standards
1438 and procedures for scheduling of the performance of particular aspects of projects; forms to be
1439 used in reporting and processing of information regarding change orders and price adjustments,
1440 periodic payment, and other payments pursuant to approved progress schedules; and all other
1441 standards and procedures necessary to the efficient administration and oversight of individual
1442 construction projects, or required by statute or regulation.

1443 The director shall recommend to the commissioner standards for internal audits to be
1444 performed on individual projects. Such audits shall be performed at the direction of the director
1445 when he has determined that an individual change order is so large, or a series of change orders
1446 cumulatively are so substantial, that the project should be reviewed, or when he has determined
1447 that there have been significant individual or cumulative delays in progress on the project, or at
1448 such times as he deems necessary. Whenever a change order is approved the director shall state
1449 in writing the reasons for not requesting an audit.

1450 Section 15. The contract which the director shall make with the designer appointed under
1451 the preceding section shall provide, among other appropriate terms, that the designer shall, in
1452 consultation with the using agency and subject to that agency's approval, prepare plans and
1453 specifications for the building project for submission to said director for his approval and shall
1454 use standard contract documents and specifications which said director shall have prepared with
1455 the approval of the commissioner and made available within the office.

1456 No obligation shall be incurred or payment made for preparation of any plans or
1457 specifications for any building project without the prior approval of the commissioner; and in the
1458 case of a building project undertaken on behalf of the commonwealth, no plans or specifications
1459 shall be prepared until a special appropriation shall have been made therefor or for the project or
1460 until federal funds or assistance shall have been made available therefor. No other obligation
1461 shall be incurred or payment made in connection with any building project until such obligation
1462 or payment shall have been approved in accordance with sections 1 to 40, inclusive, and section
1463 60 and section 11 of chapter 35.

1464 Schematic, preliminary and working plans and specifications for each building project
1465 shall, following initial submission to the using agency for comment, be submitted by the designer
1466 to the director for his approval. In reviewing such plans and specifications, the duty of the
1467 director shall be to see that they are clear and complete and permit execution of the building
1468 project (a) within the appropriation or authorization for the project or within project cost limits
1469 specified by the appropriation or authorization and (b) in accordance with (i) any study or
1470 program prepared in accordance with the provisions of section 59 or (ii) any other pre-design
1471 document which must be prepared in accordance with any other statute, appropriation or
1472 authorization or administrative directive consistent therewith. When a phased construction
1473 technique is approved by the legislature, the director shall approve working plans and
1474 specifications at appropriate stages of the project.

1475 Following final approval of such plans and specifications, the director shall advertise in
1476 the central register published by the secretary of state pursuant to section 20 of chapter 9 and in
1477 such other publications as the commissioner shall direct, for applications to bid on or proposals
1478 for the performance of the work on the project; except that the commissioner may direct that the

1479 purchase of any materials, original equipment or original furnishings for the project shall be
1480 made under the provisions of sections 22 to 26, inclusive, of chapter 7. Subject to the prior
1481 approval of the commissioner and the applicable provisions of sections 44A to 44L, inclusive, of
1482 chapter 149 he shall award the contract or contracts for such work to the lowest responsible and
1483 eligible bidder; but no such contract on behalf of the commonwealth shall be awarded by him for
1484 a sum in excess of the amount which the comptroller shall certify to be available therefor. If the
1485 director shall knowingly award a contract in violation of any provisions of this section, he may
1486 be removed from office by the governor.

1487 The director shall be responsible for accepting or rejecting each project upon its
1488 completion and for directing final payment for work done thereon; provided, however, that if
1489 upon inspection of any project for acceptance he shall find that the plans, specifications,
1490 contracts or change orders for the project shall not have been fully complied with, he shall, until
1491 such compliance has been effected or adjustment satisfactory to him has been made, refuse to
1492 accept the project and direct such payment.

1493 Upon acceptance of the project, the director shall release the same to the using agency,
1494 unless the using agency objects to said release, in which case the director shall work with the
1495 using agency to remove the causes of the objection. The director shall not refuse to accept the
1496 project from the contractor and shall not refuse to direct final payment to the contractor because
1497 of the using agency's objections if the director has determined that the contractor has completed
1498 the project in accordance with contract.

1499 Section 16. The director shall appoint, for each project under the jurisdiction of the
1500 office of project management, a project manager, who shall oversee all planning, design and

1501 construction of the project or provide appropriate assistance to others as enumerated below. No
1502 person shall be appointed or employed as a project manager unless at the time thereof he shall be
1503 registered by the commonwealth as an architect or professional engineer under the provisions of
1504 chapter 112 or shall have a professional degree in a field providing equivalent experience and
1505 shall have at least 5 years experience in the construction and supervision of construction of
1506 buildings. Project managers employed by the bureau shall be exempt from the provisions of
1507 section 9A of chapter 30 and chapter 31.

1508 The terms, conditions and duration of their employment shall be established by the
1509 director subject to appropriation and the building projects to which he has been assigned by the
1510 director. He shall:

1511 (1) Assist and make recommendations to using agencies as to real property
1512 acquisition in anticipation of construction;

1513 (2) Assist by reviewing and making recommendations to using agencies as to the
1514 study, programs or other planning documents for the project;

1515 (3) Participate as a non-voting member of the designer selection board panel
1516 during the designer selection process for the particular building project to which the project
1517 manager has been assigned;

1518 (4) Represent the using agency in the designer selection, design and construction
1519 phases of the building project, the project manager having exclusive authority to make decisions
1520 in these areas, except as provided in sections 17 through 21, inclusive, after consultation with the
1521 using agency and consideration, before such decisions are made, of using agency
1522 recommendations;

1523 (5) During the design stage of each project to which he has been assigned, review
1524 and comment on said design or verify that said design has been reviewed by the authorities
1525 charged by law with enforcement responsibility, in order to insure that the design complies with
1526 all federal and state laws, rules, regulations and codes; insure to the extent feasible that the
1527 design is such as to specify a project that (a) can be accomplished within the appropriation or
1528 authorization for that project or within the project cost limits specified by the appropriation or
1529 authorization, and (b) can be accomplished in accordance with (i) any study or program which
1530 must be prepared in accordance with the provisions of section 59 or (ii) any other pre-design
1531 document which must be prepared in accordance with any other statute, appropriation or
1532 authorization or administrative directive consistent therewith; no building project shall be
1533 allowed to proceed to the construction stage until such reviews have been accomplished and
1534 compliance confirmed or certified;

1535 (6) Insure the preparation of time schedules which shall serve as control standards
1536 for monitoring performance of building projects; and

1537 (7) Assist in project evaluation including, but not limited to, written evaluations of
1538 the performance of the architect, engineers, contractors and other personnel, and evaluation of
1539 construction techniques and procurement mechanisms.

1540 Section 17. The words defined in this section shall have the meanings set forth below
1541 whenever they appear in sections 17 to 21, inclusive.

1542 "Change order" shall mean a written order not requiring the consent of the contractor,
1543 signed by the project manager and designated as an approved change order, directing the
1544 contractor to make changes in the work within the general scope of the contract, or, any written

1545 or oral order from the project manager which causes any change in the work, provided that the
1546 contractor gives the commonwealth written notice stating the date, circumstances, and source of
1547 the order and that the contractor regards the order as a change order.

1548 "Contract modification" shall mean any written alteration in plans or specifications,
1549 period of performance, price, quantity, or any other provision of the contract accomplished by
1550 mutual action of the parties to the contract.

1551 The project manager may at any time, subject to the requirements set forth herein and in
1552 section 39I of chapter 30, order changes in the work within the general scope of the contract,
1553 including but not limited to changes: (a) in the plans and specifications (including drawings and
1554 designs); (b) in the method or manner of performance of the work; (c) in the commonwealth
1555 furnished facilities, equipment, materials, services or site; or (d) in the schedule for performance
1556 of the work. All such orders shall be written and designated to be change orders. All change
1557 orders or other contract modifications shall require the approval of the director when: (a) the
1558 cumulative cost of all previously approved increases in the contract price exceeds 5 per cent of
1559 the original contracted construction cost of the project, or such other percentage or dollar amount
1560 or criteria as designated by regulations of the commissioner; or (b) the preliminary estimate of
1561 the change in the contract price resulting from the change order or contract modification is
1562 $5,000 or more. The director may, after review of building projects for which the cumulative
1563 total of increases in the contract price has exceeded 5 per cent of the original contracted
1564 construction cost or such other percentage or dollar amount or criteria, direct the project manager
1565 as to those proposed changes, the preliminary estimated cost of which are under $5,000, that
1566 shall require the director's approval.

1567 The commissioner shall promulgate regulations governing the procedures for obtaining
1568 preliminary estimates and giving notice to the contractor as to the necessity of obtaining the
1569 director's approval before any work pursuant to a change order or contract modification is
1570 commenced. Such procedures shall be designed so as to avoid delays in the progress of the
1571 project.

1572 The project manager may delegate to the resident engineer, subject to approval by the
1573 director and notice to parties in interest, his authority to process and approve change orders when
1574 authorized to do so by regulations of the commissioner.

1575 The provisions of section 20A of chapter 29 shall not apply to any change order request
1576 submitted and acted upon in accordance with sections 17 through 21, inclusive, of this chapter.

1577 Section 18. Any request for a change order shall be processed promptly, in compliance
1578 with regulations promulgated by the commissioner, and otherwise according to the requirements
1579 of section 39P of chapter 30. Requests shall be submitted to the project manager, who shall, after
1580 consultation with the designer and the using agency, approve or disapprove the request. The
1581 project manager shall, after obtaining any other required approvals or disapprovals, notify in
1582 writing the designer, the using agency and the requesting party of the request and shall issue a
1583 written change order or written notice of disapproval to the contractor. If the approval or
1584 disapproval would result in a deviation, as defined by regulations of the commissioner from (a)
1585 any study or program which must be prepared in accordance with the provisions of section 59or
1586 (b) any other pre-design document which must be prepared in accordance with any other statute,
1587 appropriation or authorization or administrative directive consistent therewith, the decision made
1588 shall be subject to appeal by the using agency to the commissioner of administration. Such

1589 appeal shall set forth in writing the reasons therefor and a copy thereof shall be furnished to the
1590 commissioner at the time the appeal is filed with the commissioner. The commissioner shall,
1591 within 10 days following the receipt of such appeal, render a written decision thereon, which
1592 shall be final and conclusive.

1593 Section 19. If any change order under section 17 causes any change in the contractor's
1594 cost of performance of any work under the contract, whether or not that work is changed by any
1595 order, either the contractor or the project manager may request an equitable adjustment in the
1596 contract price. A request for such an adjustment shall be in writing and shall be submitted by the
1597 party making such claim to the other party before commencement of the pertinent work or as
1598 soon thereafter as possible, and in any event within 30 days of receipt by the contractor of an
1599 approved change order or the mailing or furnishing to the commonwealth by the contractor of
1600 written notice that the contractor regards an order as a change order. Except for claims on
1601 defective specifications, no claim for any change under this section shall be allowed for any costs
1602 incurred more than 20 days before the contractor gives written notice as required by this section.
1603 In the case of defective specifications for which the commonwealth is responsible, the equitable
1604 adjustment shall include any cost reasonably incurred by the contractor in attempting to comply
1605 with such defective specifications.

1606 The project manager and the contractor shall by negotiation agree upon an equitable
1607 adjustment in the contract price before commencement of the pertinent work or as soon
1608 thereafter as possible. Notice of the adjustment shall be given to the Director. In the absence of
1609 agreement by the parties on an equitable adjustment in the contract price, the project manager
1610 shall unilaterally determine the costs attributable to the change order. Unilateral equitable
1611 adjustments of the project manager shall be reduced to writing and a copy mailed or otherwise

1612 furnished to the contractor. Such adjustments shall be final and conclusive unless, within 30 days
1613 from the date of receipt of such copy, the contractor mails or otherwise furnishes to the project
1614 manager a written appeal addressed to the commissioner, and otherwise complies with the
1615 requirements set forth in section 39Q of chapter 30. The provisions of said section shall govern
1616 further appeal to the division of hearing officers.

1617 Section 20. The contractor shall submit, in accordance with regulations of the
1618 commissioner, cost and pricing data to be used when negotiating adjustments for change orders
1619 or other contract modifications. Such cost and pricing data shall be based on generally accepted
1620 accounting principles and be in conformity with the guidelines promulgated by the
1621 commissioner. Cost estimators employed within the division of capital asset management and
1622 maintenance shall review and evaluate cost and pricing data submitted by the contractor.

1623 The contractor shall certify that, to the best of his knowledge and belief, the cost and
1624 pricing data submitted was accurate, complete, and current as of the date of submission. Any
1625 change order or contract modification under which a certificate is required shall contain a
1626 provision that the price to the commonwealth, including profit or fee, shall be adjusted to
1627 exclude any significant sums by which the commonwealth finds that such price was increased
1628 because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current
1629 as of the date of submission.

1630 The provisions of section 13 of chapter 258 of the General Laws, and the provisions of
1631 section 67A to section 67C, inclusive, of chapter 266, shall fully apply to the cost and pricing
1632 data certification requirements of this section.

1633 Section 21. Equitable adjustments in the contract price negotiated pursuant to section 19
1634 or as part of a contract modification shall be made in accordance with the following general
1635 principles. The commissioner shall promulgate regulations designed to implement the provisions
1636 of this section.

1637 1. Adjustments in the contract price shall be made to the maximum extent feasible
1638 on a fixed price basis prior to the execution of the change order or contract modification, if this
1639 can be done without adversely affecting the interests of the Commonwealth.

1640 2. Where a fixed price cannot be set due to difficulty in estimating the scope of
1641 the change ordered, adjustment may be made on a lump-sum guaranteed maximum price basis
1642 calculated by use of unit prices specified in the contract or agreed upon by the parties.

1643 3. Cost reimbursement or time-and-materials methods of price adjustment shall
1644 not be used, except where, in the written opinion of the commissioner, no other pricing method is
1645 possible. When such pricing method is used, the contractor shall provide complete and accurate
1646 information disclosing the costs incurred in performing changes. The contractor shall maintain
1647 separate accounts, by job order or other suitable accounting procedure, of all segregable direct
1648 cost of work, both changed and not changed, allocable to the change. The commissioner shall
1649 promulgate regulations setting forth cost principles which shall be used to determine the
1650 allowability of incurred costs for the purpose of reimbursing costs.

1651 Section 22. There shall be assigned to every building project under the supervision of the
1652 office a resident engineer. Resident engineers may be hired as permanent employees subject to
1653 the provisions of chapter 31 or as consultants exempt from said chapter 31. No person shall be
1654 employed as a resident engineer unless at the time thereof he shall have had at least 10 years

1655 experience in the construction and supervision of construction of buildings, or shall have a
1656 degree in engineering, architecture or a field providing equivalent expertise and at least 5 years
1657 such experience.

1658 The resident engineer shall represent the commonwealth daily on the site of construction
1659 projects and shall be responsible for checking, inspecting and reporting to the project manager on
1660 a regular basis both in writing and orally as to events at the construction site and shall send
1661 copies of written reports to the designer on a regular basis.

1662 The project manager may delegate to the resident engineer, subject to approval by the
1663 director, notice in writing to all parties in interest, and limits otherwise imposed by this chapter,
1664 the authority to make decisions regarding plans, specifications, and materials; the authority to
1665 represent the project manager at job meetings; and the authority to order minor changes and
1666 make equitable adjustments in the contract price.

1667 The resident engineer shall report in writing to the project manager all problems,
1668 disputes, complaints or questions from or concerning designers, contractors or other personnel
1669 involved in the project.

1670 There shall be assigned to every project under the control and supervision of the office a
1671 cost estimator, who shall be responsible for reviewing all project costs. Cost estimators may be
1672 hired as permanent employees subject to the provisions of chapter 31 or as consultants exempt
1673 from said chapter 31.

1674 Cost estimators shall have proven ability and experience in construction cost estimating
1675 and shall be familiar with various approaches to cost estimating, including but not limited to
1676 conceptual and preliminary estimating designed to provide budget and planning guidance in the

1677 early stages of a project, labor-cost estimating, fair cost estimating prepared from completed
1678 plans and specifications, contractors' bid estimating and definitive or detailed estimating.

1679 The cost estimator, working in cooperation with using agencies requesting projects, shall
1680 provide estimates of the costs of proposed projects. He shall review all cost projections for
1681 studies, programs and designs, as well as contractors' cost estimates. The cost estimator shall
1682 review change order estimates, cost and pricing data, payment schedules and progress payment
1683 requests, and make recommendations to the project manager at the project manager's directive.

1684 Public agencies other than political subdivisions of the commonwealth that conduct
1685 building projects outside the jurisdiction of the division of capital asset management and
1686 maintenance as provided in section 4 may request assignment of a project manager, resident
1687 engineer or cost estimator employed by the office of project management. Such assignment shall
1688 be subject to approval by the commissioner. Any agency making use of the office's staff on a
1689 project outside the normal jurisdiction of the office shall reimburse the office for all expenses
1690 incurred, including salaries and overhead. The director shall recommend to the commissioner
1691 regulations governing fees to be paid by public agencies for use of the office's services on
1692 projects outside its normal jurisdiction.

1693 Section 23. The director may, with the approval of the commissioner and the governor,
1694 accept on behalf of the commonwealth any federal funds or assistance for financing the cost of
1695 plans and specifications for any project.

1696 If such funds or assistance shall be appropriated for aiding construction of any project,
1697 the director may, with like approval, apply for the same and may, with the approval of the
1698 governor, accept the same on behalf of the commonwealth. Any project so aided shall be

1699 executed in all respects subject to applicable federal laws and rules and regulations and also to
1700 the applicable provisions of this chapter not inconsistent therewith.

1701 Section 24. There shall be located within the division of capital asset management and
1702 maintenance an office of facilities management, headed by a director of facilities management.
1703 The director shall be appointed by the commissioner, with the approval of the commissioner of
1704 administration, and may be removed in like manner. Said office shall not be subject to section
1705 9A of chapter 30 or chapter 31. No person shall be appointed director of said office unless at the
1706 time thereof he shall be registered by the commonwealth as an architect or professional engineer
1707 pursuant to the provisions of chapter 112 and shall have proven ability and extensive experience
1708 in the management and oversight of operation, maintenance and repair of buildings.

1709 The director may appoint such deputies and other supervisory staff as the work of the
1710 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1711 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1712 chapter 30. The director shall appoint, subject to the commissioner's approval, all other officers
1713 and employees of said office.

1714 The director shall develop, in cooperation with the commissioner and using agencies, an
1715 inventory of buildings owned or otherwise occupied by state agencies and building authorities.
1716 Said inventory may detail the age, condition, type of construction, and physical life expectancy
1717 of each building and its major structural components. The inventory shall be updated as repairs,
1718 replacements and alterations are performed. Said inventory shall be filed by the commissioner by
1719 February 15 yearly with the clerks of the house of representatives and senate, and with the joint
1720 committee on state administration, and shall be a public document available for general

1721 distribution. The director shall recommend to the commissioner standards and guidelines
1722 governing the type of information to be included in said inventory, which shall be properly
1723 coordinated with the real property inventory established and maintained pursuant to section 38.

1724 Section 25. The director shall control and supervise all projects allocated to the office of
1725 facilities management by the commissioner pursuant to section 5. All of said projects shall be
1726 subject to the procedures and requirements set forth in sections 13 through 23, except that the
1727 director may recommend to the commissioner regulations governing the extent of representation
1728 of the commonwealth by the resident engineer required on the site of construction projects. The
1729 director shall, consistent with sections 13 through 23, develop and recommend to the
1730 commissioner procedures and requirements for control and supervision of said projects
1731 commensurate with the specialized nature of those projects.

1732 Section 26. The director shall recommend to the commissioner standards and guidelines
1733 applicable to maintenance and repair. Said standards and guidelines shall be complied with by
1734 state agencies and building authorities. The director shall also develop maintenance and repair
1735 standards and guidelines for use by the department of housing and community development. Said
1736 standards and guidelines shall be advisory only.

1737 State agencies and building authorities shall certify to the director, once each year, that all
1738 maintenance and repair standards and guidelines have been complied with, or if the state agency
1739 or building authority has not so complied, the reasons for noncompliance. The director may
1740 order, in his discretion and without prior notice, inspection of state agency or building authority
1741 buildings, for the purpose of insuring compliance with maintenance and repair standards and
1742 guidelines. If the director finds that a state agency or building authority is not in compliance, he

1743 shall report such noncompliance to the commissioner, the head of the state agency or building
1744 authority, the commissioner of administration, and in the case of building authorities, the board
1745 of higher education and the board of trustees of the relevant institution. If a state agency or
1746 building authority fails within 3 months of such notification to comply with said standards and
1747 guidelines, the director shall recommend to the commissioner emergency measures that should
1748 be taken.

1749 The director may direct, subject to the approval of the commissioner, once a state agency
1750 or building authority is found to be not in compliance with maintenance and repair standards and
1751 guidelines, that the state agency or building authority report in detail to the director on a monthly
1752 basis the status, progress and problems of maintenance and repair operations at the state agency
1753 or building authority's facilities. The director shall recommend to the commissioner regulations
1754 to be adopted governing information to be included in the monthly report. The director shall
1755 make quarterly reports to the commissioner on the status of maintenance and repair operations at
1756 the relevant state agency or building authority. At such time as the commissioner determines,
1757 with the advice of the director, that maintenance and repair operations have come into
1758 compliance with all applicable standards and guidelines, the state agency or building authority
1759 shall be relieved of the necessity of making monthly detailed reports.

1760 Where it is deemed necessary, the commissioner, on the advice of the director, may
1761 recommend that the office assume supervision and control over maintenance and repair
1762 operations normally carried out by the state agency or building authority. The commissioner of
1763 administration, after consultation with the secretary of the executive office in which the relevant
1764 state agency or building authority is located, and, in the case of building authorities, after
1765 consultation with the board of trustees of the relevant institution, may order transfer of

1766 supervision and control of maintenance and repair operations to the commissioner. Upon making
1767 such order, the commissioner shall forthwith file a copy of said order with the budget director,
1768 the comptroller, the house and senate committees on ways and means, and the joint legislative
1769 committee on post audit and oversight of the general court, specifying the scope of the authority
1770 so transferred and the direction of said transfer. Said transfer may be for such period of time as
1771 the commissioner deems appropriate. Where the commissioner has so assumed control and
1772 supervision, the commissioner shall make quarterly reports to the commissioner of
1773 administration on the status of maintenance and repair operations at the affected state agency or
1774 building authority.

1775 Section 27. The director may, with the approval of the commissioner, initiate capital
1776 budget requests for building projects to be performed at one or more using agencies and
1777 controlled and supervised by the office of facilities management. Such projects may include, but
1778 not be limited to: (a) projects designed to alleviate, through a single undertaking or a series of
1779 undertakings, problems of a common nature encountered in buildings of more than one using
1780 agency; (b) projects to correct problems which require immediate attention, where the using
1781 agency has failed to include the project in its capital budget requests for the year, or has given
1782 such a request low priority; and (c) such other projects as the director may, with the approval of
1783 the commissioner, designate, including energy conservation projects, handicapped access
1784 projects, and fire, health and safety projects.

1785 Section 28. As used in this section, “using agencies” shall mean state agencies and
1786 building authorities.

1787 The director of facilities management shall: (1) develop, in cooperation with individual
1788 state agencies and building authorities, policies, standards, programs and schedules governing
1789 the performance of preventive maintenance; (2) develop preventive maintenance training
1790 programs for state agency and building authority personnel; (3) evaluate the status of preventive
1791 maintenance programs at each state agency and building authority; (4) review using agency
1792 maintenance operating budget requests together with maintenance reports submitted pursuant to
1793 section 3 of chapter 29 for the purpose of evaluating the priority, necessity, feasibility and
1794 appropriateness of said requests; (5) review using agency capital budget requests for repair
1795 projects and make recommendations to the commissioner as to those projects of each using
1796 agency that should be given funding priority; (6) recommend to the commissioner standards and
1797 guidelines for the control and supervision of repair projects controlled and supervised by using
1798 agencies; (7) advise the commissioner as to those methods available for the repair of
1799 deteriorating buildings, including the costs and benefits of continuing minor repairs versus the
1800 costs and benefits of major renovation or rehabilitation; (8) advise the commissioner as to
1801 maintenance and repair difficulties encountered in using agency buildings that may be due to
1802 faulty design or construction of new facilities; (9) advise the commissioner as to the feasibility
1803 and costs of renovating or rehabilitating for state use structures that have been certified historic
1804 landmarks, as provided by sections 26 to 27C of chapter 9, that have been listed in the National
1805 Register of Historic Places, as provided by 16 U.S.C. 470a, or that have been designated
1806 landmarks by the local governing authority; (10) advise the commissioner as to changes in
1807 operations and maintenance costs and operational and repair difficulties that may result from
1808 using agency proposals for alteration or conversion of existing facilities; and (11) assist using

1809 agencies in evaluating maintenance and repair problems and devising and implementing
1810 solutions.

1811 Section 29. (a) The commissioner shall require a state agency that initiates the
1812 construction of a new facility owned or operated by the commonwealth or a renovation of an
1813 existing facility owned or operated by the commonwealth when the renovation costs exceed
1814 $25,000 and includes the replacement of systems, components or other building elements which
1815 affect energy or water consumption to design and construct or renovate the facility in a manner
1816 that minimizes the life-cycle cost of the facility by utilizing energy efficiency, water
1817 conservation or renewable energy technologies under the following criteria:

1818 (1) the state agency shall utilize alternate technologies when the life-cycle cost
1819 analysis conducted under subsection (b) shows that such systems are economically feasible;

1820 (2) each new educational facility, including a municipal educational facility
1821 financed through the school building assistance program, for which the projected demand for hot
1822 water exceeds 1,000 gallons per day or which operates a heated swimming pool, shall be
1823 constructed, whenever economically and physically feasible, with a solar or other renewable
1824 energy system as the primary energy source for the domestic hot water system or swimming pool
1825 of the facility;

1826 (3) the division of capital asset management and maintenance or the state agency
1827 shall, in the design, construction, equipping and operation of such facilities, coordinate these
1828 efforts with the department of energy resources in order to maximize reliance on, and the
1829 benefits of, renewable energy research and investment activities; and

1830 (4) all higher education construction projects shall, at a minimum incorporate the
1831 MA-CHPS Green Schools Guidelines standards or an equivalent standard.

1832 (b) The division of capital asset management and maintenance or the state agency
1833 initiating the construction or renovation of a facility as described in subsection (a) shall conduct
1834 a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and
1835 long-term costs and the technical feasibility of using alternate technologies to provide lighting,
1836 heat, water heating, air conditioning, refrigeration, gas or electricity. In calculating life-cycle
1837 costs, a state agency shall include the value of avoiding carbon emissions, creating renewable
1838 energy certificates and other environmental and associated benefits created from the utilization
1839 of alternate technologies, as applicable. This value shall be equal to the bid price of the published
1840 market value of any such benefit and shall increase or decrease at a projected rate determined by
1841 the department of energy resources. To calculate life-cycle costs, a state agency shall use a
1842 discount rate equal to the rate that the commonwealth's tax-exempt long-term bonds are yielding
1843 at the time of said calculation and shall assume that the cost of fossil fuels and electricity will
1844 increase at the rate of 3 per cent per year above the estimated rate of inflation or at a rate
1845 determined by the department of energy resources.

1846 (c) Notwithstanding sections 11C and 11I of chapter 25A or any regulations issued
1847 thereunder, the division of capital asset management and maintenance may procure energy
1848 management services jointly with a state agency or a building authority that is procuring energy
1849 or related services. Said sections 11C and 11I shall apply to the extent feasible as determined by
1850 the commissioner of energy resources.

1851 (d) For purposes of this section, the term “economically feasible” shall mean that the cost
1852 of installing and operating an alternate technology is lower than the cost of installing and
1853 operating the energy, energy-using technology or water-using technology that would otherwise
1854 be installed, as determined by a life-cycle cost analysis.

1855 (e) The division of capital asset management and maintenance or the state agency
1856 initiating the construction or renovation of a facility subject to the requirements of subsection (a)
1857 shall file with the department of energy resources a report detailing the agency’s compliance
1858 with this section with respect to each such facility.

1859 (f) The department of energy resources shall issue an annual report to the general court
1860 detailing the compliance record of all state agencies with the construction and renovation
1861 provisions of this section.

1862 Section 30. The director of facilities management shall make provision, as part of
1863 development of an inventory of buildings owned or otherwise occupied by state agencies or
1864 building authorities pursuant to section 24, for evaluation of the energy consumption of each
1865 building and its major energy using systems. The director may, with the approval of the
1866 commissioner and subject to appropriation or allocation, hire consultants for the purpose of
1867 performing energy audits designed to determine the need for energy conservation projects.

1868 The director shall recommend to the commissioner standards and guidelines governing
1869 energy conservation maintenance and operating procedures.

1870 The director shall in conjunction with the commissioner of Energy Resources set
1871 priorities and energy efficiency standards for all state buildings and conduct energy audits of said

1872 buildings. The bureau may contract with professional consulting firms to perform the energy
1873 audits.

1874 All energy conservation projects within the jurisdiction of the division of capital asset
1875 management and maintenance as defined by section 4, including projects funded out of any
1876 lump-sum energy conservation fund or account, shall be fully subject to the provisions of this
1877 chapter except that alternative energy property program projects authorized pursuant to section
1878 11 of chapter 25A shall not be subject to sections 11 and 12, sections 13 through 23, inclusive,
1879 and sections 24 through 28, inclusive, and section 30 of this chapter.

1880 Section 31. The division of capital asset management and maintenance shall evaluate the
1881 potential for increasing the energy efficiency in each building owned by an authority or state
1882 agency, or leased by such authority or agency for at least a 10 year period. Energy efficiency
1883 measures, as used in this section shall include, but not be limited to, heating, air-conditioning,
1884 lighting, water, and electric systems powered by coal, electricity, natural gas, oil.

1885 The annual energy cost savings realized by each authority or agency shall be retained in
1886 that the authority or agency utility account and applied to additional energy efficiency measures
1887 in subsequent years.

1888 Actions taken by the division of capital asset management and maintenance in
1889 accordance with provisions of this section shall be coordinated with ongoing energy conservation
1890 projects in state-owned or leased buildings. Buildings which have been scheduled for
1891 comprehensive energy conservation improvements before the effective date of this act may, upon
1892 approval of the commissioner of energy resources, be exempted from the provisions of this
1893 section. Utility programs offering energy auditing services shall be used whenever appropriate.

1894 The term “authority” used in this section shall not include authorities of cities or towns,
1895 such as local housing projects.

1896 Section 32. Real property, record title to which is held in the name of a state agency or
1897 the board of trustees of a state agency or similar board of a state agency, shall be deemed to be
1898 real property of the commonwealth. No deed or other instrument shall be required to effect the
1899 transfer to the commonwealth of title to such real property, but the land court department of the
1900 trial court shall, upon petition of the division of capital asset management and maintenance, issue
1901 in the name of the commonwealth a certificate of title to any real property, title to which is
1902 registered under chapter 185 in the name of a state agency or the board of trustees of a state
1903 agency or similar board of a state agency. Notwithstanding any general or special law to the
1904 contrary, no person shall acquire any rights by prescription or adverse possession in any lands or
1905 rights in lands held in the name of the commonwealth.

1906 The commissioner of capital asset management and maintenance shall exercise the
1907 powers stated in this chapter, notwithstanding the delegations which the general court has made
1908 pertaining to the acquisition, control, and disposition of real property, including sections 28 of
1909 chapter 15; section 2 of chapter 15D; section 19 of chapter 16; sections 1, 14B and 27 of chapter
1910 19; section 7 of chapter 19A; sections 14 to 16, inclusive, of chapter 20; sections 9A, 13, 17A,
1911 17B, and 30 of chapter 21; sections 2 and 9 of chapter 21A; sections 8 and 26 of chapter 23A;
1912 section 7 of chapter 23B; section 41 of chapter 29; sections 4 and 5 of chapter 29A; sections 11,
1913 12, 25, 26, and 27 of chapter 75; sections 8, 9, 18, 19, and 22 of chapter 75A; sections 8, 13, and
1914 14 of chapter 75B; sections 7, 7A, 7C, 7D, 7E, 7G, 7H, 7L, 7M, 11, 13A, and 13B of chapter 81;
1915 section 7 of chapter 82; section 4 of chapter 83; section 39B of chapter 90; sections 2, 3, 5, and 6
1916 of chapter 91; sections 9A, 13, 33, 34, 77 to 85, inclusive, 87, and 88 of chapter 92; sections

1917 62R, 83, and 86 of chapter 111; section 5 of chapter 111B; section 8 of chapter 115A; sections 1
1918 and 2 of chapter 120; section 5 of chapter 122; sections 39 and 43 of chapter 123; section 10 of
1919 chapter 124; section 2 of chapter 147; sections 31 and 32 of chapter 184; provided, however, that
1920 the commissioner shall acquire, control and dispose of real property in accordance with the terms
1921 and purposes of the aforementioned provisions. The commissioner shall not make any
1922 acquisition of real property on behalf of a state agency by eminent domain or make any such
1923 delegation of power to acquire real property by eminent domain to any state agency unless such
1924 state agency is otherwise authorized by law to exercise the power of eminent domain. The
1925 commissioner may delegate to state agencies responsibility for the acquisition, control, and
1926 disposition of real property as provided for in this chapter; except that the commissioner may not
1927 delegate responsibility for determining that property is surplus to state needs as required in
1928 section 33. When responsibility is delegated to a state agency, the written approval of the
1929 commissioner shall be required before the transaction is completed, and a copy of said written
1930 approval shall be sent to the joint committee on state administration.

1931 For the purposes of sections 33 through 40 inclusive, the term "emergency" shall mean
1932 any situation caused by unforeseen circumstances which render currently used real property
1933 unusable or unavailable for the purposes intended and which creates an immediate need for other
1934 real property to preserve the health or safety of persons or property.

1935 Section 33. The commissioner of capital asset management and maintenance shall be
1936 responsible for the acquisition, control and disposition of real property in the manner and to the
1937 extent provided in this chapter. The commissioner may delegate such responsibility to an
1938 administrator, who has 10 years of experience in the management of commercial, industrial,

1939 institutional or public real property. When responsibility is delegated to an administrator the
1940 written approval of the commissioner shall be required before such transaction is finalized.

1941 The commissioner shall acquire interest in real property on behalf of the commonwealth
1942 for the use of state agencies by gift, purchase, devise, grant, eminent domain, rental, lease, rental-
1943 purchase or otherwise.

1944 In acquiring buildings for the use of state agencies, first consideration shall be given to
1945 any structures that have been certified as historic landmarks as provided by sections 26 through
1946 27C inclusive of chapter 9, that have been listed in the National Register of Historic Places as
1947 provided by 16 U.S.C. section 470a (1974) or that have been designated historic landmarks by
1948 local historic commissions, unless use of such buildings would not be feasible in terms of costs
1949 and requirements when compared with other available properties.

1950 Notwithstanding any laws to the contrary, real property acquired for the use of state
1951 agencies shall be held in the name of the commonwealth.

1952 The commissioner shall assist in the preparation and shall approve of plans for the
1953 organization of all space within and around buildings and appurtenant structures used by state
1954 agencies, and shall assign the use of space within and around the state house, subject to such
1955 rules as the committee on rules of the 2 branches acting concurrently may adopt, in accordance
1956 with the provisions of sections 10, 16A and 17 of chapter 8 the John W. McCormack State
1957 Office Building; the Leverett Saltonstall State Office Building; the Springfield Office Building;
1958 the Pittsfield Office Building; the Erich Lindemann Building; the Charles F. Hurley Building;
1959 any real property acquired for the use of state agencies, the greater part of which is not needed by

1960 any one state agency; and any other real property assigned by law to the division of capital asset
1961 management and maintenance.

1962 The commissioner, with the written approval of the commissioner of administration, may
1963 transfer use of, and responsibility for maintenance of, buildings, including equipment therein,
1964 within or between state agencies. No such transfer within or between state agencies which
1965 involves either a change in the purposes for which such building is currently used or a change in
1966 use in excess of 50 per cent of the usable floor space, shall be made without the prior approval of
1967 the general court. Any such transfer shall be based on a determination, made by the
1968 commissioner with the advice of the executive heads of affected agencies and secretaries of the
1969 executive offices in which such agencies are located, that such property is not needed, is under
1970 utilized, or is not being put to optimum use under current conditions. The commissioner shall
1971 notify the house and senate committees on ways and means and the representatives to the general
1972 court from the city or town in which such real property is located not less than 30 days prior to
1973 the final authorization of any transfer which does not require the approval of the general court,
1974 and such transfer shall only be made when the general court is in session except as provided
1975 hereafter. Such transfer may be made when the general court is not in session, and the 30 day
1976 notification requirement may be waived, only if the commissioner certifies in writing that an
1977 emergency exists; provided that, any such transfer may be authorized for a period not to exceed 6
1978 months, and provided further, that the commissioner shall submit his certification to and notify
1979 the house and senate ways and means committees of such transfer at the earliest possible
1980 opportunity.

1981 The commissioner may, after notification to and with the advice of the executive heads of
1982 state agencies and secretaries of the executive offices, determine that real property is not needed

1983 for the use of any state agency. If he determines that such property is surplus to both the current
1984 and foreseeable needs of state agencies, the commissioner shall determine whether any other
1985 public agency has a current or foreseeable direct public use for the property. For the purposes of
1986 determining whether property is surplus to direct public use, direct public use is defined in this
1987 section as use of property for a public agency's own operations, but does not include conveyance
1988 by such agency of any interest in the property to another party, but does include lease of the
1989 property by local housing authorities to public housing tenants.

1990 When property is determined to be surplus, to either current state or current direct public
1991 uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall take
1992 such action as is necessary to ensure that any disposition of the property is temporary and
1993 maintains the commissioner's ability to make such property available to a state agency or other
1994 public agency at such time as it is needed.

1995 If the commissioner determines that the property is not needed for current or foreseeable
1996 state or direct public use as defined above and that the property should be disposed of, he shall
1997 declare that the property is available for disposition and shall identify restrictions, if any, on the
1998 property's use and development necessary to comply with established state and local plans and
1999 policies, and he shall send written notification of such to the house and senate committees on
2000 ways and means, and the joint committee on state administration.

2001 The commissioner may convene an advisory committee to advise him on reuses and to
2002 recommend reuse restrictions for property declared surplus. If an advisory committee is
2003 convened, the commissioner shall invite the representatives to the general court from the city or
2004 town in which the property is located to serve on the committee. The commissioner shall prepare

2005 a preliminary report on his findings, which shall include both his recommendation, and those of
2006 the advisory committee if established, for reuse restrictions for the property.

2007 The commissioner shall conduct a public hearing to consider potential reuses and reuse
2008 restrictions for the surplus property and to review the commissioner's preliminary report if the
2009 property exceeds two acres or if the commissioner determines that a hearing should be held for a
2010 smaller parcel. If he determines to conduct a hearing, the commissioner shall provide notice in
2011 the central register of the public hearing at least 60 days prior to (1) notification to the house and
2012 senate committees on ways and means and the joint committee on state administration, of a
2013 temporary disposition of property to a public agency for less than 5 years for a direct public use,
2014 or (2) submission of a request to the general court for authority to otherwise dispose of real
2015 property as provided in this section. A notice of the public hearing shall also be placed, at least
2016 once each week for the 4 consecutive weeks preceding the hearing, in newspapers with sufficient
2017 circulation to inform the people of the affected locality. The hearing shall be held in the locality
2018 in which the property is located no sooner than 30 days and no later than 35 days after the notice
2019 is published in the central register.

2020 The commissioner may, with the written approval of the commissioner, enter into
2021 agreements for the direct public use of surplus real property by public agencies other than state
2022 agencies, for a term not to exceed 5 years. Such agreement shall prohibit subsequent conveyance
2023 of interest in the property by the public agency to another party. The commissioner shall notify
2024 the house and senate committees on ways and means and the joint committee on state
2025 administration 30 days prior to the final authorization of any such agreement. The notification
2026 shall include the commissioner's report on recommended reuse restrictions. In no event shall any
2027 such agreement be made when the general court is not in session.

2028 The commissioner shall establish the value of surplus property through procedures
2029 customarily accepted by the appraising profession as valid for determining property value. The
2030 value shall be calculated both for: (1) the highest and best use of the property as currently
2031 encumbered; and (2) uses and encumbrances defined by the commissioner.

2032 The commissioner may, with the approval of the commissioner, request from the general
2033 court authorization to dispose of state real property determined to be surplus to state agency
2034 needs: (1) to public agencies of the commonwealth other than state agencies for direct public
2035 uses, over a period exceeding 5 years, (2) to a public agency of the commonwealth other than a
2036 state agency, for uses other than direct public uses, and (3) to an individual, entity, or the federal
2037 government; or any extension of any agreement for such use beyond a cumulative period of 5
2038 years. Accompanying his request for authorization to dispose of property, the commissioner shall
2039 submit his report including a description of the property, its current use, structures, and
2040 approximate metes and bounds, the value of the property and recommended restrictions, if any,
2041 on reuses of the property. The commissioner shall also request authorization to negotiate real
2042 property disposition agreements with parties to be selected by the commissioner after he
2043 evaluates competitive proposals. Disposition agreements subsequently negotiated by the
2044 commissioner shall be consistent with the reuse restrictions approved by the general court.

2045 Notwithstanding the provisions of this section, leases for agricultural purposes on land
2046 owned by the commonwealth shall be made for a term of not more than 5 years, and the renewal
2047 date for such leases shall not be less than 1 year prior to the end of the lease period. Holders of
2048 such leases shall be given the opportunity to renew such leases for a consideration equal to the
2049 current lease amount plus an escalation amount to be established annually by the commissioner
2050 for application to all such leases.

2051 The commissioner shall monitor compliance with disposition agreements.

2052 The commissioner shall develop regulations governing the conditions under which he
2053 will recommend to the general court that a public agency, including but not limited to the
2054 government land bank, receive title to surplus property for other than direct public use.

2055 For bills which authorize the sale, transfer, or other disposition of any state-owned real
2056 property filed by persons other than the commissioner of capital asset management and
2057 maintenance, the clerk of the house of representatives and the clerk of the senate shall, within 10
2058 days of the filing, forward a copy of said bill to the commissioner. Within 90 days of the receipt
2059 of said copy, the commissioner shall submit in writing a report to the commissioner of
2060 administration, the legislative committee before which the bill is pending, and the joint
2061 committee on state administration together with a recommendation for either the approval or the
2062 disapproval of the bill and his reasons therefor.

2063 If the commissioner is recommending the approval of a bill proposing the disposition of a
2064 parcel exceeding two acres, said report shall include: (1) a description of the property including
2065 its current use, structures, and approximate metes and bounds; (2) the value of the property,
2066 determined through procedures customarily accepted by the appraising profession as valid for
2067 such purposes, calculated both for (a) the highest and best use of the property as currently
2068 encumbered and (b) uses and encumbrances that would be imposed by the bill if enacted; (3) all
2069 current and foreseeable direct public uses identified by following the division's procedures for
2070 such purposes as they apply to the property to be disposed (4) other potential public and private
2071 uses of the property; and (5) any other information the general court may require.

2072 The commissioner shall expeditiously review and recommend approval or disapproval of
2073 any proposal to the general court for the sale, rental or other disposition of real property acquired
2074 on behalf of state agencies, and shall dispose of real property as mandated by the general court.
2075 All legislation submitted to the general court by the division of capital asset management and
2076 maintenance requesting authorization to convey or transfer real property under its jurisdiction
2077 shall be accompanied by a full report outlining the division's reasons for pursuing said
2078 conveyance or transfer.

2079 Section 34. (a) When authorized by the general court to sell, rent or otherwise dispose of
2080 real property, the commissioner shall proceed in accordance with the provisions of this section,
2081 provided that any action or determination required hereunder which the commissioner has
2082 undertaken within 18 months prior to enactment of the authorization to dispose of the property
2083 need not be repeated if the commissioner (1) files, as provided in subsection (b), a report fully
2084 describing such action or determination, a copy of which shall be sent to the clerks of the senate
2085 and the house of representatives, and the joint committee on state administration, and (2) certifies
2086 under penalties of perjury that such report is accurate and that the action or determination
2087 described therein was undertaken within 18 months prior to the date of enactment of the
2088 authorization to dispose of the property.

2089 The commissioner shall, after notification to and with the advice of the executive heads
2090 of state agencies and secretaries of the executive offices, determine whether such property is
2091 surplus to both current and foreseeable needs of state agencies. If the commissioner determines
2092 that the property is not surplus to either current or foreseeable needs of state agencies, he shall
2093 make no disposition that is inconsistent with such determination.

2094 If the commissioner determines that such property is surplus to both the current and
2095 foreseeable needs of state agencies, he shall provide written notice, for each city or town in
2096 which the property is located, to the city manager in the case of a city under Plan E form of
2097 government, the mayor and city council in the case of all other cities, the chairman of the board
2098 of selectmen in the case of a town, the county commissioners, the regional planning agency, and
2099 the members of the general court. The commissioner shall set forth in such notice a description
2100 of the property; a declaration that the property is surplus to the needs of state agencies and that
2101 subject to the approval of the commissioner the property is available to any other public agency
2102 for a direct public use; and a statement that, if so requested by any public official or body entitled
2103 under this section to receive such notice, a public hearing will be conducted in the city or town
2104 where such property is located, to assist the commissioner in determining whether any other
2105 public agency has a current or foreseeable direct public use for the property. Following such
2106 hearing, if any, but in no event earlier than 30 days following the notice, the commissioner shall
2107 determine whether any other public agency has a current or foreseeable direct public use for the
2108 property. If he determines that the property is not surplus to either current or foreseeable direct
2109 public uses of public agencies, he shall make no disposition that is inconsistent with such
2110 determination.

2111 When the property is determined to be surplus to either current state or current direct
2112 public uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall
2113 take such action as is necessary to ensure that any disposition of the property is temporary and
2114 maintains the commissioner's ability to make such property available to a state agency or other
2115 public agency at such time as it is needed.

2116 If the commissioner determines that the property is surplus to both current and
2117 foreseeable direct public uses of public agencies, he may dispose of the property to a public
2118 agency for other than direct public use, or to an individual or entity, provided that any such
2119 disposition shall be subject to the provisions of section 36.

2120 If the commissioner determines that the property is not needed for current or foreseeable
2121 state or direct public use and that the property should be disposed of, either temporarily or
2122 permanently, he shall declare that the property is available for disposition and shall determine
2123 appropriate reuse restrictions. The commissioner shall ensure that any rental agreement, and in
2124 the case of a conveyance a deed or separate disposition agreement as deemed appropriate by the
2125 commissioner, shall set forth all such reuse restrictions; shall provide for effective remedies on
2126 behalf of the commonwealth, including if deemed appropriate by the commissioner that title to
2127 the property, or such lesser interest as is the subject of the disposition agreement, shall revert to
2128 the commonwealth in the event of a violation of any such reuse restriction; and shall provide, in
2129 the case of a disposition to a public agency for a direct public use, that the title to the property, or
2130 such lesser interest as is the subject of the disposition agreement, shall revert to the
2131 commonwealth in the event the property is no longer utilized for such direct public use.

2132 In determining reuse restrictions, the commissioner shall conform to all such restrictions
2133 pertaining to the property which may have been mandated by the general court, and may adopt
2134 additional restrictions, taking account of established state and local plans and policies. The
2135 commissioner shall conduct a public hearing to consider reuse restrictions if the property exceeds
2136 two acres or if the commissioner determines that a hearing should be held for a smaller parcel.
2137 Notice of the public hearing shall be placed at least once each week for 4 consecutive weeks
2138 preceding the hearing, in newspapers with sufficient circulation to inform the people of the

2139 affected locality. The hearing shall be held in the locality in which the property is located no
2140 sooner than 30 days and no later than 35 days after notice thereof is published in the central
2141 register.

2142 The commissioner shall establish the value of the property, through procedures
2143 customarily accepted by the appraising profession as valid for determining property value, for
2144 both the highest and best use of the property as currently encumbered and under the reuse
2145 restrictions as determined pursuant to this section.

2146 No agreement for the rental or other disposition of state-owned real property, and no
2147 deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or
2148 deed contains the following declaration, signed by the commissioner:

2149 The undersigned certifies under penalties of perjury that I have fully complied with the
2150 provisions of sections 34 and 36 of this chapter in connection with the property described
2151 herein.

2152 It shall be the policy of the commonwealth that the commissioner shall not sell, rent, or
2153 dispose of any real property including but not limited to granting the right to lay, construct,
2154 maintain, or operate pipelines through, over, across, or under land, water, park, reservation or
2155 highway of the commonwealth, its agencies or its political subdivisions, to any person doing
2156 business in or with Burma (Myanmar). The commissioner may sell, rent, or dispose of said
2157 property or grant said rights to said person only after certifying in writing to the speaker of the
2158 house of representatives and president of the senate that such action is essential to protect the
2159 health and safety of the public.

2160 (b) The commissioner shall maintain, for a period of at least 6 years next following
2161 enactment of an authorization by the general court to dispose of real property, a file containing a
2162 copy of each document necessary to establish fulfillment of the requirements of subsection (a).
2163 Such file shall be open to public inspection.

2164 Section 35. The commissioner of capital asset management and maintenance shall
2165 suggest to the budget director, as part of his recommendation for the annual appropriation for
2166 space rentals provided for by section 3 of chapter 29, the maximum rate to be paid for the rental
2167 of space by type and geographical area and the maximum percentage to be paid for the escalation
2168 of all such rental costs. The budget director shall consider the suggestions of the commissioner in
2169 recommending the approval of such costs by the general court, as part of the annual
2170 appropriations act.

2171 The commissioner may rent, for the use of state agencies, through lease, tenancy-at-will
2172 or other rental agreement for a term not exceeding 10 years, premises outside of the state house
2173 or other buildings owned by the commonwealth. If the term of the rental agreement under which
2174 premises are being used for the purposes of a particular activity by any state agency expires
2175 between the beginning of a fiscal year and the effective date of an appropriation act for such
2176 fiscal year and no appropriation for rent for said premises has been made and if the general court
2177 has not provided otherwise, the commissioner may rent for such purposes the same or different
2178 premises, for a term not exceeding 5 years, obligating the commonwealth to pay no greater
2179 amount of rent for any period than was paid for a corresponding period under the expiring
2180 agreement.

2181 No charges for rentals provided for in this section shall exceed the maximum rate plus
2182 escalation cost approved by the general court. Further, the commissioner shall notify the house
2183 and senate committees on ways and means 30 days prior to the final authorization of any such
2184 rental agreement and such agreement shall only be made when the general court is in session,
2185 except as provided hereafter. Such agreement may be made when the general court is not in
2186 session, and the 30 day notification requirement may be waived, only if the commissioner
2187 certifies in writing that an emergency exists; provided that, any such agreement shall be
2188 authorized for a period not to exceed 6 months, and provided further, that the commissioner shall
2189 submit his certification to and notify the house and senate ways and means committees of such
2190 agreement at the earliest possible opportunity.

2191 Notwithstanding the time limitation of this section or of any other law, the commissioner
2192 may enter into rental-purchase agreements for the purchase or construction of premises to be
2193 occupied by the division of employment and training outside of the state house or other buildings
2194 owned by the commonwealth, provided, that the costs incident to such rental-purchase
2195 agreements, including amortization, shall be borne by the federal government. After expiration
2196 of the period of amortization in each such instance, the commonwealth shall not charge the
2197 department of employment and training with rent of such premises, provided the federal
2198 government shall bear the cost of service to and maintenance of such premises.

2199 The secretary of administration and finance shall report quarterly to the house and senate
2200 committees on ways and means any lease, tenancy-at-will or other rental agreement, or any
2201 extensions thereof, made pursuant to this section; provided, however that said quarterly report
2202 shall include, by agency, the amount and location of such rental space, any new or additional

2203 space, the duration of the lease or agreement, the cost per square foot of such rental space, any
2204 increase or decrease in said cost, and the cost of the preceding lease or agreement.

2205 Section 36. At least 30 days before opening proposals for the acquisition by purchase or
2206 rental of real property for the use of state agencies from an individual or entity, or for the sale or
2207 rental of real property used by state agencies (1) to a public agency other than a state agency for
2208 other than a direct public use, or (2) to an individual or entity, the commissioner of capital asset
2209 management and maintenance shall advertise in the central register published by the state
2210 secretary pursuant to section 20 of chapter 9 stating therein the need for or availability of such
2211 property, and inviting submission of such proposals. The advertisement shall specify the
2212 geographical area, terms and requirements of the proposed transaction, and shall state the time
2213 and place for the submission of such proposals and for the opening thereof. In advertising for the
2214 rental of real property for use as an area welfare office, the geographical area specified in the
2215 advertisement shall include all municipalities serviced by the welfare office. In case of the rental
2216 or sale of over two thousand five hundred square feet of real property, such advertisement shall
2217 also be placed at least once each week for 4 consecutive weeks in newspapers with a circulation
2218 sufficient to inform the people of the affected locality. The last publication shall occur at least 8
2219 days preceding the day for opening proposals.

2220 The advertising requirement may be shortened or waived if (1) the commissioner certifies
2221 in writing that an emergency exists, a copy of such written certification shall be sent to the joint
2222 committee on state administration, provided that every reasonable effort be made to seek
2223 competitive proposals, and provided that the commissioner shall disclose his reasons for
2224 declaring the emergency in the central register at the earliest opportunity; or (2) in the case of a
2225 proposed acquisition, if the commissioner determines that such advertising will not be beneficial

2226 to the commonwealth's interest because of the unique qualities or location of the property
2227 needed, provided that the commissioner shall set forth in writing his reasons for such
2228 determination, relating such unique requirements to the property proposed to be acquired, and
2229 that such determination and the reasons therefor shall be published in the central register not less
2230 than 30 days before any binding agreement to acquire such property is executed, together with
2231 the name of the parties having a beneficial interest in the property pursuant to section 38, the
2232 location and size of the property, and the proposed purchase price or rental terms.

2233 No agreement on behalf of the commonwealth for the rental of real property for the use
2234 of state agencies from an individual or entity shall be valid unless such agreement contains the
2235 following declaration, signed by the commissioner:

2236 The undersigned certifies under penalties of perjury that I have fully complied with the
2237 advertising requirements of section 36 of this chapter in connection with the property described
2238 herein.

2239 The commissioner shall also place notification in the central register of the individual or
2240 firm selected as party to any such real property transaction, and the amount of such transaction.
2241 In no instance in which the state retains responsibility for maintenance of the property shall the
2242 terms provide for payment of less than the maintenance costs. If the commissioner decides to
2243 dispose of the property at a price less than any of its values established pursuant to the provisions
2244 of section 34, the commissioner shall include a justification for such decision in the notice and
2245 shall disclose the difference between the calculated value and the price received.

2246 After the execution of a rental or sale agreement completing such transaction, all
2247 proposals relating thereto shall be retained by the commissioner and shall be open to inspection

2248 by the public until the expiration of such agreement or 6 months from the date thereof,
2249 whichever occurs first, and may thereafter be destroyed by him.

2250 Section 37. At least 120 days prior to any purchase, sale, rental, lease, transfer, or
2251 significant change in use of one or more acres of real property by the commonwealth on behalf
2252 of state agencies, the commissioner of capital asset management and maintenance shall notify in
2253 writing, for each city or town in which the real property is located: the city manager in the case
2254 of a city under Plan E form of government, the mayor and the city council in the case of all other
2255 cities, the chairman of the board of selectmen in the case of a town, the county commissioners,
2256 the regional planning agency, and the members of the general court. Such 120 day notification
2257 requirement may be shortened if: (1) the public officials referred to above agree to reduce the
2258 120 day period upon the request of the commissioner; or (2) the commissioner certifies in
2259 writing that an emergency exists, provided that commissioner shall submit his certification to and
2260 notify the appropriate local officials of any such transaction at the first possible opportunity. The
2261 notice shall include a statement of the present use, the reason for the proposed action, and the
2262 proposed use of the property. The commissioner shall at least 60 days prior to any such purchase,
2263 sale, rental, lease, transfer, or significant change in use of one or more acres of real property,
2264 cause a public hearing to be held, after giving timely notice, in the city or town where such real
2265 property is located for the purpose of disclosing the conditions or reasons for the proposed
2266 action.

2267 Section 38. No agreement to rent or to sell real property to or to rent or purchase real
2268 property from a public agency, and no renewal or extension of such agreement, shall be valid and
2269 no payment shall be made to the lessor or seller of such property unless a statement, signed,
2270 under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the

2271 case of a corporation by a duly authorized officer thereof giving the true names and addresses of
2272 all persons who have or will have a direct or indirect beneficial interest in said property with the
2273 commissioner of capital asset management and maintenance. The provisions of this section shall
2274 not apply to any stockholder of a corporation the stock of which is listed for sale to the general
2275 public with the securities and exchange commission, if such stockholder holds less than 10 per
2276 cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the
2277 case of an agreement to rent property from a public agency where the lessee's interest is held by
2278 the organization of unit owners of a leasehold condominium created under chapter 183A, and
2279 time-shares are created in the leasehold condominium under chapter 183B, the provisions of this
2280 section shall not apply to an owner of a time-share in the leasehold condominium who (i)
2281 acquires the time-share on or after a bona fide arms length transfer of such time-share made after
2282 the rental agreement with the public agency is executed and (ii) who holds less than 3 per cent of
2283 the votes entitled to vote at the annual meeting of such organization of unit owners.

2284 A disclosure statement shall also be made in writing, under penalty of perjury, during the
2285 term of a rental agreement in case of any change of interest in such property, as provided for
2286 above, within 30 days of such change.

2287 Any official elected to public office in the commonwealth, or any employee of the
2288 division of capital asset management and maintenance disclosing beneficial interest in real
2289 property pursuant to this section, shall identify his position as part of the disclosure statement.
2290 The commissioner shall notify the state ethics commission of such names, and shall make copies
2291 of any and all disclosure statements received available to the state ethics commission upon
2292 request.

2293 The commissioner shall keep a copy of each disclosure statement received available for
2294 public inspection during regular business hours.

2295 Section 39. The commissioner of capital asset management and maintenance shall
2296 establish and maintain a comprehensive inventory of the real property owned, rented or
2297 otherwise occupied by public agencies. Such inventory shall include a detailed description of the
2298 allocation, utilization and condition of real property used by state agencies and a general
2299 description of the size, type and use of real property under the jurisdiction of other public
2300 agencies. The real property inventory shall be published annually for distribution to state
2301 agencies and regional planning agencies, shall be filed by February 15 each year with the clerk
2302 of the house of representatives and the senate and the joint committee on state administration and
2303 shall be a public document available for general distribution.

2304 The division of capital asset management and maintenance shall be the central depository
2305 for all certificates of title, copies of deeds, records of sale, rental agreements and other pertinent
2306 records relating to real property acquired for the use of state agencies. All such documents shall
2307 be public records and shall be open to inspection by the public during regular business hours.

2308 The commissioner may delegate responsibility for the housing and care of such original
2309 records to a state agency if such records are necessary for the daily operation of said agency. A
2310 state agency requesting the delegation of such responsibility shall demonstrate to the
2311 commissioner that such records will be adequately maintained and housed. In case of such
2312 delegation, copies of essential records shall be deposited with the division.

2313 All public agencies shall cooperate with the division in providing the information
2314 required by this section.

2315 Section 40. The commissioner of capital asset management and maintenance shall
2316 establish rules and regulations for the acquisition, utilization and disposition of real property,
2317 which shall be applicable to state agencies and which shall be recommended to counties and
2318 building authorities and which shall be filed with the clerks of the house of representatives and
2319 the senate and the joint committee on state administration. The commissioner shall review rules
2320 and regulations promulgated by the director of housing and community development for the
2321 acquisition, utilization and disposition of real property and shall recommend approval or
2322 disapproval of such rules and regulations to said director. The commissioner may, at his
2323 discretion, delegate responsibility for the establishment of rules and regulations for the
2324 acquisition, utilization and disposition of real property, subject to his approval, to state agencies
2325 with special needs and a proven capability to promulgate such rules and regulations.

2326 Such rules and regulations shall, at a minimum, provide for:

2327 (a) a determination of the amount and type of real property needed to accommodate
2328 functions performed by agencies of the commonwealth;

2329 (b) a standard format for rental agreements and rental specifications;

2330 (c) current fair market rentals by geographical area;

2331 (d) methods of procurement and evaluation of service contracts for state-owned and
2332 rented real property;

2333 (e) procedures and criteria for determining when real property is not needed, is
2334 underutilized, or is not being put to optimum use;

2335 (f) rates to be charged in the rental of real property to public and federal agencies and
2336 private individuals and entities;

2337 (g) the method of procurement of independent determinations of property value, the
2338 number of such determinations, and the review of such determinations required before real
2339 property may be sold, purchased, or rented;

2340 (h) procedures to be employed in determining prices and terms for the sale, rental, or
2341 purchase of real property and certification required for proof of such procedures;

2342 (i) the satisfaction of requirements for the acquisition and disposition of real property as
2343 mandated by law and regulation;

2344 (j) the organization of space within buildings to maximize utilization;

2345 (k) a standard format for the disclosure of beneficial interest as mandated by section 38;
2346 and

2347 (l) the type and method of collection of information to be included in the real property
2348 inventory established by section 39.

2349 All such rules and regulations shall be filed in accordance with and subject to the
2350 provisions of section 2 by the commissioner of the division of capital asset management and
2351 maintenance

2352 Section 41. No department of the commonwealth shall occupy, or make any expenditure
2353 for the maintenance of, any land, buildings or other state-owned or state-occupied facilities or
2354 other property other than that under its control or jurisdiction. No department of the
2355 commonwealth shall authorize or otherwise allow the use by any private agency of such land,

2356 buildings or facilities under its control or jurisdiction unless such use or expenditure shall have
2357 been approved by the general court after recommendation by the commissioner of
2358 administration. Use without such approval shall be deemed to be a violation of this section, and
2359 the user shall pay a civil penalty at the rate of $10 per square foot annually for the period of such
2360 use.

2361 Section 42. The director of facilities management shall report quarterly to the house and
2362 senate committees on ways and means any lease negotiated or any agreement providing for a
2363 tenancy at will or other rental of space, and any renewal or extension thereof, which has been
2364 signed by the executive or administrative head of a state department, court, commission or board
2365 or which has been approved by the state superintendent of state office buildings and by the
2366 commissioner of administration; provided, however, that said quarterly report shall include by
2367 agency, the amount and location of such rental space, any new or additional space, the duration
2368 of the lease or agreement, the cost per square foot of such rental space, any increase or decrease
2369 in said cost, and the cost of the preceding lease or agreement.

2370 Section 43. Upon the receipt of the commission of notice under section 6B of chapter 38
2371 that a site evaluation will be made to determine if skeletal remains are American Indian, the
2372 commission may designate a representative to be present when said site evaluation is made. If
2373 the state archaeologist and commission determine that said remains are American Indian, the
2374 owner of the land whereon the remains were discovered, the state archaeologist, the commission
2375 and other interested parties shall determine whether prudent and feasible alternatives exist to
2376 avoid, minimize or mitigate harm to the Indian burial site. If it is not prudent and feasible to
2377 preserve the remains in the original Indian burial site then the state archaeologist shall excavate
2378 and recover the remains under the supervision of the commission on Indian affairs. The

2379 commission and state archaeologist shall then consult to determine how the remains shall be
2380 disposed.

2381 The final plan or agreement, which shall be in writing, may include provisions for
2382 preservation in situ; or the conducting of additional scientific and archaeological research and
2383 investigation with the approval of the commission on Indian affairs, or the immediate
2384 reinterment of the remains or with the consent of the site's owner, or the execution of a
2385 preservation restriction pursuant to section 32 of chapter 184. If it is determined that the remains
2386 are to be reinterred it shall be the responsibility of the commission on Indian affairs to conduct
2387 the reinterment.

2388 The state archaeologist and commission shall consult to determine whether a skeletal
2389 analysis shall be made; said analysis must be completed within 1 year of the date of approval. If
2390 more than 1 year is required to conduct said analysis, the commission and state archaeologist
2391 shall consult to determine whether the 1 year may be extended. If they fail to agree on whether
2392 the skeletal analysis shall be extended for more than 1 year, they shall each designate three
2393 qualified persons who shall meet and make a recommendation to the commission on Indian
2394 affairs on whether a skeletal analysis of the remains shall be made. The commission shall make
2395 the final decision on whether a skeletal analysis of the remains shall be conducted for longer than
2396 1 year. It will be the responsibility of the commission on Indian affairs to reinter the remains
2397 when the skeletal analysis is completed.

2398 Section 44. (a) Sections 44 to 58, inclusive, shall: ensure that the commonwealth
2399 receives the highest quality design services for all its public building projects; provide for
2400 increased confidence in the procedures followed in the procurement of design and design related

2401 services; promote consistency in the methods of procurement of design and design related
2402 services for all public building projects in the commonwealth; foster effective broad-based
2403 participation in public work within the design professions; provide safeguards for the
2404 maintenance of the integrity of the system for procurement of designers' services within the
2405 commonwealth;

2406 (b) All words defined by section 1 which appear herein shall have the meanings set forth
2407 in said section 1. The words defined in this section shall have the meanings set forth below
2408 whenever they appear in sections 44 to 58, inclusive, unless the context in which they are used
2409 clearly requires a different meaning, or a different definition is prescribed for a particular section
2410 or provision.

2411 "Designer", an individual, corporation, partnership, sole proprietorship, joint stock
2412 company, joint venture, or other entity engaged in the practice of architecture, landscape
2413 architecture, or engineering, which satisfies the following:

2414 (i) if an individual, the individual is a registered architect, landscape architect, or
2415 engineer;

2416 (ii) if a partnership, a majority of all the partners are persons who are registered
2417 architects, landscape architects, or engineers;

2418 (iii) if a corporation, sole proprietorship, joint stock company or other entity, the
2419 majority of the directors or a majority of the stock ownership and the chief executive officer are
2420 persons who are registered architects, landscape architects, or engineers, and the person to have
2421 the project in his or her charge is registered in the discipline required for the project;

2422 (iv) if a joint venture, each joint venturer satisfies the requirements of this section.

2423 "Programmer", any designer or any other individual, corporation, partnership, sole
2424 proprietorship, joint stock company, joint venture, or other entity engaged in the preparation of
2425 architectural facility programs or studies.

2426 "Construction manager", any designer or any other corporation, partnership, individual,
2427 sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of
2428 construction management or construction scheduling.

2429 "Design services", any of the following services provided by any designer, programmer,
2430 or construction manager in connection with any public building project:

2431 (i) preparation of master plans, studies, surveys, soil tests, cost estimates or
2432 programs;

2433 (ii) preparation of drawings, plans, or specifications, including but not limited to
2434 schematic drawings, preliminary plans and specifications, working plans and specifications or
2435 other administration of construction contracts documents;

2436 (iii) supervision or administration of a construction contract;

2437 (iv) construction management or scheduling.

2438 "Applicant", any person or entity applying to perform design services, the principal
2439 personnel responsible for the provision of such services for the project, and the persons who will
2440 be the principal staff for the project.

2441 “Public agency”, a department, agency, board, commission, authority, or other
2442 instrumentality of the commonwealth or political subdivision of the commonwealth or two or
2443 more subdivisions thereof other than cities and towns, and any agency, unit, authority, or
2444 instrumentality thereof but not including the State College Building Authority or the University
2445 of Massachusetts Building Authority.

2446 “Director”, the director of the office of project management, or in the case of agencies
2447 subject to the provisions of section 4B of chapter 7, the chief executive official of the agency or
2448 his designee.

2449 “Commissioner” and “division”, the commissioner and the division of capital asset
2450 management and maintenance.

2451 “Board”, the designer selection board.

2452 “Continued services”, authorization for a designer who has been appointed for one stage
2453 of a project to act as the designer for a succeeding stage or stages of the same project.

2454 “Extended services”, authorization for a designer who has been appointed to provide
2455 design services for a project to act as designer for work to be done on another project not
2456 originally included in that designer’s contract.

2457 Section 45. (a) There shall be located within the executive office for administration and
2458 finance a designer selection board, consisting of 11 members. Eight members shall be appointed
2459 by the governor, 3 of whom shall be registered architects, 3 of whom shall be registered
2460 engineers, and 2 of whom shall be representatives of the public who are not architect designers,
2461 engineers or construction contractors. Three additional members shall be appointed as follows: 1

2462 registered architect by the Massachusetts State Association of Architects, 1 registered engineer
2463 by the government affairs council of design professional and 1 general contractor by the
2464 associated general contractor. The board shall be expanded from the present 5 members to 11
2465 members according to the following schedule: 1 additional architect, 1 additional engineer, and
2466 the 1 general contractor shall be appointed by the designated body within 90 days of the effective
2467 date of this section; another additional public representative shall be appointed within 1 year
2468 thereafter. Members shall be appointed for terms of 2 years and may be reappointed for no more
2469 than 1 successive 2 year term. The members shall annually select 1 member to be the
2470 chairperson. The director shall designate a representative, who shall be the project manager in
2471 the case of a project under the jurisdiction of the office of project management, to act as a
2472 nonvoting member of the board for each project under his jurisdiction under consideration by the
2473 board. No provision of this section shall operate to reduce the tenure of members of the board
2474 serving at the time of the effective date of this section, except that the director of bureau of
2475 building construction shall cease to so serve upon the effective date of this section.

2476 (b) Members of the board shall be reimbursed for all necessary expenses incurred in the
2477 discharge of their official duties.

2478 (c) The board shall be provided with a suitable office by the executive office for
2479 administration and finance. The board shall employ an executive director who shall be a
2480 registered architect or engineer registered in the commonwealth and such other staff or
2481 consultants as it may deem necessary, subject to appropriation, for the board. The board and its
2482 staff may travel within and without the commonwealth.

2483 Section 46. (a) The board shall have jurisdiction over the selection of all designers,
2484 programmers, and construction managers performing design services in connection with any
2485 building project for all public agencies within the provisions of paragraphs (1), (2), and (4) of
2486 section 4, except those public agencies within the provision of section 54, and the procedures
2487 promulgated by any agency of the commonwealth for such selection by any housing authority
2488 subject to paragraph (3) of said section, unless a specific exemption from the board's jurisdiction
2489 is provided under this section.

2490 (b) The board shall grant an exemption for 2 years from its jurisdiction to each public
2491 agency within the provisions of paragraphs (3) and (4) of section 4, but in no event to any public
2492 agency within the provisions of paragraphs (1) and (2) of said section 4, if the agency has filed a
2493 written application for an exemption pursuant to subparagraph (c) of this section; provided,
2494 however, that the board shall withhold an exemption if the board determines that the designer
2495 selection procedure proposed by the public agency does not substantially incorporate the
2496 procedures required in section 45 to 53, inclusive, and section 56, or that the selection of finalists
2497 will not be made with the advice of design professionals or that the procedure proposed by the
2498 public agency does not satisfy the purposes of sections 44 to 58, inclusive, as set forth in said
2499 section 44, or that withholding such an exemption is in the best interest of the commonwealth;
2500 provided, however, that nothing in this section shall be interpreted to require the establishment of
2501 a board as prescribed in section 45 or to waive or in any way diminish the requirements imposed
2502 by any other provision of the General Laws. No withholding of an exemption shall take effect
2503 until the board shall have specified in writing the reasons for withholding an exemption and any
2504 changes in the agency's procedures which are required before an exemption will be granted. An
2505 agency granted an exemption or renewal thereof from the jurisdiction of the board shall, during

2506 any period such exemption or renewal is in effect, advertise for designers, select any designers to
2507 perform any design services, and continue or extend the services of any designers in accordance
2508 with the agency's last written designer selection procedures approved by the board in conformity
2509 with this section.

2510 (c) An application by a public agency for exemption from the jurisdiction of the board
2511 pursuant to this section must be verified by the agency director under the penalties of perjury,
2512 and must contain:

2513 (i) a detailed description of the designer selection process and the written designer
2514 selection procedures which the agency proposes to use;

2515 (ii) a statement that the agency's proposed designer selection process substantially
2516 incorporates the procedures required of the board in sections 45 to 53, inclusive, and section 56;

2517 (iii) a statement that the agency's projects are not subject to the jurisdiction of the
2518 division of capital planning and operations; and

2519 (iv) any other information required by the board.

2520 (d) An exemption shall be renewed by the board on a biennial basis if:

2521 (i) the board finds that the requirements of subparagraph (b) herein are met at the
2522 time of the renewal;

2523 (ii) the agency director files a verified application for renewal containing a
2524 description of any proposed changes in its designer selection procedure; and

2525 (iii) the agency director had filed a semi-annual report containing:

2526 a list of all contracts for designer services awarded by the agency since its
2527 last application, including for each project the name and address of any designer awarded such
2528 contracts, a brief description of the project, the estimated, or if available, the final construction
2529 cost for the project, and the estimated or, if available, final fee paid to the designer; and
2530 certification that all contracts so listed were awarded by the procedure described in the agency's
2531 last application.

2532 (e) Subject to the provisions of paragraph (f), a contract for design services shall be
2533 exempt from jurisdiction of the board if: (i) the design fee under the contract is less than
2534 $10,000; or (ii) the estimated construction cost of the project for which the design services are
2535 required is less than $100,000; or (iii) the contract is for the fabrication or installation of modular
2536 buildings procured in accordance with the provisions of section 44E of chapter 149; or (iv) the
2537 contract is for the demolition of buildings. Projects consisting of energy management services
2538 procured in accordance with section 11C of chapter 25A and regulations promulgated thereunder
2539 shall be exempt from the jurisdiction of the board.

2540 (f) The following types of projects, and contracts for design services for such projects,
2541 shall not be exempt from the board's jurisdiction:

2542 (i) Contracts for continued or extended services on projects over which the board
2543 otherwise has jurisdiction;

2544 (ii) Projects otherwise subject to the jurisdiction of the board for which an agency
2545 or the division intends to use its own staff to perform design services, except projects within
2546 Class I, as defined by subparagraph (d) of section 49, unless the board determines that the agency

2547 or the division has the capability with its existing staff to perform those services on the project in
2548 question, applying the same criteria as are used for selection of consultant designers.

2549 Section 47. (a) Each contract for designer services for a project subject to the jurisdiction
2550 of the board shall be publicly advertised by the board in a newspaper of general circulation in the
2551 area in which the project is located or to be located, and in the central register established under
2552 section20A of chapter 9, and in such places as the board requires by regulation, at least 2 weeks
2553 before the deadline for filing applications; provided, however, that each contract for designer
2554 services for a project whose estimated cost of construction is not less than ten thousand nor more
2555 than $25,000 shall not be required to be advertised in a newspaper of general circulation but shall
2556 be required to be advertised in the central register.

2557 (b) The public notice required by subparagraph (a) shall contain:

2558 (i) a description of the project, including the specific designer services sought, the
2559 time period within which the project is to be completed, and, if available, the estimated
2560 construction cost;

2561 (ii) if there is a program for the project, a statement of when and where the
2562 program will be available for inspection for applicants, and when and where a briefing session
2563 will be held for applicants, if one is required by the board's regulations and if there is not a
2564 program for the project, a statement to the effect;

2565 (iii) the qualification required of applicants for the projects;

2566 (iv) the categories of designers' consultants, if any, for which applicants must list
2567 the names of consultants which the applicant may choose to use;

2568 (v) whether the fee has been set or will be negotiated, and if the fee has been set,
2569 the amount of the fee.

2570 Section 48. (a) No designer, programmer, or construction manager may file an
2571 application for any project subject to the board's jurisdiction unless having first filed with the
2572 board a written statement containing the following information:

2573 (i) certification that the applicant legal entity, if applying to perform design
2574 services other than preparation of studies, surveys, soil testing, cost estimates or programs, is a
2575 designer or construction manager as defined in paragraph (b) of section 44;

2576 (ii) the names and addresses of all partners, if a partnership, of all officers,
2577 directors and all persons with an ownership interest of more than 5 per cent in the applicant if not
2578 a partnership;

2579 (iii) the registration number and status of each such person in every jurisdiction in
2580 which such person has ever been registered as an architect, landscape architect or engineer;

2581 (iv) a list of all projects for all public agencies within the commonwealth for
2582 which the applicant has performed or has entered into a contract to perform design services
2583 within the 5 year period immediately preceding the filing of the information required in this
2584 section;

2585 (v) a list of all current projects for which the applicant is performing or is under
2586 contract to perform any design services; and

2587 (vi) if the applicant is a joint venture, the information required in this section shall
2588 be required for each joint venturer, as well as for the joint venture itself.

2589 (b) The board shall keep a permanent record of the statements filed pursuant to this
2590 section and shall require the statements to be made current on a regular basis, and that statements
2591 pursuant to subparagraph (v) and (vi) of paragraph (a) be current with each application filed.

2592 (c) An applicant to perform design, programming or construction management services
2593 on a project must file, in addition to the statement required under paragraph (a), a written
2594 application as prescribed by the board, relating to the applicant's experience, ability, and
2595 qualifications.

2596 (d) The board and its staff shall be allowed access to all records of all public agencies
2597 concerning any applicant, or any project for which the applicant performed any services, for the
2598 purpose of verifying information submitted by the applicant, or for the purpose of evaluating the
2599 applicant's experience, ability and qualifications.

2600 (e) Every application or statement filed pursuant to this section shall be sworn to under
2601 penalties of perjury. A designer, programmer or construction manager who has been determined
2602 by the board to have filed materially false information under this section shall be disqualified by
2603 the board from further consideration for any project for such time as the board determines is
2604 appropriate.

2605 (f) The board shall not advertise for designers nor select any finalists to perform any
2606 design services other than the preparation of master plans, studies, surveys, soil tests, cost
2607 estimates, or programs unless the deputy commissioner certifies that it is appropriate to do so and
2608 either that a program defining the design services required has been prepared, and has been
2609 approved by the division, or that no program is required by the division.

2610 (g) The division of capital asset management and maintenance in consultation with the
2611 board shall develop a standard designer evaluation form that shall be completed by every public
2612 agency, as defined in section 44A of chapter 149, upon completion of the work under a design
2613 contract under its control, and submitted to the division and the board for the designer's
2614 qualification file. The official from the public agency or the owner's representative as described
2615 in section 44A of said chapter 149 shall certify that the information contained on the designer
2616 evaluation form represents, to the best of his knowledge, a true and accurate analysis of the
2617 designer's performance record on the contract. The public agency shall mail a copy of the
2618 designer evaluation form to the designer who may, within 30 days, submit a written response to
2619 the division and board disputing any information contained in the form and setting forth any
2620 additional information concerning the building project or the oversight of the building
2621 construction contract by the public agency as may be relevant to the evaluation of the designer's
2622 performance on the contract. The division and board shall attach any such response to the
2623 evaluation form for inclusion in the designer's qualification file. No public employee or public
2624 employer, as defined in section 1 of chapter 258, and no person shall be liable for an injury or
2625 loss to a designer as a result of the completion of a designer evaluation form as required by this
2626 section unless the individual completing such evaluation form has been found by a superior court
2627 of competent jurisdiction to have acted in a willful, wanton or reckless manner. If a suit is
2628 commenced by a designer against any person who has completed a designer evaluation form as
2629 required by this section seeking to recover damages resulting from injury caused by such
2630 evaluation, the public agency for whom such evaluation form was completed or the
2631 commonwealth, if such evaluation was completed for a state agency, shall provide for the legal
2632 representation of such person. Such public agency or the commonwealth, where an evaluation

2633 was completed for a state agency, shall also indemnify such person from all personal financial
2634 losses and expenses including, but not limited to, legal fees and filing costs, if any, in an amount
2635 not to exceed $1,000,000, but no such person shall be indemnified for losses other than legal fees
2636 and filing costs under this section if such person is found by a court or a jury to have acted in a
2637 willful, wanton or reckless manner.

2638 The awarding authority shall provide the designer with a written preliminary evaluation
2639 at the completion of the schematic phase of the project for informational purposes.

2640 Any public agency that fails to complete and submit the designer evaluation form,
2641 together with any written response by any designer, to the division within 70 days of the
2642 completion of a project shall be ineligible for the receipt of any public funds disbursed by the
2643 commonwealth for the purposes of public building or public works projects.

2644 Section 49. (a) The board shall adopt written applicants' criteria for selection of
2645 semifinalists and finalists based upon information obtained under section 48 for each project.
2646 The criteria shall include:

2647 (i) prior similar experience;

2648 (ii) past performance on public and private projects;

2649 (iii) financial stability;

2650 (iv) identity and qualifications of the consultants who will work with the
2651 applicant on the project; and

2652 (v) any other criteria that the board considers relevant for any project.

2653 (b) Semifinalists may be chosen for each project.

2654 The board shall select at least three finalists from among all the applicants, or from the
2655 semifinalists selected under this section, and in doing so may require all the applicants or the
2656 semifinalists to:

2657 (i) appear for an interview before the board;

2658 (ii) present a written proposal to the board; or

2659 (iii) participate in a design competition held by the board.

2660 (c) The board shall transmit a list of the chosen finalists to the commissioner. No person
2661 or firm debarred pursuant to section 44C of chapter 149 or disqualified pursuant to section 47
2662 shall be so included as a finalist. The board shall transmit to the commissioner all material made
2663 or received relating to such recommendation.

2664 The list shall rank the finalists in order of qualification and include a record of the final
2665 vote of the board on the selection; and include a written statement explaining the board's reasons
2666 for its choice and its ranking of the finalists.

2667 (d) The board may delegate its powers and duties under paragraph (b) of section 47,
2668 paragraphs (c) and (d) of section 48, paragraphs (a) and (b) of section 50 and sections 51 and 52
2669 to panels of less than all the board members. A panel of not less than 6 members shall be
2670 required for selection of designers under this section, 4 of whom shall be architects or engineers,
2671 including at least 1 architect and 1 engineer on that panel.

2672 (e) For the purposes of chapter 268A and subject to the penalties therein, no member of
2673 the board shall participate in the selection of a designer as a finalist or semifinalist for any
2674 project if the member or any member of his immediate family:

2675 (i) has a direct or indirect financial interest in the award of the design contract to
2676 any applicant;

2677 (ii) is currently employed by, or is a consultant to or under contract to an
2678 applicant.

2679 (iii) is negotiating or has an arrangement concerning future employment or
2680 contracting with any applicant; or

2681 (iv) has an ownership interest in, or is an officer or director of, any applicant.

2682 Section 50. (a) In the selection of a designer when the fee for design services has been
2683 set by the commissioner prior to the selection process, the commissioner shall appoint a designer
2684 from among the list transmitted to him or her under section 49. If the commissioner appoints any
2685 designer other than the one ranked first by the board, he or she shall file a written justification of
2686 the appointment with the board.

2687 (b) When the fee for design services is to be negotiated, the commissioner shall review
2688 the list transmitted by the board, and may exclude any designer from the list if a written
2689 explanation of the exclusion is filed with the board. The commissioner shall then appoint a
2690 designer based on successful fee negotiation. The commissioner or persons designated by him or
2691 her shall first negotiate with the first ranked designer remaining on the list. Should the
2692 commissioner be unable to negotiate a satisfactory fee with the first ranked designer within 30

2693 days, negotiations shall be terminated and negotiations undertaken with the remaining designers,
2694 one at a time, in the order in which they were ranked by the board, until an agreement is reached.
2695 In no event may a fee be negotiated which is higher than a maximum fee set by the
2696 commissioner prior to selection of finalists. Should the commissioner be unable to negotiate a
2697 satisfactory fee with any designer initially selected as a finalist by the board, the board shall
2698 recommend additional finalists in accordance with the provisions of this chapter. The
2699 commissioner may require a finalist with whom a fee is being negotiated to submit a fee proposal
2700 and include with it such information as the commissioner requires to provide current cost and
2701 pricing data on the basis of which the designer's fee proposal may be evaluated.

2702 (c) All fees shall be stated in designer's contracts and in any subsequent amendment
2703 thereto as a total dollar amount. Contracts may provide for equitable adjustments in the event of
2704 changes in scope or services.

2705 (d) Notwithstanding the provisions of any general or special law to the contrary, all
2706 public entities within the commonwealth, agencies and authorities of the commonwealth and
2707 municipal entities within the commonwealth, including departments, boards, committees or
2708 commissions shall be entitled to withhold up to 5 per cent of contract fees earned and invoiced as
2709 part of professional service contracts, during the life of the contract. Withheld fees shall be held
2710 for not longer than 2 invoice periods when the contractor is permitted to invoice monthly, or
2711 until successful completion of the next contract phase or stage when the contractor is permitted
2712 to invoice by project phase or stage. When the work covered by the contract is completed, all
2713 remaining withheld fees shall be paid to the contractor within 2 months from the date of
2714 completion. If the withholdings are not paid to the contractor within the stipulated time limit, the
2715 amount of the withholding in arrears shall be increased at a 12 per cent annual rate.

2716 (e) Notwithstanding the provisions of any general or special law to the contrary, agencies
2717 and authorities of the commonwealth and municipal entities within the commonwealth, including
2718 departments, boards, committees or commissions, shall pay all outstanding withheld fees on
2719 professional service contracts, when the withholding has been held for longer than 2 invoice
2720 periods for active contracts, or that remains withheld on contracts which have been completed, or
2721 for which the work of the contractor has been completed.

2722 Section 51. (a) When the board has required that applicants list consultants which the
2723 applicants may employ, in no event shall a consultant be used who is debarred pursuant to
2724 section 44C of chapter 149 and any change in or addition to the consultants named in the
2725 application and allowed by the board upon appointment must be approved by the commissioner
2726 and reported to the board, along with a written statement by the designer or construction manager
2727 of the reasons for the change.

2728 (b) If the designer's or construction manager's fee is negotiated, the designer or
2729 construction manager must file a truth-in-negotiations certificate prior to being awarded the
2730 contract by the commissioner, which must be incorporated into the contract. The certificate must
2731 contain:

2732 (i) a statement that the wage rates and other costs used to support the designer's
2733 compensation are accurate, complete, and current at the time of contracting; and

2734 (ii) an agreement that the original contract price and any additions to the contract
2735 may be adjusted within 1 year of completion of the contract to exclude any significant amounts if
2736 the commissioner determines that the fee was increased by such amounts due to inaccurate,
2737 incomplete or noncurrent wage rates or other costs.

2738 (c) The board may specify other special conditions or requirements in selecting a
2739 particular applicant as a finalist. If any change is made by the applicant after appointment
2740 relating to such special conditions or requirements, the change must be approved by the
2741 commissioner and reported to the board along with a written statement by the appointee of the
2742 reasons for the change.

2743 (d) Every contract for design services awarded under sections 44 to 58, inclusive, shall
2744 include the following:

2745 (i) certification that the designer or construction manager has not given, offered
2746 or agreed to give any person, corporation or other entity any gift, contribution or offer of
2747 employment as an inducement for, or in connection with, the award of the contract for design
2748 services;

2749 (ii) certification that no consultant to or subcontractor for the designer or
2750 construction manager has given, offered or agreed to give any gift, contribution or offer of
2751 employment to the designer or construction manager, or to any other person, corporation, or
2752 entity as an inducement for, or in connection with, the award to the consultant or subcontractor
2753 of a contract by the designer or construction manager;

2754 (iii) certification that no person, corporation or other entity, other than a bona
2755 fide full time employee of the designer or construction manager, has been retained or hired by
2756 the designer or construction manager to solicit for or in any way assist the designer or
2757 construction manager in obtaining the contract for design services upon an agreement or
2758 understanding that such person, corporation or other entity be paid a fee or other consideration
2759 contingent upon the award of the contract to the designer; and

2760 (iv) certification with respect to contracts which exceed $10,000 or which are for
2761 the design of a building for which the budgeted or estimated construction costs exceed $100,000
2762 that the designer has internal accounting controls as required by subsection (c) of section 39R of
2763 chapter 30 and that the designer has filed and will continue to file an audited financial statement
2764 as required by subsection (d) of said section 39R.

2765 (e) A public agency shall not enter into a contract for design services unless the public
2766 agency or the designer has obtained professional liability insurance covering negligent errors,
2767 omissions and acts of the designer or of any person or business entity for whose performance the
2768 designer is legally liable arising out of the performance of the contract. The total amount of such
2769 insurance shall at a minimum equal the lesser of $1,000,000 or 10 per cent of the project's
2770 estimated cost of construction, or such larger amounts as the public agency may require, for the
2771 applicable period of limitations. A designer required by the public agency to obtain all or a
2772 portion of such insurance coverage at his own expense shall furnish a certificate or certificates of
2773 insurance coverage to the public agency prior to the award of the contract. For purposes of this
2774 paragraph only, "public agency" shall have the meaning set forth in section 1.

2775 At the request of the director, a consultant employed by a designer subject to this
2776 paragraph shall obtain and maintain a liability insurance policy covering negligent errors,
2777 omissions and acts of such consultant or of any person or business entity for whose performance
2778 the consultant is legally liable arising out of the performance of the contract for consultant
2779 services. The consultant shall furnish a certificate or certificates of such insurance coverage to
2780 the division in the case of a consultant hired by a designer selected pursuant to section 49 or to a
2781 public agency not subject to the jurisdiction of said board prior to the employment of such
2782 consultant by the designer. A liability insurance policy maintained under this paragraph shall

2783 provide for coverage of such type and duration and in such amount as the public agency shall
2784 require.

2785 (f) A designer, construction manager, or programmer who has been determined by the
2786 board to have provided materially false statements or information under this section shall be
2787 disqualified by the board from future work on any project for such time as the board determines
2788 is appropriate.

2789 (g) Contracts for design service may include a requirement that the designer be
2790 responsible for overseeing the construction phase of the project.

2791 (h) Awarding authorities in cities and towns may allow a designer who conducted a
2792 feasibility study to continue with the design of a project; but, nothing herein shall prohibit the
2793 awarding authorities from commissioning, at the discretion of the awarding authorities, an
2794 independent review, by a knowledgeable and competent individual or business doing such work,
2795 of the feasibility of the designer's work to insure its reasonableness and its adequacy before
2796 allowing the designer to continue on the project.

2797 (i) Contracts for design services shall include a provision that the designer or his
2798 consultants shall not be compensated for any services involved in preparing changes that are
2799 required for additional work that should have been anticipated by the designer in the preparation
2800 of the bid documents, as reasonably determined by the executive head of the public agency
2801 responsible for administering the design contract. For the purpose of this paragraph, "public
2802 agency" shall have the meaning as set forth in section 1.

2803 Section 52. The commissioner may appoint a designer to perform continued or extended
2804 services if the following conditions are met:

2805 (i) a written statement is filed with the board explaining the reasons for the continuation
2806 or extension of services;

2807 (ii) the program for the design services is filed with the board if one is required by the
2808 regulations of the division; and

2809 (iii) the board approves the appointment of the designer for continued or extended
2810 services and states the reason therefor.

2811 Section 53. (a) Whenever the health or safety of any persons will be endangered because
2812 of the time required for the selection of a designer, programmer or construction manager by the
2813 procedures prescribed by sections 44 to 58, inclusive, or whenever a deadline for action is set on
2814 a project by any court or federal agency which cannot be met if those selection procedures are
2815 followed, the commissioner may declare that an emergency situation exists.

2816 (b) If the commissioner declares that an emergency situation exists, finalist selection may
2817 be made by the board by expedited procedures adopted by regulation by the board.

2818 Section 54. (a) Every contract for design services for any building construction,
2819 reconstruction, alteration, remodeling, or repair estimated to exceed $100,000 by any city, town,
2820 or agency, board, commission, authority or instrumentality thereof, other than housing
2821 authorities and projects requesting funding from the Massachusetts School Building Authority
2822 shall be awarded only after a selection procedure adopted in writing, prior to publication
2823 requesting applications, complying with the purposes and intent of sections 44 to 58, inclusive,
2824 and the following requirements:

2825 (i) the provisions of section 47 regarding public notice;

2826 (ii) the establishment of uniform requirements of information to be submitted by
2827 all applicants, a uniform procedure for the evaluation of all applications to a group of not fewer
2828 than 3 finalists, the opportunity to be afforded equally to all finalists to provide additional
2829 information to or appear before the selection body, and a procedure for the submission of a fee
2830 proposal and the negotiation of fees between the awarding authority and the selected applicant
2831 with whom the fee is being negotiated consistent with the provisions of subsection (b) of section
2832 50;

2833 (iii) that a written explanation of the reasons for selection including the recorded
2834 vote if any was taken be made public and accompany the notification of award in the awarding
2835 authority's records;

2836 (iv) the provisions of paragraph (c) of section 50 regarding the designation of fees
2837 in the contract;

2838 (v) that nothing in this section shall be interpreted to require the establishment of
2839 a board or to waive or reduce the requirements of any other applicable law or regulation.

2840 (b) The board shall publish guidelines to assist public agencies not within the board's
2841 jurisdiction in the establishment of a professional and objective designer selection procedure,
2842 including a model application form, consistent with the provisions and intent of sections 44 to
2843 58, inclusive. The board shall publish a standard designer selection form which shall be used by
2844 all cities, towns and public agencies not within the board's jurisdiction; but, before publishing
2845 the standard form, the board shall seek input from the cities, towns and other public agencies not
2846 within the board's jurisdiction. Any fee guidelines promulgated by the board shall be
2847 accompanied by a recommended basic scope of designer's services that shall reflect the work

2848 associated with the fee guidelines. From time to time, and no less frequently than every 3 years,
2849 the board shall review and revise the fee schedule based upon prevailing costs at the time of such
2850 review and revision.

2851 (c) Any city, town or other public agency not otherwise subject to the jurisdiction of the
2852 board may request the board to exercise jurisdiction regarding the selection of applicants to
2853 perform design services for a specified period of time or for a specified project. In such cases, all
2854 provisions of sections 44 to 58, inclusive, shall apply to the board, the applicants and the public
2855 agency so requesting.

2856 (d) Notwithstanding the provisions of subsection (a), a city, town, or agency, board,
2857 commission, authority or instrumentality thereof may procure modular buildings in accordance
2858 with section 44E of chapter 149.

2859 (e) Notwithstanding the provisions of subsection (a), a city, town, or agency, board,
2860 commission, authority or instrumentality thereof may procure energy management services in
2861 accordance with section 11C of chapter 25A and regulations promulgated thereunder.

2862 Section 55. The board, any public agency exempted under section 46 and all other
2863 governmental units engaged in the selection of applicants to perform design services but not
2864 otherwise subject to the board's jurisdiction shall keep the following records:

2865 (i) all information supplied by or obtained about each applicant;

2866 (ii) all actions taken by the board or agency relating to any project;

2867 (iii) any other records related to designer selection required by the division.

2868 The records of public agencies exempted under section 46 or not otherwise subject to the
2869 jurisdiction of the board shall be available for inspection by the board or the division.

2870 Section 56. The board shall submit an annual report to the division of capital asset
2871 management and maintenance listing all finalists selected by the board and all awards made
2872 pursuant to the provisions of sections 44 to 58, inclusive, a summary of the activities and other
2873 actions of the board and its staff, and such other items as the board deems appropriate.

2874 Section 57. The board shall independently adopt procedures and regulations as necessary
2875 to implement the requirements of sections 44 to 58, inclusive. Such procedures and regulations
2876 may vary according to the class of project.

2877 Section 58. (a) For the purposes of this section the following words shall have the
2878 following meanings unless the context clearly requires otherwise:-

2879 "Agency", the Massachusetts Department of Transportation, the Massachusetts Port
2880 Authority and the Massachusetts Bay Transportation Authority.

2881 "Architectural and engineering services", (i) professional services of an architectural or
2882 engineering nature, as defined by state law, which are required to be performed or approved by a
2883 person licensed, registered or certified to provide those services as described herein; (ii)
2884 professional services of an architectural or engineering nature performed by contract that are
2885 associated with research planning, development, design, investigations, inspections, tests,
2886 evaluations, consultations, program management, value engineering, construction, alteration or
2887 repair of real property; and (iii) such other professional services of an architectural or
2888 engineering nature, or incidental services, which members of the architectural and engineering
2889 professions and individuals in their employ may logically or justifiably perform, including

2890 studies, investigations, surveying and mapping, soil tests, construction phase services, drawing
2891 reviews, evaluations, consultations, comprehensive planning, program management, conceptual
2892 designs, plans and specifications, soils engineering, cost estimates or programs, preparation of
2893 drawings, plans or specifications, supervision or administration of construction contracts,
2894 construction management or scheduling, preparation of operation and maintenance manuals and
2895 other related services.

2896 "Firm", an individual, firm, partnership, corporation, association or other legal entity
2897 authorized by law to practice the professions of architecture, engineering, land surveying,
2898 landscape architecture, environmental science, planning or program management.

2899 "Public works project", a capital improvement project or a design, study, plan, survey or
2900 new or existing program activity of an agency, including the development of new or existing
2901 programs that require architectural, engineering or related professional services; provided,
2902 however, that "public works project" shall not include a public building construction project
2903 undertaken under chapters 7, 149 and 149A.

2904 "Related professional services", (i) professional services, including land surveying,
2905 landscape architecture, environmental science and planning, which are required to be performed
2906 or approved by a person licensed, registered or certified to provide such services as described
2907 herein; (ii) professional services performed by contract that are associated with research,
2908 planning, development, design, investigations, inspections, surveying and mapping, tests,
2909 evaluations, consultations, comprehensive planning program management, value engineering,
2910 construction, alteration or repair of real property; and (iii) such other professional services, or
2911 incidental services, which members of the related professions as described herein and individuals

2912 in their employ may logically or justifiably perform, including master plans, studies, surveys,
2913 soil tests, cost estimates or programs, preparation of drawings, plans or specifications,
2914 supervision or administration of construction contracts, construction management or scheduling,
2915 conceptual designs, plans and specifications, construction phase services, soils engineering,
2916 drawing reviews, cost estimating, preparation of operation and maintenance manuals and other
2917 related services; provided, however, that nothing herein shall be construed to constitute a
2918 regulation or oversight of any designated firms or identified professionals' services.

2919 (b) For those agencies that prequalify architectural, engineering and related services, the
2920 agency shall require firms engaged in the lawful practice of their profession to submit a
2921 statement of qualifications and performance data every 2 years to the agency pursuant to the
2922 terms and schedule as determined by the agency. Agencies that prequalify shall have the option
2923 of selecting firms from their prequalified list of firms based on the agency policies and without
2924 further publically advertising the selection.

2925 (c) Whenever a public works project requiring architectural, engineering or related
2926 professional services is to be advertised by an agency, the agency shall provide not less than 14
2927 days advance notice published in a professional services bulletin or advertised on the official
2928 agency website setting forth the public works project and services to be procured. The
2929 professional services bulletin shall be made available to each firm that requests the information.
2930 The professional services bulletin shall include a description of each public works project and
2931 shall state the time and place for an interested firm to submit a statement of qualifications and, if
2932 required by the public notice, a letter of interest and technical proposal. If the agency determines
2933 that a sole source selection of a qualified firm is in the best interest of the agency, then the public
2934 notice provisions of this subsection shall not apply.

2935 (d) An agency shall evaluate the firms submitting statements of qualifications, taking into
2936 account qualifications, letters of interest and technical proposals, and the agency may consider,
2937 but shall not be limited to considering, ability of professional personnel, past record and
2938 experience, performance data on file, willingness to meet time requirements, location, workload
2939 of the firm and any other qualifications based on factors that the agency may determine in
2940 writing are applicable. The agency may conduct discussions with, and require presentations by,
2941 firms deemed to be the most qualified regarding their qualifications, approach to the public
2942 works project and ability to furnish the required services. An agency shall not, prior to selecting
2943 a firm for negotiation, seek formal or informal submission of verbal or written estimates of costs
2944 or proposals in terms of dollars, hours required, percentage of construction cost or any other
2945 measure of compensation.

2946 (e)(1) An agency shall select architects, engineers and related professional firms on the
2947 basis of qualifications for the type of professional services required, and on technical proposals,
2948 if submitted. An agency may solicit or use pricing policies and proposals or other pricing
2949 information to determine consultant compensation only after the agency has selected a firm and
2950 initiated negotiations with the selected firm.

2951 (2) The procedures that an agency creates for the screening and selection of
2952 firms shall be within the sole discretion of the agency and may be adjusted to accommodate the
2953 agency's scope, schedule and budget objectives for a particular public works project.

2954 (3) The decision of an agency that has complied with this chapter shall be final
2955 and binding.

2956 (f)(1) The agency and the selected firm shall discuss and refine the scope of services for
2957 the public works project and shall negotiate conditions including, but not limited to,
2958 compensation level and performance schedule based on scope of services. The compensation
2959 level paid shall be reasonable and fair to the agency as determined solely by the agency. In
2960 making such determination, the agency shall take into account the estimated value of the services
2961 to be rendered and the scope, complexity and professional nature thereof.

2962 (2) If the agency and the selected firm are unable for any reason to negotiate a
2963 contract at a compensation level that is reasonable and fair to the agency, the agency shall, in
2964 writing, formally terminate negotiations with the selected firm. The agency shall then negotiate
2965 with the second ranked most qualified firm. The negotiation process shall continue in this
2966 manner through successive ranked firms until an agreement is reached or the agency terminates
2967 the consultant contracting process.

2968 (g) This section shall not apply to the procurement of architectural, engineering and
2969 related professional services by agencies: (i) when an agency determines in writing that it is in
2970 the best interest of the agency to proceed with the immediate selection of a firm; (ii) in
2971 emergencies when immediate services are necessary to protect the public health and safety; or
2972 (iii) when these services are to be provided as part of a design-build project pursuant to sections
2973 14 to 21, inclusive, of chapter 149A.

2974 (h) Each agency shall evaluate the performance of each firm upon completion of a
2975 contract. The evaluation shall be made available to the firm which may submit a written
2976 response.

2977 Section 59. Every appropriation or authorization for the design or construction of a
2978 building project for which a state agency is the using agency shall be deemed to require the
2979 satisfactory completion of a study or program before any services for the design or construction
2980 of such project may be contracted for, performed by contract or otherwise, or funds allotted,
2981 encumbered or expended therefor, unless such appropriation or authorization specifically states
2982 that no such study or program need or shall be done.

2983 No provider of design services for any building project for which a state agency is the
2984 using agency shall be selected by the designer selection board or by the administering agency
2985 and no design services shall be performed for or by such administering agency for any building
2986 project for which the satisfactory completion of a study program is required prior to the design or
2987 construction of that project, unless and until: (a) said study, program or where appropriate, both,
2988 have been satisfactorily completed; (b) the using agency certifies in writing to the commissioner
2989 of capital asset management and maintenance that the study, program, or where appropriate both,
2990 correspond to the current needs of that agency, including its current long term capital facilities
2991 development plan; (c) the commissioner requests that one or more of the directors of the office of
2992 programming, office of project management, or office of facilities management review the study
2993 or program, or where appropriate, both, and the director or directors certify in writing to the
2994 commissioner that the study, program, or where appropriate both, reflect the using agency's
2995 needs as stated, that they provide an accurate estimate of the project requirements, cost and
2996 schedule, that the project can be accomplished within the appropriation or authorization for that
2997 project, and recommends proceeding with design, construction, or where appropriate, both; and
2998 (d) the commissioner of capital asset management and maintenance certifies in writing to the
2999 commissioner of administration that the study, program, or where appropriate both, are in

3000 conformity with the scope and purpose of the appropriation or authorization for the project and
3001 legislative intent in regard to long range capital facility plans for the using agency, and approves
3002 proceeding with design, construction, or where appropriate, both.

3003 If either the director or directors whose review is requested or the commissioner of
3004 capital asset management and maintenance should fail to so certify, recommend, or approve, the
3005 commissioner shall forthwith send notice of his decision and the reasons therefor to the
3006 commissioner of administration and to the house and senate ways and means committees.

3007 Section 60. No allotment, encumbrance, or expenditure of funds appropriated or
3008 authorized for the design of a capital facility project shall be approved by the comptroller unless
3009 the executive head of the agency administering the project--or other person provided for by
3010 statute--certifies in writing that the design work is or shall be such as to specify a project that can
3011 be accomplished (a) within the appropriation or authorization for the project or within the project
3012 cost limits specified by the appropriation or authorization and (b) without substantial deviation
3013 from any (i) study or program which must be prepared in accordance with the provisions of
3014 section 59 of this chapter or (ii) any other pre-design document which must be prepared in
3015 accordance with any other statute, appropriation or authorization or administrative directive
3016 consistent therewith. In no event shall the design work be such as would result in a change in the
3017 number of square feet to be constructed in the project of more than 10 per cent from the number
3018 specified in the study, program or other pre-design document referred to in (b)(i) and (b)(ii).

3019 No state agency--as defined by section 1 --administering a capital facility project shall
3020 enter into any contracts or incur any other obligations or cause to be performed design services
3021 for that project if such would result in the completion of a project which cannot be accomplished

3022 (a) within the appropriation or authorization for the project or within the project cost limits
3023 specified by the appropriation or authorization and (b) without substantial deviation for (i) any
3024 study or program which must be prepared in accordance with the provisions of section 59 of this
3025 chapter or (ii) any other pre-design planning document which must be prepared in accordance
3026 with any other statute, appropriation or authorization or administrative directive consistent
3027 therewith. In no event shall the design work be such as would result in a change in the number of
3028 gross square feet to be constructed in the project of more than ten per cent from the number
3029 specified in the study, program or other pre-design document referred to in (b)(i) and (b)(ii).

3030 Section 61. No allotment, encumbrance, or expenditure of funds appropriated or
3031 authorized for the construction of a capital facility project shall be approved by the comptroller
3032 unless the executive head of the agency administering the project—or other person provided for
3033 by statute—certifies in writing that the construction work can be accomplished (a) within the
3034 appropriation or authorization for the project and (b) without substantial deviation from (i) any
3035 study or program which must be prepared in accordance with the provisions of section 59of this
3036 chapter or (ii) any other pre-design document which must be prepared in accordance with any
3037 other statute, appropriation or authorization or administrative directive consistent therewith. In
3038 no event shall the construction work be such as would result in a change in the number of square
3039 feet to be constructed in the project of more 10 ten per cent from the number specified in the
3040 study, program or other predesign document referred to in (b)(i) and (b)(ii).

3041 No state agency—as defined by section 1—administering a facility administering project
3042 shall enter into any contracts or incur any obligations or cause to be performed construction of
3043 that project if such would result in the completion of a project which cannot be accomplished (a)
3044 within the appropriation or authorization for the project and (b) without substantial deviation

3045 from (i) any study or program which must be prepared in accordance with the provisions of
3046 section 59 of this chapter or (ii) any other pre-design document which must be prepared in
3047 accordance with any other statute, appropriation or authorization or administrative directive
3048 consistent therewith. In no event shall the construction work be such as would result in a change
3049 in the number of square feet to be constructed in the project of more than 10 per cent from the
3050 number specified in the study, program or other predesign document referred to in (b)(i) or
3051 (b)(ii).

3052 Section 62. The governor and the commissioner of capital asset management and
3053 maintenance in their long range capital facilities development plans and capital budget requests
3054 and the secretaries of the various executive offices in their review and recommendations with
3055 regard to such plans and requests may include among them plans and requests for one or more
3056 contingency, or other lump-sum or reserve accounts, including but not limited to planning,
3057 design and construction contingency, preventive maintenance, emergency repair, energy
3058 conservation, life-safety, and architectural barrier funds or accounts. Each shall include in their
3059 plans and request recommendations as to the purpose of such funds or accounts and the priorities
3060 and procedures for allocating the monies kept therein.

3061 The commissioner of capital asset management and maintenance shall forthwith establish
3062 priorities and procedures for allocating such funds in conformity with the terms of the
3063 appropriation authorizing them and legislative intent in regard to long range capital facilities
3064 development plans. The commissioner shall forthwith submit copies of the priorities and
3065 procedures so established to the commissioner of administration and to the house and senate
3066 ways and means committees.

3067 Unless otherwise provided for in the appropriation authorizing such funds or accounts or
3068 other applicable law and in conformity therewith and the priorities and procedures established by
3069 the commissioner of capital asset management and maintenance, the monies kept therein shall
3070 not be allocated unless and until:

3071 (a) the using agency, whether or not it is the agency requesting the funds for the proposed
3072 project, certifies in writing to the commissioner of capital asset management and maintenance
3073 that the project corresponds to the current needs of the using agency, including its current long
3074 range capital facilities development plan;

3075 (b) the commissioner requests that one or more of the directors of the office of
3076 programming, office of project management, or the office of facilities management review the
3077 project proposal, and the director or directors certify in writing to the commissioner of capital
3078 asset management and maintenance that the project proposal reflects the agency's needs as
3079 stated, that it provides an accurate estimate of the project requirements, cost and schedule, and
3080 that the project can be accomplished within the limits of the funds requested;

3081 (c) The commissioner of capital asset management and maintenance certifies in writing to
3082 the commissioner of administration and to the house and senate ways and means committee that
3083 the project proposal has been evaluated in conformity with the terms of the appropriation or
3084 authorization of the fund or account and the priorities and procedures promulgated by him
3085 pursuant thereto and approves the allocation.

3086 The commissioner of capital asset management and maintenance shall, upon his
3087 certification, file copies of the project proposal and other supporting documents, his certification
3088 and those of the director or directors whose review is requested and the agency requesting such

3089 funds with the commissioner of administration and with the house and senate ways and means
3090 committees.

3091 If either the director or directors whose review is requested or the commissioner of
3092 capital asset management and maintenance should fail to give the aforementioned certifications
3093 or approvals, the commissioner shall forthwith send notice of his decision and the reasons
3094 therefor to the commissioner of administration and to the house and senate ways and means
3095 committees.

3096 The commissioner of capital asset management and maintenance shall by February 15 of
3097 each year prepare and submit to the commissioner of administration and to the general court a
3098 report containing separate sections summarizing the disposition and the status of the funds or
3099 accounts and descriptions of all projects for which monies from such fund have been allocated.

3100 Section 63. There is established and set up on the books of the commonwealth a separate
3101 fund, consisting of monies appropriated to the fund by the general court and income derived
3102 from the investment of monies appropriated to the fund, known as the capital facility planning
3103 fund.

3104 Allocation of monies from such fund shall be made according to the provisions of section
3105 62 of this chapter. The purpose of the capital facility planning fund shall be to provide monies
3106 for the planning of capital facility projects by state agencies other than counties. Priority in the
3107 allocation of monies from such fund shall be given to projects:

3108 (i) which are included in any long range capital facilities development plan
3109 previously approved by the general court or in any master plan, consistent with such long range

3110 plans, previously approved by the commissioner of capital asset management and maintenance
3111 or

3112 (ii) whose rapid progress is indicated by statutes which provide for capital facility
3113 projects to advance specific agency programs, goals or objectives; and for which the delay in
3114 seeking monies through the normal capital budget process provided for by this chapter would
3115 cause a serious loss in use of the proposed capital facility if it were unavailable or cause a
3116 percentage increase in total project cost substantially larger than that for other projects at a
3117 comparable stage of development.

3118 Monies from the capital facility planning fund may be allocated, in accordance with
3119 priorities stated above, for the preparation of environmental impact reports to comply with the
3120 requirements of chapter 12 and chapter 30.

3121 Monies from the capital facility fund may be allocated, in accordance with the priorities
3122 stated above, for options to purchase land or buildings which will be used for capital facility
3123 projects specifically identified in the allocation request.

3124 If monies spent on a capital facility project are allocated from the capital facility planning
3125 fund and the funds for the acquisition of a site for or the design or design and construction of
3126 such project are appropriated or authorized then a sum of money equal to that allocation shall be
3127 deducted from the amount so appropriated or authorized and returned to the capital facility
3128 planning fund.

3129 In no case shall a request for monies or monies be allocated for projects for which a
3130 similar request is currently being considered according to the capital budget process for the
3131 current fiscal year provided for by this chapter or which was so considered during the capital

3132 budget process for the previous fiscal year and failed to receive an appropriation or
3133 authorization.

3134 Requests for monies from the capital facility planning fund may be made by state
3135 agencies other than counties and only after approval of such requests by the secretary of the
3136 executive office in which that agency is located, except in the case of a public institution of
3137 higher learning, only after approval by the board of higher education.

3138 Section 64. Each public agency other than a city or town shall prepare a long range
3139 capital facilities development plan. Such plan shall include projections at least 5 years from the
3140 date of submission of the plan. Each such public agency shall revise the plan annually or at such
3141 other time as the commissioner of capital asset management and maintenance may require, or as
3142 otherwise mandated by statute or appropriation act. Each plan or revision thereof shall be
3143 submitted to the commissioner at such time or according to such schedule as he shall specify.
3144 Each state agency the authorization of which is otherwise required for capital facility projects of
3145 one or more cities and towns shall include in its plan required by this section and its capital
3146 facility budget request required by section 66 the information about such projects specified by
3147 those sections. The state agency may request from cities and towns the information needed to
3148 complete the above-mentioned plan and budget and said information shall be promptly submitted
3149 to the state agency. To the maximum extent feasible the commissioner and state agencies shall
3150 coordinate the timing and content of their requests for information to minimize duplication of
3151 reporting. In the case of local operating agencies as defined in section 1 of chapter 121B, any
3152 such plan, revision, capital facility budget, or capital facility budget requests required by this
3153 section or section 66 of this chapter shall be prepared and submitted by the department of
3154 housing and community development.

3155 After consultation with the governor and the commissioner of administration, the
3156 commissioner shall, in a timely manner, prepare and send to public agencies a capital facility
3157 planning policy statement to inform in the formulation of their long range capital facilities
3158 development plans and capital facility budget requests.

3159 The commissioner may at his discretion provide guidance and technical assistance to
3160 those public agencies lacking sufficient resources to prepare such plans. He shall specify the
3161 information required, the manner or preparation of the plan, and the form in which it is to be
3162 provided.

3163 Section 65. In formulating requirements for the information to be provided in long-range
3164 capital facilities development plans, the commissioner of capital asset management and
3165 maintenance shall require at least the following: the history, legislative authority and major
3166 responsibilities of the public agency as defined by law and by administrative rule, regulation or
3167 directive; the programs being carried out by each as they affect capital facility needs; an
3168 appraisal of the responsibilities, objectives and current programs and evaluation of the factors
3169 expected to influence future programs; tabulations of the numbers of people served by and
3170 staffing the agency and its subunits; a detailed description of the land and facilities currently
3171 owned, leased or used by the agency to the extent that such description has not previously been
3172 submitted to the commissioner as part of the real property inventory maintained by him and an
3173 estimate of their utilization in relation to current and future programs.

3174 In formulating requirements for each long-range capital facilities development plan, the
3175 commissioner shall require at least the following: a determination of the capital facility needs
3176 based on the programs, population to be served, and the adequacy of existing facilities; a

3177 proposed capital facility project schedule and an explanation of the relationship between the need
3178 for each project and the stated programs; a summary of the schedule of needs for funds; a
3179 tabulation of the estimated staffs required for such new or modified programs and facilities; a
3180 tabulation of such projects showing the effect upon staffing, operating, and maintenance
3181 expenses; and a description of the geographic and spatial location of the facility relative to other
3182 facilities or land of the agency or its subunits.

3183 In formulating requirements for any revisions of long-range capital facilities development
3184 plans the commissioner shall require at least the following: a statement of the changes in the
3185 agency's responsibilities, objectives and programs; revised estimates of institutional population
3186 and staff, and geographic and spatial descriptions of capital facilities; and changes in capital
3187 facility requirements as they would have effect at least 5 years from the date of submission.

3188 Section 66. Each public agency other than cities and towns shall prepare and submit to
3189 the commissioner of capital asset management and maintenance in addition to its long-range
3190 capital facilities development plan or revision thereof, an annual capital facility budget at such
3191 time as the said commissioner shall require.

3192 In preparing both long-range capital facilities development plans and revisions thereof
3193 and capital facility budget requests, the agency shall provide timely public notice of such
3194 proposed plans and requests and reasonable opportunity for potential users and staff of the
3195 facilities controlled or to be controlled by the agency to comment thereon.

3196 The long-range capital facility development plans and capital facility budget requests
3197 submitted by the agency to the division of capital asset management and maintenance shall

3198 contain a summary of those comments and a statement of the extent to which they are reflected
3199 in the proposed plans and requests.

3200 The commissioner may provide guidelines to agencies for soliciting and reporting on
3201 such views.

3202 The commissioner may, at his discretion, provide guidance and technical assistance to
3203 agencies without sufficient resources to prepare capital facility budget requests. He shall specify
3204 the information being sought, how it might be prepared and the form in which it is to be
3205 provided.

3206 The commissioner shall provide for a format and content of long-range capital facilities
3207 development plans and capital facility budget requests which is, to the maximum extent feasible,
3208 consistent with that provided for the operating budget by the director of the fiscal affairs division
3209 within the executive office for administration and finance.

3210 Any public agency may include among its capital facility budget requests, ones for
3211 appropriations or authorizations for a class or classes of similar or related capital facility
3212 projects. Such request shall include a statement of a) how the class of projects is defined; b) the
3213 reasons for requesting appropriations or authorizations for a class of projects rather than
3214 individual projects; c) the priorities and procedures for allocating the appropriated or authorized
3215 monies among the class of possible projects, making reference to and submitting copies of any
3216 studies, surveys, plans, analyses and other documents from which criteria for allocation are to be
3217 derived; and d) a proposed initial allocation of the appropriated or authorized monies based on
3218 the suggested priorities, procedures and criteria.

3219 In formulating requirements for capital facility budget requests for individual projects,
3220 the commissioner shall include at least the following: (a) a concise title description of the
3221 project; (b) the location of the project and its site in relation to any existing facilities in close
3222 proximity; (c) the estimated schedule for completion of the project including the dates upon
3223 which the design and construction of the project are estimated to be commenced and completed
3224 and the facility occupied or used; (d) a description of the project and what it involves, appending
3225 any planning documents, accurate summaries of design documents and any other documents
3226 prepared for or pertaining to that project, if not previously submitted to the commissioner; (e) the
3227 useful life of the project before replacement would be necessary; (f) the current status of the
3228 plans and site for the project; (g) the status of utilities required for the project; (h) the
3229 relationship of the project to the long range capital facilities development plan; (i) the total
3230 project cost; (j) the effect of the proposed project on annual operating costs (including
3231 maintenance costs); (k) the proposed source of funds; (l) an explanation of the need for the
3232 proposed project. The description of the project shall identify any and all previously approved
3233 appropriations or authorizations pertaining to the proposed or earlier phases of the project; the
3234 phase or phases approved, in progress, and completed, the estimated or final cost of each phase
3235 of the project through completion, and the sum of money permitted to be expended on the project
3236 as so approved. To assist his staff and user agencies in preparation and review of long-range
3237 plans and requests, the commissioner shall establish a file of approved appropriations and
3238 authorizations of all projects pertaining to each state-owned capital facility. The total project cost
3239 shall include at least the following items: the cost of all real estate, properties, rights and
3240 easements acquired, utility services, site development; the cost of construction and the initial
3241 furnishing thereof; all architectural and engineering and legal expenses, the cost of surveys and

3242 plans and specifications; and such other expenses as are necessary or incident to determining the
3243 feasibility or practicability of any project. The estimate of the total project cost shall be based on
3244 the assumption that the project will be undertaken and completed according to the estimated
3245 schedule. Included in the estimate shall be a statement of its accuracy. The estimate of the effect
3246 of the proposed project on annual operating costs shall be based on the estimated date of use or
3247 occupancy of the facility. In the proposal for source of funds, there shall be included a statement
3248 of what federal funds are potentially available, what efforts are necessary and have been or must
3249 be made to obtain them, or why they cannot be obtained.

3250 Section 67. Copies of the proposed plans and requests shall be submitted simultaneously
3251 to the commissioner of capital asset management and maintenance, the secretaries of all
3252 executive offices, the director of the fiscal affairs division within the executive office for
3253 administration and finance, the state treasurer, and the commissioner of the department of
3254 revenue, and the house and senate ways and means committees. The secretaries shall submit to
3255 the commissioner of capital asset management and maintenance a report on the consistency of
3256 any public agency's plans and requests with the programs and policies of the executive office on
3257 which it is located, except in the case of a public institution of higher learning, the board of
3258 higher education, including the secretary's recommendations as to those plans and requests. Prior
3259 to making their reports, each secretary shall conduct public hearings, for which he shall give 5
3260 days public notice prior thereto, on his analysis and recommendations as to those plans and
3261 requests. Any secretary, when requested by said commissioner of capital asset management and
3262 maintenance, shall submit to him a report on the impact of the specific statutory mission of the
3263 secretariat of the plans and request of any public agencies not located within his secretariat. Each
3264 secretary shall furnish to the house and senate committees on ways and means and the legislative

3265 committees on post audit and oversight of the general court, copies of all such plans, requests,
3266 and reports.

3267 The director of the bureau of programming, director of the office of project management
3268 or the director of the office of facilities management, as said commissioner of capital asset
3269 management and maintenance directs, shall report to him as to the technical feasibility, cost, and
3270 schedule of proposed building projects; the technical, financial, and related requirements for the
3271 operation and maintenance of such buildings upon completion of the proposed projects; where
3272 relevant, the efficacy and efficiency of the proposed project in relation to current and projected
3273 available space and current and projected standards for the allocation and utilization of space; the
3274 accuracy and adequacy of any planning and design documents and any other documents prepared
3275 in relation to the stated needs, and as to any other matters which the commissioner of capital
3276 asset management and maintenance may require relative to his evaluation of such plans and
3277 requests. At the request of said commissioner of capital asset management and maintenance, the
3278 head of the public agency which administers or would administer a capital facility project, other
3279 than a building project, or consultants hired by him for that purpose, or members of said
3280 commissioner's staff shall report to him as to the technical feasibility, cost and schedule of that
3281 project; the technical, financial, and related requirements for the operation and maintenance of
3282 such facilities upon completion of the proposed projects; where relevant, the proposed project in
3283 relation to current and projected available facilities of a similar kind; the accuracy and adequacy
3284 of any planning documents, accurate summaries of design documents and any other documents
3285 prepared in relation to stated needs, and as to any other matters which said commissioner may
3286 require relative to his evaluation of such plans and requests.

3287 The director of the fiscal affairs division within the executive office for administration
3288 and finance shall report in writing to said commissioner of capital asset management and
3289 maintenance on the impact of proposed agency plans and requests, based on the stated and
3290 projected overall agency programs, on the agency's operating budgets for the next 5 years or for
3291 such longer period as said commissioner shall request. The commissioner of the department of
3292 revenue shall report in writing to said commissioner of capital asset management and
3293 maintenance on the impact of proposed agency plans and requests on their requirements for and
3294 production of revenue for at least the next 5 years or for such longer period as said commissioner
3295 of capital asset management and maintenance shall request. The reports of the director of the
3296 fiscal affairs division within the executive office for administration and finance and the
3297 commissioner of the department of revenue shall be sent to the state treasurer. The state treasurer
3298 may if requested by said commissioner of capital asset management and maintenance report in
3299 writing to said commissioner on the impact of all plans and requests, separately and as a whole
3300 on the financial health of the commonwealth and make such recommendations as to the form and
3301 nature of the financing as he deems necessary.

3302 Copies of the proposed plans and requests shall in a timely manner be submitted to each
3303 of the regional planning agencies established pursuant to the provisions of chapter 40B for their
3304 review. They shall submit to said commissioner of capital asset management and maintenance a
3305 statement of their comments and recommendations, including those of cities and towns in the
3306 region which are affected by such plans and requests.

3307 Said commissioner of capital asset management and maintenance may request such other
3308 reports from public agencies as said commissioner may deem necessary to fulfill his
3309 responsibilities for the integration and coordination of capital facility projects.

3310 Section 68. The commissioner of capital asset management and maintenance shall study
3311 and review all long range capital facility development plans and capital facility budget requests
3312 and reports pertaining thereto filed with him as provided by sections 64, 65, 66, and 67, and shall
3313 make such investigations as will enable him to prepare a capital facility budget for the governor.
3314 The commissioner shall include in such budget an integrated and comprehensive long range
3315 capital facilities development plan and capital facility budget request and such other
3316 recommendations as the governor shall determine upon. The capital facility budget shall embody
3317 all plans, estimates, requests, and recommendations submitted to the commissioner in accordance
3318 with sections 64, 65, 66, and 67. The capital facility budget shall be classified and designated to
3319 present at least the same kind and quality of information as are required of plans and requests by
3320 sections 64, 65, 66, and 67. The commissioner shall include an evaluation of the proposed plan
3321 and budget request in terms of the capital facilities planning policy statement and any revisions
3322 thereof he proposes.

3323 The governor in his capital facility budget and the commissioner of capital asset
3324 management and maintenance, in his recommendation to the governor of a capital facility
3325 budget, shall include in such requests for each building project contained therein, for which the
3326 using agency is a state agency, a recommendation as to the need for and where appropriate, a
3327 request for, a study and program as a prerequisite to contracting for, performance of, or allotment
3328 or expenditure of funds for any design or construction-related activities. If a study or program is
3329 not recommended the governor and commissioner shall include the reasons therefor. They shall
3330 also include a recommendation as to the mode of procurement of such facility, including but not
3331 limited to, sequential, construction management, turnkey, design/build procurement, and the
3332 phasing of such procurement, including but not limited to approval of design and construction

3333 stages as separate or combined phases, which will most efficiently, economically and best serve
3334 the interests of the commonwealth. When an alternative mode of procurement is recommended,
3335 the governor and commissioner shall also recommend the method by which design and
3336 construction services shall be procured for such project, provided that such method shall be
3337 compatible with the policies and procedures for the selection of designers in sections 44 to 58,
3338 inclusive, and with the policies and procedures for the selection of contractors in sections 44A to
3339 44H, inclusive of chapter 149, to the extent feasible. If the governor or the commissioner should
3340 recommend a mode of procurement other than the sequential mode or a phasing of procurement
3341 other than approval of design and construction as a combined phase, each shall state in detail the
3342 reasons therefor.

3343 Furthermore, their requests shall contain a statement as to the expected useful life of the
3344 facility from the date of construction, renovation, acquisition, or other procurement; a statement
3345 of the proposed source of funds; where relevant, a recommendation as to the form and
3346 scheduling of financing of said project; and a recommendation as to the date upon which the
3347 authorization for the expenditure of the funds should expire. If the governor or the commissioner
3348 of capital asset management and maintenance should recommend a means and form of financing
3349 of the project such that the term of repayment exceed the expected useful life of the project, the
3350 governor and commissioner shall state in detail the reasons therefor. The governor and the
3351 commissioner shall transmit therewith a statement showing the total indebtedness proposed to be
3352 incurred for each capital facility project and the fund to be charged therefor, and the total cost of
3353 financing said project according to the recommended form and scheduling of such financing. The
3354 governor and the commissioner shall also transmit therewith a statement relative to the condition
3355 of the state debt, including an analysis of the impact of the proposed capital facility budget,

3356 including the long range capital facilities plan, on the financial health of the commonwealth.
3357 Such statement shall, where appropriate, include reference to the impact of obligations of public
3358 agencies which are guaranteed by or are contingent liabilities of the commonwealth.

3359 Section 69. The governor's and the commissioner of capital asset management and
3360 maintenance capital facility budget shall include provision for establishment of a design and
3361 construction contingency reserve account, the purpose of which shall be to provide monies for
3362 the design and construction of capital facility projects by state agencies which, because of
3363 unforeseeable circumstances, not within the contemplation of the using or the administering
3364 agency, and for justifiable reasons, would cause the project cost to exceed the sums then
3365 appropriated or authorized therefor. Allocation of monies from such reserve account shall be
3366 made according to the provisions of section 62. Priority in the allocation of monies from such
3367 account shall be given to projects for which the delay in seeking monies through the normal
3368 capital budget process provided for by this chapter would cause a serious loss in use of the
3369 capital facility if it were unavailable when needed or cause a percentage increase in total project
3370 cost substantially larger than that for other projects at a comparable stage of progress.

3371 In no case shall a request for monies be made or monies be allocated for projects for
3372 which a similar request is currently being considered according to the capital budget process for
3373 the current fiscal year provided for by this chapter, or which was so considered during the capital
3374 budget process for the previous fiscal year and failed to receive an appropriation or
3375 authorization. Further, in no case shall a request for monies be made or monies be allocated if as
3376 a result of the review provided for by section 62 the commissioner of capital asset management
3377 and maintenance finds (a) that the proposal for use of such monies will result in a substantial
3378 deviation from any study or program for the project most recently approved by him or from any

3379 design for the project most recently approved by the administering agency or (b) that the
3380 proposal for use of such monies will result in a cumulative increase in the number of gross
3381 square feet to be constructed in the project in excess of 10 per cent of the number most recently
3382 specified in an appropriation or authorization for the project.

3383 Requests for monies from the design and construction contingency reserve account may
3384 be made by state agencies which are the using agencies of those projects.

3385 In establishing priorities and procedures for allocation of monies from the design and
3386 construction reserve account pursuant to section 62, the commissioner of capital asset
3387 management and maintenance shall establish specific limits for the amount of money which may
3388 be allocated from the account for any particular project, the amount which may be allocated for
3389 the construction of any particular project excluding price inflation contingencies, and the amount
3390 which may be allocated for the construction of any particular project for price inflation
3391 contingencies. In no event shall the cumulative amount allocated from the account to any one
3392 capital facility project exceed 10 percentum of the total cost specified by the appropriation or
3393 authorization for that project.

3394 Section 70. The governor's and the commissioner of capital asset management and
3395 maintenance capital facility budget shall include provisions for establishment of an emergency
3396 repair reserve account, the purpose of which shall be to provide monies for the performance of
3397 repair projects of such a nature that funding through the capital budget process provided for by
3398 this chapter would be burdensome. Allocation of monies from such reserve accounts shall be
3399 made according to the provisions of section 62. Priority in the allocation of monies from such
3400 fund shall be given as follows:

3401 (1) top priority shall be given to funding requests for projects designed to remedy clear
3402 and present dangers to the health and safety of the users of the facility in question;

3403 (2) secondary priority shall be given to funding requests for projects which would prevent
3404 imminent destruction or damage of property or equipment beyond reasonable repair; and

3405 (3) third priority shall be given to funding requests for projects, that would restore use of
3406 a facility or part of a facility to its user, where the loss of use has seriously disrupted the agency's
3407 program functions.

3408 In no case shall a request for monies be made or monies be allocated for projects for
3409 which a similar request was considered during the capital budget process for the previous year as
3410 provided for by this chapter, and which failed to receive an appropriation or authorization.

3411 Requests for monies from the emergency repair reserve account may be made by state
3412 agencies other than counties and by the office of facility management.

3413 Section 71. The governor shall submit to the general court annually within 3 weeks after
3414 the general court convenes in regular session a budget including an operating budget and a
3415 capital facility budget and long range capital facilities development plan. In the first year of the
3416 term of office of a governor who has not served in the preceding year, the governor shall
3417 recommend the budget within 8 weeks after the convening of the general court. The
3418 recommendations contained therein shall, to the fullest possible extent, conform with the
3419 programs of the several offices and departments as defined by the commissioner of
3420 administration with the advice of the agency heads or other officers responsible for the
3421 administration thereof and long range capital facilities development plans as defined by the
3422 commissioner of capital asset management and maintenance. The budget shall also include

3423 definite recommendations of the governor for financing the expenditures recommended, and the
3424 relative amounts to be raised from ordinary revenue, direct taxes or loans. All appropriations
3425 based upon the budget to be paid from taxes or revenue shall be incorporated in a single bill to be
3426 designated the general appropriation bill. With the budget the governor shall submit to the
3427 general court statements detailing and explaining his reasons for recommending any increase in,
3428 decrease in, or deletion from the budgetary recommendations (a) of any department office,
3429 commission, or institution, or other public agency, or in the case of a department, office,
3430 commission or institution within any executive office established by chapters 6A and 7 of the
3431 secretary of such executive office, (b) of the general court, (c) of the judiciary, and (d) of the
3432 commissioner of capital asset management and maintenance. The governor shall also submit
3433 such other messages, statements of supplemental data relative to the budget as he deems
3434 expedient and, from time to time during the session of the general court may submit
3435 supplemental messages on recommendations relative to appropriations, revenues and loans.
3436 Upon submission of the budget to the general court, the governor shall, through the executive
3437 office for administration and finance, make available to the public all material relevant to said
3438 budget, including all supporting documents pertinent thereto. This shall include at least the
3439 mailing, at the time of submission of the Governor's budget and subsequently the House and
3440 Senate Ways and Means budgets, of (a) copies of these budgets to the state house library, and to
3441 the state office building in Springfield, (b) copies of all reports, statements, recommendations, or
3442 evaluations required by sections 3, 3A, 4, 5, 5B, 6 of chapter 29, and 67, 68, or 73 of this chapter
3443 to the state house library. They shall be placed on public display and made available for
3444 reproduction during business hours.

3445 All information required under this section to be filed with or as part of the budget by the
3446 governor, and which is not contained within the budget as filed or within accompanying
3447 documents filed at the same time, shall be filed by the governor within the following 14 days and
3448 shall be accompanied by a detailed statement explaining the failure to provide the material at the
3449 time the budget was submitted.

3450 In the event that the governor determines from information supplied by the executive
3451 office for administration and finance, from the tax revenue resolution established pursuant to
3452 section 5B of chapter 29, or from any other competent source that the tax revenues or non-tax
3453 revenues supporting the general appropriation bill have materially decreased, or that
3454 appropriations or statutory amendments that would provide funding to support recommended
3455 levels of appropriations have materially changed from the time the general appropriation bill was
3456 originally submitted, he shall submit to the general court by message recommended corrective
3457 amendments to his original budget submission to ensure that total appropriations recommended
3458 in the general appropriation bill do not exceed total revenues supporting said bill. Such message
3459 shall be submitted to the general court within 15 days from the date of such determination.

3460 Section 72. All requests and recommendations for appropriations or authorizations for
3461 expenditures by the commonwealth, other than those submitted by the governor to the general
3462 court pursuant to section 2 of Article LXIII of the Amendments to the Constitution, shall be
3463 submitted by the governor to the general court; shall be classified to show the request of each
3464 officer having charge of an office, department or undertaking, including the priorities assigned to
3465 each program by said officer, the recommendation of the secretary of the executive office within
3466 which such office, department or undertaking shall be, the recommendation of the governor, and
3467 the prior year appropriation, if any; and shall indicate the number, if any, of permanent positions

3468 proposed to be authorized for an office, department or undertaking and the number of persons to
3469 be served or the number of actions to be taken by such office, department or undertaking.

3470 All such requests and recommendations as they pertain to capital facility projects shall
3471 also be studied by the commissioner of capital asset management and maintenance with
3472 reference to any current long range capital facility development plans proposed in accordance
3473 with the requirements of sections 64, 65, 66 and 67. The commissioner in his study shall
3474 consider the effects upon the policies, programs, and priorities with regard to which he is
3475 required to report in accordance with section 73 and with reference to any other matters which
3476 the commissioner requires to be reported to him in his review and evaluation of capital facility
3477 budget requests by public agencies in accordance with the provisions of sections 64, 65, 66, 67
3478 and 68. After such review and study, the commissioner shall promptly prepare and submit his
3479 recommendations to the general court.

3480 The commissioner of capital asset management and maintenance shall promptly review
3481 any petition, motion or amendment introduced in either chamber of the general court which
3482 makes a provision for a capital facility project. During such review the commissioner shall study
3483 the necessity, desirability, and relative priority of such capital facility project by reference to any
3484 current long range capital facilities development plans proposed in accordance with the
3485 requirements of sections 64, 65, 66, 67, and 68. The commissioner in his study shall consider the
3486 effects upon the policies, programs, and priorities with regard to which he is required to report in
3487 accordance with section 73, and with reference to any other matters which the commissioner
3488 requires to be reported to him in his review and evaluation of capital facility budget requests by
3489 public agencies in accordance with the provisions of sections 64, 65, 66, 67, and 68. After such
3490 review and study the commissioner shall promptly prepare and forward his recommendation on

3491 the petition, motion, or amendment to the chamber in which it was introduced and where it is
3492 pending.

3493 Section 73. The commissioner of capital asset management and maintenance shall, each
3494 year, no later than 30 days after the governor submits the budget in accordance with the
3495 provisions of section 71, submit to the governor and to the general court a report which shall
3496 include, but not be limited to, the following: an evaluation of the effect of the capital facility
3497 budget, and the implementation of the proposed long range capital facilities development plan
3498 upon important policies, programs, and priorities mandated by the general court or established by
3499 the governor in accordance with law such as impact on the environment, energy conservation,
3500 preventative maintenance, architectural barriers, and the effective coordination of such policies,
3501 programs, and priorities with those of the federal government to assure the maximum benefit to
3502 the commonwealth from such federal programs.

3503 No later than an additional 30 days thereafter, the commissioner shall submit to the
3504 governor and to the general court a similar report on the impact of and the progress made in the
3505 implementation of long range capital facilities plans and previously authorized capital facility
3506 projects.

3507 SECTION 69. Section 1 of chapter 9 of the General Laws, as appearing in the 2008
3508 Official Edition, is hereby amended by striking out, in lines 4 and 6, each time they appear, the
3509 words “and council”.

3510 SECTION 70. Said chapter 9 is hereby further amended by striking out section 4, as so
3511 appearing, and inserting in place thereof the following 10 sections:-

3512 Section 4. The secretary shall appoint, and may remove, a competent person to be known
3513 as supervisor of public records. Said supervisor, under the supervision of the secretary, shall
3514 perform the duties required of the supervisor by law, and such other duties as the secretary
3515 determines.

3516 Section 4A. The state secretary shall, at the close of each regular session of the general
3517 court, collate and cause to be printed in a single volume the following:

3518 (1) All acts and resolves passed at such session.

3519 (2) All amendments to the constitution referred at such session to the next general court
3520 and all such amendments acted upon at such session and to be submitted to the people at the next
3521 state election.

3522 (3) All acts and resolves passed at any special session of the general court, except a
3523 general revision of the statutes, and not theretofore published in any preceding annual volume.

3524 (4) In the volume of the year immediately following a state election, all constitutional
3525 amendments and proposed laws approved by the people at said election.

3526 (5) A statement in bold type at the conclusion of each law as printed, or in a postscript at
3527 the end of the volume with a suitable reference to each law, as to which a petition asking for a
3528 referendum has been filed prior to the publication of the volume, with a sufficient number of
3529 signatures to procure its submission to the people, together with a recital of the pertinent
3530 provisions of Article XLVIII of the Amendments to the Constitution.

3531 (6) In the volume of the year immediately following a state election, a statement showing
3532 what constitutional amendments, proposed laws and laws were submitted to the people at said

3533 election, with the aggregate vote on each such measure, both affirmative and negative, arranged
3534 in such detail as the state secretary may determine.

3535 (7) A table of changes in the general statutes and an index, to be prepared as provided in
3536 section 51 of chapter 3; provided, however, the state secretary may, in his discretion, cause the
3537 table of changes to be printed in a separate volume and not in the single volume.

3538 Section 4B. The state secretary shall cause up to 10,000 copies of said volume to be
3539 printed each year and shall, immediately after their publication, distribute such copies as the
3540 secretary determines.

3541 Section 4C. The state secretary shall also, at the close of each regular session of the
3542 general court, publish in pamphlet form up to 20,000 copies, of the acts and resolves passed and
3543 of any proposed amendments to the constitution passed during such session. The secretary may
3544 also apportion the copies among the clerks of the several cities and towns, to be delivered by the
3545 clerks to inhabitants who apply for a copy.

3546 The secretary shall also, as soon as any act or resolve is passed, send a copy of the act or
3547 resolve to the following: each state department, officer, board or commission whose duties are
3548 affected by the act or resolve, the clerks of the several cities and towns, for the use of the
3549 inhabitants of those cities and towns, the justices, clerks and registers of courts, district attorneys,
3550 sheriffs, justices of the peace authorized to issue warrants and take bail, county law libraries and
3551 all incorporated law libraries and branch libraries maintained by them; provided, however, upon
3552 written request approved by the secretary, additional copies may be distributed to the above list
3553 and to any other public officials whose duties in the secretary's opinion require the use of such

3554 copies. The secretary may also send copies to such persons as apply for an act or resolve,
3555 charging not less than the cost of producing and distributing the copy.

3556 Section 4D. The state secretary shall print from time to time during the session of the
3557 general court a cumulative table of changes in the general statutes, up to the date of publication,
3558 to be prepared by the counsel to the senate and the counsel to the house of representatives.

3559 Section 4E. The state secretary shall furnish to each city and town of the commonwealth,
3560 to be preserved in a public place in the city or town, 1 copy of each of such report included in the
3561 public document series as the city or town clerk may apply for. The state secretary shall furnish 1
3562 copy of each report to such public and other libraries as may apply for the reports. If the
3563 supervisor of public records shall report to the state secretary that a city or town is unable to
3564 properly care for and use the documents, the state secretary may discontinue sending the reports
3565 to that town.

3566 Each member of the general court and of the executive department, the clerk of each
3567 branch of the general court and each reporter assigned to either branch may, upon a written,
3568 signed request delivered to the state secretary, receive a copy of any such document. Ten copies
3569 shall be placed in the state library for the use of the library and for exchange.

3570 Section 4F. The state secretary shall annually procure copies of the proceedings of the
3571 annual encampments of the departments of Massachusetts, Grand Army of the Republic, United
3572 Spanish War Veterans, The American Legion, Disabled American Veterans of the World War,
3573 Marine Corps League, American Veterans of World War II, AMVETS, Italian American War
3574 Veterans of the United States, Incorporated, Jewish War Veterans of the United States, Veterans
3575 of Foreign Wars of the United States, Polish-American Veterans of Massachusetts, Inc., and

3576 Veterans of World War I of the U.S.A., held in that year, with the general and special orders,
3577 circulars and other papers forming parts thereof, and shall cause the same to be kept as parts of
3578 the records of the commonwealth. The state secretary shall annually cause copies thereof,
3579 including in the case of those relating to the Grand Army of the Republic the portraits of the
3580 department officers and staff and of the executive committee of the national encampment, to be
3581 printed and bound; and shall cause 1 printed and bound copy of each to be sent to each city or
3582 town library in the commonwealth. The state secretary shall also send 1 copy of each volume
3583 relating to the Grand Army of the Republic to each Grand Army post, 1 copy of the volume
3584 relating to the United Spanish War Veterans to each camp of Spanish War Veterans, 1 copy of
3585 the volume relating to The American Legion to each post of The American Legion, 1 copy of the
3586 volume relating to the Disabled American Veterans of the World War to each chapter of the
3587 Disabled American Veterans of the World War, 1 copy of the volume relating to the Marine
3588 Corps League to each detachment of the Marine Corps League, 1 copy of the volume relating to
3589 the American Veterans of World War II, AMVETS to each post of the American Veterans of
3590 World War II, AMVETS, 1 copy of the volume relating to the Italian American War Veterans of
3591 the United States, Incorporated to each post of the Italian American War Veterans of the United
3592 States, Incorporated, 1 copy of the volume relating to the Jewish War Veterans of the United
3593 States to each post of the Jewish War Veterans of the United States, 1 copy of the volume
3594 relating to the Veterans of Foreign Wars to each post of the Veterans of Foreign Wars of the
3595 United States, 1 copy of the volume relating to the Polish-American Veterans of Massachusetts,
3596 Inc. to each post of the Polish-American Veterans of Massachusetts, Inc. and 1 copy of the
3597 volume relating to the Veterans of World War I of the U.S.A. to each barracks of the Veterans of

3598 World War I of the U.S.A., in the commonwealth. The state secretary shall cause the other
3599 copies of each to be distributed in the same manner as the annual report of the state secretary.

3600 Section 4G. The state secretary shall furnish to every city and town the reports of the
3601 decisions of the supreme judicial court from time to time, as published, and shall furnish to every
3602 town hereafter incorporated a full set of said decisions, the index-digest of those decisions, a
3603 copy of the General Laws, and copies of all such books and documents in the secretary's office
3604 as shall have been previously furnished to towns by the commonwealth; but the clerk of such
3605 town shall first file with the secretary a certificate that the town has made suitable provision for
3606 the preservation and convenient use of such books and documents.

3607 Section 4H. A city or town which has once been furnished with such books and
3608 documents shall not again be supplied with the same at the expense of the commonwealth.
3609 Towns may effect insurance on the books and documents for their own benefit.

3610 Section 4I. The state secretary shall, in the distribution of laws and documents to
3611 members of the general court, effect such exchanges among members as they shall direct; and
3612 the secretary may employ such additional clerical or other assistance as may be necessary for the
3613 purpose. Copies of the laws and documents apportioned to members of the general court which
3614 remain undisposed of for 3 months after the end of the year in which they were issued shall
3615 revert to the commonwealth and be subject to general distribution.

3616 SECTION 71. Section 5 of said chapter 9, as so appearing, is hereby amended by striking
3617 out, in line 4, the words "sixty-six as the governor and council may approve" and inserting in
3618 place thereof the following figure:- 66.

3619 SECTION 72. Section 19 of said chapter 9, as so appearing, is hereby amended by
3620 striking out, in lines 1 and 2, the words “, having first obtained authority from the governor and
3621 council,”.

3622 SECTION 73. Section 5 of chapter 10 of the General Laws, as so appearing, is hereby
3623 amended by striking out, in lines 1 and 2, the words “, with the consent of the governor and
3624 council, may appoint, and, with such consent, may for cause remove,” and inserting in place
3625 thereof the following words:- may appoint and may for cause remove.

3626 SECTION 74. Section 5B of said chapter 10 is hereby repealed.

3627 SECTION 75. Section 5C of said chapter 10, as so appearing, is hereby amended by
3628 striking out, in lines 1 and 2, the words “with the advice of the council”.

3629 SECTION 76. Said section 5C of said chapter 10, as so appearing, is hereby further
3630 amended by striking out, in line 6, the words “, with the advice of the council,”.

3631 SECTION 77. Section 6 of said chapter 10 is hereby repealed.

3632 SECTION 78. Section 9 of said chapter 10, as appearing in the 2008 Official Edition, is
3633 hereby amended by inserting after the word “general”, in line 2, the following words:- and the
3634 house and senate committees on ways and means.

3635 SECTION 79. Said chapter 10 is hereby further amended by striking out sections 9A and
3636 10 and inserting in place thereof the following 2 sections:-

3637 Section 9A. A debt statement shall be forwarded on a quarterly basis to the state
3638 treasurer, comptroller and the house and senate committees on ways and means by those
3639 agencies of the commonwealth and authorities identified by the comptroller under subsection (c)

3640 of section 12 of chapter 7A, having authority to issue notes or bonds. Said debt statement shall
3641 be certified by an authorized official of said agency or authority. Such debt statement shall
3642 include authorized, unissued and outstanding bonds and notes of the authority or agency as of the
3643 first day of each quarter. Said debt statement shall include the debt service requirements of both
3644 principal and interest for the subsequent 24 month period and an estimate of the date and
3645 principal amount of bonds and notes to be sold in the subsequent 12 month period. Said debt
3646 statement shall be filed under rules and regulations prescribed by the state treasurer.

3647 Section 10. The state treasurer shall annually, on the second Wednesday in September,
3648 report to the general court a statement of the transactions of the department of the state treasurer
3649 for the preceding fiscal year, including a specific statement of all warrants remaining unpaid and
3650 of the names of the persons in whose favor they are drawn.

3651 SECTION 80. Said chapter 10 is hereby further amended by inserting after section 10A
3652 the following section:-

3653 Section 10B. The state treasurer, in consultation with the secretary of administration and
3654 finance and the comptroller, shall prepare and submit to the house and senate committees on
3655 ways and means on or before the last day of August, November, February and May official cash
3656 flow projections for the current fiscal year and for the fiscal quarters beginning October 1,
3657 January 1, April 1 and July 1, respectively. Included in said projections shall be actual spending
3658 and revenue through the latest possible date for inclusion in the projections, estimated spending
3659 and revenue, along with assumptions used to derive those estimates, a comparison of actual
3660 spending and revenue with previous estimates of spending and revenue for those months, an
3661 analysis of the variances identified in that comparison and identification of any cash flow gaps.

3662 Variance reports, which compare actual revenues and spending with planned revenues and
3663 spending, shall be produced weekly by the treasurer and distributed to the comptroller's division,
3664 the department of revenue, and the executive office for administration and finance. All data
3665 required by the treasurer's office for production of annual and quarterly cash flow projections and
3666 weekly variance reports shall be submitted by state agencies, including the state lottery, in a
3667 timely fashion, on or before deadlines established by the treasurer's office. To assist in the
3668 preparation of the weekly variance reports, the department of revenue shall be responsible for
3669 providing estimates of tax revenue receipts, by tax category as identified in section 1A of the
3670 general appropriation act and the office of the comptroller for providing estimates of agency
3671 spending and non-tax revenue receipts. Compilations of such variance reports shall be distributed
3672 monthly to the comptroller's division, the department of revenue, the executive office for
3673 administration and finance and the house and senate committees on ways and means. The
3674 executive office for administration and finance and the treasurer's office shall jointly develop and
3675 approve annual and quarterly cash management plans to address gaps identified by cash flow
3676 projections and variance reports. Said management plans shall clearly identify the roles to be
3677 played by short-term borrowing, investment policy, expenditure controls and revenue
3678 management in providing necessary cash.

3679 The state treasurer shall semi-annually report to the house and senate committees on
3680 ways and means and the joint committee on revenue the lending and banking institutions into
3681 which the cash deposits of the commonwealth are being deposited.

3682 SECTION 81. Section 11 of said chapter 10 is hereby repealed.

3683 SECTION 82. Section 24 of said chapter 10, as appearing in the 2008 Official Edition, is
3684 hereby amended by inserting after the word “an”, in line 35, the following word:- audited.

3685 SECTION 83. Said section 24 of said chapter 10, as so appearing, is hereby further
3686 amended by inserting after the word “advisable”, in line 38, the following words:- , which shall
3687 be made available electronically to the general public not later than the earliest date established
3688 for reports in section 12 of chapter 7A.

3689 SECTION 84. Said section 24 of said chapter 10, as so appearing, is hereby further
3690 amended by striking out the last paragraph.

3691 SECTION 85. Section 24A of said chapter 10 is hereby amended by striking out
3692 subsection (b), as so appearing, and inserting in place thereof the following subsection:-

3693 (b) The revenues derived from the sale of multi-jurisdictional tickets or shares shall be
3694 apportioned under section 25.

3695 SECTION 86. Section 25 of said chapter 10, as so appearing, is hereby amended by
3696 striking out clause (c) and inserting in place thereof the following clause:- (c) the balance shall
3697 be used to fund budgeted aid to cities and towns as provided in section 18C of chapter 58,
3698 subject to appropriation.

3699 SECTION 87. Said chapter 10 is hereby further amended by inserting after section 26 the
3700 following section:-

3701 Section 26A. (a) The director shall operate and administer an office of performance
3702 management and innovation that shall, without limitation, administer this section. All
3703 departments of the commission shall report to the office of performance management and

3704 innovation with regard to setting goals and establishing performance measures to improve the
3705 commission and the departments' operations.

3706 (b) The director shall establish a performance measurement system for the departments of
3707 the commission, which shall establish program goals, measure program performance against
3708 those goals and report publicly on progress to improve the effectiveness of the state lottery.

3709 (c) The office of performance management and innovation shall be charged with
3710 evaluating the goals and measures established by the commission and its departments and
3711 monitoring the results reported. The office shall recommend changes to proposed goals and
3712 measures as are appropriate to align goals and measures with the strategic priorities of the
3713 commission and the director. The office shall report regularly to the public on the commission's
3714 and its departments' progress toward achieving stated goals. The office shall be responsible for
3715 reporting publicly and transparently and making all reports available through an on-line system.

3716 The director shall use the performance criteria established under this section to determine
3717 the quality of service of all private entities that perform services on behalf of the commission.
3718 The results of such performance measures shall be criteria used in negotiating any contracts.

3719 SECTION 88. The second paragraph of section 35 of said chapter 10, as appearing in the
3720 2008 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof
3721 the following clause:-

3722 (c) For budgeted aid to cities and towns as provided in section 18C of chapter 58, subject
3723 to appropriation;

3724 SECTION 89. Section 37 of said chapter 10, as so appearing, is hereby amended by
3725 striking out, in lines 31 and 32, the words “Local Aid Fund established under the provisions of
3726 section 2D of chapter 29” and inserting in place thereof the following words:- State Lottery
3727 Fund.

3728 SECTION 90. Said chapter 10 is hereby further amended by striking out section 39, as so
3729 appearing, and inserting in place thereof the following section:-

3730 Section 39. Any organization operating or conducting a game under section 38 shall file a
3731 return with the commission, on a form prepared by it, within 10 days after such game is held or
3732 within such further time as the commission may allow, and shall pay with the return a tax of 5
3733 per cent of the gross receipts derived from such game. All such returns shall be public records.
3734 All sums received by said commission from the tax imposed by this section as taxes, interest on
3735 those sums, fees, penalties, forfeitures, costs of suits or fines, less all amounts refunded on those
3736 sums, together with any interest or costs paid on account of such refunds, shall be paid into the
3737 treasury of the commonwealth and shall be credited to the State Lottery Fund.

3738 SECTION 91. Section 2 of chapter 11 of the General Laws, as so appearing, is hereby
3739 amended by striking out, in lines 1 and 2, the words “, with the consent of the governor and
3740 council,”.

3741 SECTION 92. Said section 2 of said chapter 11, as so appearing, is hereby further
3742 amended by striking out, in line 4, the words “, with the consent of the governor and council”.

3743 SECTION 93. Section 5 of said chapter 11, as so appearing, is hereby amended by
3744 striking out in line 1, the words “, subject to confirmation by the governor,”.

3745 SECTION 94. Section 1 of chapter 14 of the General Laws, as so appearing, is hereby
3746 amended by inserting after the word “administration”, in line 4, the following words:- and
3747 finance.

3748 SECTION 95. Section 1A of said chapter 14, as so appearing, is hereby amended by
3749 inserting after the word “administration”, in line 6, the following words:- and finance.

3750 SECTION 96. Section 3 of said chapter 14, as so appearing, is hereby amended by adding
3751 the following words:- and finance.

3752 SECTION 97. The General Laws are hereby amended by striking out chapter 29 and
3753 inserting in place thereof the following chapter:-

3754 CHAPTER 29

3755 STATE FINANCE

3756 Section 1. All words and terms defined by section 1of chapter 7C and appearing in this
3757 chapter, except for the phrases “state agency" and “state authority”, shall have the meaning
3758 defined therein, unless the context shall indicate another meaning or intent.

3759 As used in this chapter, the following words shall, unless the context requires otherwise,
3760 have the following meanings:--

3761 “Account", a separate 8-digit number designated in the state accounting system to
3762 separately record budgetary, bond, federal or trust funds.

3763 “Agency head” or “department head”, the administrative head of a state agency,
3764 department, board, bureau, office or division of the commonwealth who has been authorized

3765 through legislation to obligate and expend funds, comply with legislative mandates, and make
3766 any certifications or approvals required under this chapter or other state or federal laws or
3767 regulations requiring an agency head certification or approval.

3768 “Allotment”, that portion of an appropriation that may be spent by a department for a
3769 specified period as determined by the governor or the secretary of administration and finance
3770 under section 9B.

3771 “Appropriation", the authorization by the general court with the approval of the governor,
3772 or by overriding his objection thereto, of the expenditure of budgeted revenues from a specified
3773 fund for a specified purpose up to a specified maximum amount for a specified period of time.

3774 “Balanced budget", a condition of state finance in which the following requirements are
3775 met:

3776 (i) the consolidated net surplus at the end of the fiscal year is greater than or equal
3777 to one-half of 1 per cent of state tax revenues for such fiscal year; and

3778 (ii) the amount transferred to the stabilization fund under subsection (a) of section
3779 5C is greater than or equal to 1/2 of 1 per cent of state tax revenue for such fiscal year.

3780 “Bond authorization”, authorization by the legislature under section 3 of article LXII of
3781 the Amendments to the Constitution to borrow money.

3782 “Bond fund", a fund of the commonwealth into which bond revenues are deposited and
3783 from which spending may occur.

3784 “Bond revenues", the proceeds of bonds issued by the commonwealth and the interest
3785 earned thereon.

3786 “Budget director", the administrative head of the fiscal affairs division within the
3787 executive office for administration and finance.

3788 “Budgetary funds", state funds which are subject to appropriation as provided in section
3789 6.

3790 “Budgeted revenues”, all income in the budgetary funds from state taxes, departmental
3791 revenues, including retained revenues, federal reimbursements, and transfers of budgeted
3792 revenues among funds, but not including federal grants.

3793 “Capital appropriation”, an authorization by the general court of the expenditure of bond
3794 revenues, with the approval of the governor or by legislative override of a gubernatorial
3795 objection thereto.

3796 “Consolidated net surplus”, the sum of the undesignated balances in the budgetary funds,
3797 except funds established by section 2H and section 2I and by section 2C of chapter 131.

3798 “Deficiency”, a condition of state finance in which expenditures during a fiscal year are
3799 expected to exceed the appropriation that authorizes those expenditures.

3800 “Departmental revenues”, all income from state agency fees, whether established under
3801 section 3B of chapter 7 or otherwise, lottery receipts, fines, assessments, charges or court
3802 judgments, including retained revenues and the earnings on all state revenues.

3803 “Direct appropriation", a first-time appropriation of budgeted revenues, from sources
3804 other than retained revenues.

3805 “Direct debt”, the sum of the principal amounts of all direct debt issued by the
3806 commonwealth for the purposes of financing state projects and purposes, including obligations

3807 for leases for capital projects, except debt issued on a short-term basis in anticipation of receipts
3808 from taxes and other sources.

3809 “Federal grant", any financial assistance available to a state agency from the United
3810 States government, either directly or through an intermediary, including a project, formula, or
3811 block grant, a subvention, a subsidy, an augmentation, or a state plan but excluding federal
3812 reimbursements.

3813 “Federal reimbursements”, financial assistance provided pursuant to Titles XVIII or XIX
3814 of the Social Security Act or other reimbursements received for state entitlement expenditures
3815 and credited to the General Fund, or other federal financial assistance from the United States
3816 government for direct payments to individuals, or for other purposes as provided for in section
3817 2ZZZ, section 34 of chapter 90, chapter 92, and section 48 of chapter 151A.

3818 “Fund", an accounting entity established by general or special law to record all financial
3819 resources or revenues, together with all related expenditures or liabilities, that have been
3820 segregated for a particular purpose including, but not limited, to a grouping of related accounts
3821 into which resources have been further segregated for specific activities and purposes.

3822 “Line-item", a separate unit of appropriation identified by an 8-digit number representing
3823 a specific spending account authorized for a specific purpose and a defined amount.

3824 “Prior appropriation continued" or “PAC", the re-appropriation of unexpended and
3825 unencumbered monies from one fiscal year for the following fiscal year.

3826 “Retained revenue", income of a state agency or other public instrumentality, derived
3827 from its operations and which, by law, such agency or instrumentality may expend for a

3828 particular purpose up to a specified limit, without further appropriation, which would otherwise
3829 be subject to direct appropriation.

3830 “Retained revenue line-item", a line-item which allows a state agency or other public
3831 instrumentality to use retained revenue during the fiscal year in which such revenue is received
3832 to maintain all or a portion of its operations.

3833 “Revenue account”, a unique account established by the comptroller to record the
3834 collection of revenue by a state agency.

3835 “Secretary", the officer in charge of each executive office established by chapter 6A or
3836 chapter 7 and the supreme judicial court.

3837 “State agency" or “state department”, a legal entity of state government established by the
3838 General Court as an agency, board, bureau, department, office or division of the commonwealth
3839 with a specific mission, which may either report to cabinet-level units of government, known as
3840 executive offices or secretariats, or be independent divisions or departments.

3841 “State authority" a body politic and corporate constituted as a public instrumentality of
3842 the commonwealth and established by an act of the General Court to serve an essential
3843 governmental function; provided, however, that state authority shall not include: (1) a state
3844 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body
3845 politic for which the governing body is elected, in whole or in part, by the general public or by
3846 representatives of member cities or towns.

3847 “State revenue", inflows from tax and nontax sources that, by law, shall be accounted and
3848 reported to a fund.

3849 “State tax revenues", the revenues of the commonwealth from every tax, surtax, receipt,
3850 penalty and other monetary exaction and interest in connection therewith including, but not
3851 limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use,
3852 meals, motor vehicle fuels, businesses and corporations, financial institutions, insurance
3853 companies, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room
3854 occupancy and pari-mutuel wagering, but excluding revenues collected by the state from local
3855 option taxes for further direct distribution to cities and towns.

3856 “Surplus”, a condition of state finance in which an appropriation is expected to exceed
3857 expenditures from that appropriation during a fiscal year.

3858 “Tax expenditures", state tax revenue foregone as a direct result of the provisions of any
3859 general or special law which allows exemptions, deferrals, deductions from or credits against
3860 taxes imposed on income, businesses and corporations, financial institutions, insurance and sales
3861 but excluding revenue foregone as a direct result of any general or special law which allows a
3862 personal income tax exemption.

3863 “Trust”, an account or fund into which are deposited monies held by the commonwealth
3864 or state agencies in a trustee capacity and which must be expended in accordance with the terms
3865 of the trust.

3866 Section 2. There shall be a General Fund of the commonwealth, into which all revenue
3867 payable to the commonwealth shall be paid, except revenue required by law to be paid into a
3868 fund other than the General Fund and revenue for or on account of sinking funds, trust funds, or
3869 trust deposits, which funds shall be maintained and the revenue applied in accordance with law
3870 or the purposes of the fund.

3871 All such revenue shall be deposited in and credited to the General Fund or other state
3872 funds during the fiscal year in which it is received. In the event that a question arises as to the
3873 correct year to credit the receipt of revenues, the comptroller shall make a determination as to the
3874 correct fiscal year and the determination of the comptroller shall be conclusive. Every source of
3875 state revenue shall be classified according to a schedule of revenue accounts promulgated by the
3876 comptroller. The commonwealth's receipt of such revenue shall be documented in accordance
3877 with rules and regulations promulgated by the comptroller.

3878 Section 2B. There shall be established and set up on the books of the commonwealth a
3879 separate fund, to be known as the Federal Capital Improvement Fund. Money received from the
3880 federal government on account of projects financed in whole or in part by appropriations
3881 authorized to be charged to said fund shall be credited to said fund.

3882 Section 2C. All income from federal grants which shall include grants in aid and
3883 subventions, received by any department, institution, board, commission, agency, officer or
3884 employee of the commonwealth from the federal government, whether directly or through an
3885 intermediary, other than grants for capital improvements as provided in section 2B, shall be paid
3886 into the treasury of the commonwealth and credited to a separate special revenue fund to be
3887 known as the General Federal Grants Fund. Each such grant shall be kept in a separate account
3888 and subject to the provisions of law regulating the disbursement of public funds and the approval
3889 thereof.

3890 Section 2H. There shall be established and set up on the books of the commonwealth a
3891 separate fund to be known as the Commonwealth Stabilization Fund, consisting of amounts
3892 transferred to the fund in accordance with section 5C and income derived from the investment of

3893 amounts so transferred. The purpose of the fund shall be to create and maintain a reserve to
3894 which any available portion of a consolidated net surplus in the operating funds shall be
3895 transferred and from which appropriations may be made for the following purposes: (1) to
3896 replace the state and local loss of federal funds; (2) to avoid or minimize the commonwealth's
3897 issuance of revenue anticipation notes as certified by the state treasurer and the secretary of
3898 administration and finance, as long as any amount transferred under this clause is reimbursed by
3899 the General Fund to the Stabilization Fund before the consolidated net surplus is calculated under
3900 section 5C for the fiscal year in which the transfer is made, upon a written finding by the
3901 secretary of administration and finance and the treasurer that the loss of investment revenues to
3902 the Stabilization Fund would not exceed the interest costs incurred by the commonwealth in
3903 issuing revenue anticipation notes, which finding shall be delivered to the house and senate
3904 committees on ways and means and the comptroller at least 5 business days before the date
3905 assigned for a transfer under this clause; or (3) for any event which threatens the health, safety or
3906 welfare of the people or the fiscal stability of the commonwealth or any of its political
3907 subdivisions. Such event or events, as determined by the general court, shall include, but not be
3908 limited to, a substantial decline in economic indicators which result in severe reductions in state
3909 revenues or state financial assistance to local governmental units or court ordered or otherwise
3910 mandated assumptions by the commonwealth of programs or costs of programs previously borne
3911 by local governmental units. The determination by the general court to transfer and appropriate
3912 for any such purpose shall be made, after a hearing before the joint committee on ways and
3913 means and a comprehensive analysis of alternative legislative action and revenue sources, and
3914 upon a finding that the transfer and appropriation will not adversely affect the overall fiscal

3915 health of the commonwealth, taking into account indicators of future economic performance and
3916 conditions affecting state revenues.

3917 In the event that the amount remaining in the fund at the close of a fiscal year exceeds 15
3918 per cent of budgeted revenues, as confirmed by the comptroller in the statutory basis financial
3919 report for the immediately preceding fiscal year, the amounts so in excess shall be transferred to
3920 the Tax Reduction Fund established by section 2I.

3921 Section 2I. There shall be established and set up on the books of the commonwealth a
3922 separate fund to be known as the Tax Reduction Fund, consisting of amounts transferred to the
3923 fund in accordance with section 2H and income derived from the investment of amounts so
3924 transferred. The purpose of the fund shall be to maintain a reserve which shall be used only to
3925 reduce personal income taxes as provided herein.

3926 On or before October 31, the comptroller shall certify to the governor the total amount in
3927 the Tax Reduction Fund as shown in the financial report of the comptroller for the preceding
3928 fiscal year. A temporary increase in the amounts of the personal exemption allowable on the
3929 income tax shall be provided, subject to appropriation, for the taxable year ending on the
3930 succeeding December 31 to the extent that the amount in the Tax Reduction Fund equals an
3931 integer multiple of 5 per cent of the amount of the personal income taxes which will not be
3932 collected for said taxable year on account of such personal exemptions. The commissioner of
3933 revenue shall calculate the amount of the temporary increase, if any, in such personal exemptions
3934 for said taxable year. The comptroller shall transfer the amount equal to such integer multiple of
3935 5 per cent of the amounts not collected due to such personal exemptions from the Tax Reduction
3936 Fund to the General Fund.

3937 Section 2L. There shall be established and set up on the books of the commonwealth a
3938 separate fund, to be known as the Water Pollution Abatement Revolving Fund, consisting of
3939 amounts credited to the fund in accordance with chapter 29C. The fund shall be administered in
3940 accordance said chapter 29C by the board of trustees of the water pollution abatement trust
3941 created thereunder and shall be held in trust exclusively for the purposes and the beneficiaries
3942 described therein. The state treasurer shall be treasurer-custodian of the fund and shall have the
3943 custody of its monies and securities.

3944 Section 2O. When authorized by a vote taken by the yeas and nays of two-thirds of each
3945 house of the general court present and voting thereon, including any authorization in effect as of
3946 July 1, 2009, the state treasurer, upon the request of the governor, may issue bonds of the
3947 commonwealth as hereinafter provided. Any such bonds shall be special obligations of the
3948 commonwealth payable solely from monies credited to the Commonwealth Transportation Fund
3949 established pursuant to section 2ZZZ; provided, however, that notwithstanding any general or
3950 special law to the contrary, including without limitation section 60A, such bonds shall not be
3951 general obligations of the commonwealth. Bonds may be issued in such manner and on such
3952 terms and conditions as the state treasurer may determine in accordance with this paragraph and,
3953 to the extent not inconsistent with this paragraph, provisions of the General Laws for the
3954 issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement entered
3955 into by the state treasurer, with the concurrence of the secretary of administration and finance
3956 and the secretary of transportation, on behalf of the commonwealth, which trust agreement may
3957 pledge or assign all or any part of monies credited to the Commonwealth Transportation Fund
3958 and rights to receive the same, whether existing or coming into existence and whether held or
3959 thereafter acquired, and the proceeds thereof. The state treasurer may, with the concurrence of

3960 the secretary of administration and finance and the secretary of transportation, enter into
3961 additional security, insurance or other forms of credit enhancement which may be secured on a
3962 parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit
3963 enhancement agreement shall be valid and binding from the time such pledge shall be made
3964 without any physical delivery or further act, and the lien of such pledge shall be valid and
3965 binding against all parties having claims of any kind in tort, contract or otherwise, whether such
3966 parties have notice thereof or not. Any such pledge shall be perfected by filing of the trust
3967 agreement or credit enhancement agreement in the records of the state treasurer and no filing
3968 need be made under chapter 106. Any such trust agreement or credit enhancement agreement
3969 may establish provisions defining defaults and establishing remedies and other matters relating to
3970 the rights and security of the holders of the bonds or other secured parties as determined by the
3971 state treasurer, including provisions relating to the establishment of reserves, the issuance of
3972 additional or refunding bonds, whether or not secured on a parity basis, the application of
3973 receipts, monies or funds pledged pursuant to such agreement , the regulation of the custody,
3974 investment and application of monies and such other matters deemed necessary or desirable by
3975 the state treasurer for the security of such bonds. Any such bonds shall be deemed to be
3976 investment securities under chapter 106, securities in which any public officer, fiduciary,
3977 insurance company, financial institution or investment company may properly invest funds and
3978 securities which may be deposited with any public custodian for any purpose for which the
3979 deposit of bonds is authorized by law. Any such bonds, the transfer thereof and the income
3980 therefrom, including profit on the sale thereof, shall at all times be exempt from taxation by and
3981 within the commonwealth.

3982 The provisions hereof relating to bonds shall also be applicable to the issuance of notes
3983 insofar as such provisions may be appropriate therefor.

3984 In order to increase the marketability of any such bonds or notes issued by the
3985 commonwealth and in consideration of the acceptance of payment for any such bonds or notes,
3986 the commonwealth covenants with the purchasers and all subsequent holders and transferees of
3987 any such bonds or notes that while any such bond or note shall remain outstanding, and so long
3988 as the principal of or interest on any such bond or note shall remain unpaid: (i) no pledged funds
3989 shall be diverted from the Commonwealth Transportation Fund; (ii) in any fiscal year of the
3990 commonwealth and until an appropriation has been made which is sufficient to pay the principal,
3991 including sinking fund payments, of and interest on all such bonds and notes of the
3992 commonwealth and to provide for or maintain any reserves, additional security, insurance or
3993 other forms of credit enhancement required or provided for in any trust agreement securing any
3994 such bonds or notes, no pledged funds shall be applied to any other use; and (iii) so long as such
3995 revenues are necessary, as determined by the state treasurer in accordance with any applicable
3996 trust agreement or credit enhancement agreement, for the purposes for which they have been
3997 pledged, and notwithstanding any general or special law to the contrary, the rates of the fees
3998 collected pursuant to sections 33 and 34 of chapter 90 and of the excises imposed in chapters
3999 64A, 64E and 64F shall not be reduced below the amount in effect at the time of issuance of any
4000 such bond or note.

4001 Section 2Q. There shall be established and set up on the books of the commonwealth a
4002 separate fund to be known as the Intragovernmental Service Fund. There shall be credited to
4003 such fund all revenues generated through the charging of any state agency for services provided

4004 by another state agency including, but not limited to, charges levied by the human resources
4005 division for workers' compensation chargeback.

4006 Amounts credited to said fund shall be expended subject to appropriation.

4007 Section 2V. There shall be established and set up on the books of the commonwealth a
4008 separate fund to be known as the Dairy Equalization Fund. There shall be credited to such fund
4009 all monies payable pursuant to sections 10, 11 and 12 of chapter 94A and any interest earned on
4010 monies within the fund. Amounts credited to said fund shall be made available by the state
4011 treasurer, without further appropriation, exclusively for the purposes of said chapter 94A, only
4012 after receipt of notice certified by the commissioner of the department of food and agriculture
4013 that amounts are due pursuant to said chapter 94A. Said commissioner shall file quarterly reports
4014 with the house and senate clerk and the house and senate committees on ways and means
4015 regarding the distribution of monies from the fund.

4016 Section 2W. There shall be established and set up on the books of the commonwealth a
4017 separate fund to be known as the Water Pollution Abatement and Drinking Water Projects
4018 Administration Fund. There shall be credited to said fund any amounts transferred pursuant to
4019 sections 5 and 18 of chapter 29C and any income derived from the investment of amounts
4020 credited to said fund. Amounts credited to said fund shall be held in an expendable trust and the
4021 department of environmental protection shall report monthly all amounts credited to said fund
4022 and all expenditures by subsidiary on the Massachusetts management and accounting reporting
4023 system, so-called. Said amounts shall be used solely for the administration of the provisions of
4024 section 27A of chapter 21 and section 18 of said chapter 29C.

4025 Section 2Z. There shall be established and set up on the books of the commonwealth a
4026 separate fund to be known as the Commonwealth Sewer Rate Relief Fund. The fund shall consist
4027 of all amounts credited to the fund and any income derived from the investment of amounts
4028 credited to the fund. All amounts credited to the fund shall be held in trust and used solely for the
4029 purposes of this section. Amounts credited to the fund shall be available to mitigate sewer rate
4030 increases due to debt service obligations created by issuing eligible indebtedness. For the
4031 purposes of this section, eligible indebtedness shall mean debt issued on or after January 1, 1990,
4032 which has a final date of maturity more than 5 years after the date of issuance and which is
4033 incurred, wholly or in substantial part, to finance or refinance the cost of planning, design or
4034 construction of a water pollution abatement project, or part thereof, required to be constructed to
4035 meet the provisions of the Federal Water Pollution Control Act, 33 U.S.C. sections 1251 et seq.,
4036 and sections 26 to 53, inclusive, of chapter 21, or any wastewater collection or transportation
4037 project related thereto. Eligible indebtedness shall not include any indebtedness for which the
4038 issuer has received assistance provided from state grants. Notwithstanding this section, eligible
4039 indebtedness shall include indebtedness incurred to finance the Metrowest Water Supply Tunnel
4040 and the Chicopee Valley Aqueduct Redundancy Project. Eligible indebtedness shall include
4041 indebtedness incurred pursuant to loan agreements under the provisions of chapter 275 of the
4042 acts of 1989 which exceeded $50,000,000 by June 30, 1995, and the debt service attributable
4043 thereto for any year, for purposes of this section, shall be the net obligation borne by the issuer
4044 after application of any credits, subsidies or assistance, however characterized, provided under
4045 the provisions of the aforementioned laws. No city, town, district, commission, agency,
4046 authority, board or other instrumentality of the commonwealth or any of its political subdivisions
4047 which is responsible for the ownership or operation of wastewater treatment projects and is

4048 authorized to finance all or any part of the cost thereof through the issuance of eligible
4049 indebtedness, in this section called an issuer, shall receive relief authorized by this section in
4050 excess of 20 per cent of its annual debt service obligations due to eligible indebtedness. The
4051 division of local services of the department of revenue, in consultation with the department of
4052 environmental protection, shall develop guidelines to certify an issuer' eligible indebtedness and
4053 shall create a process to distribute funds equitably to eligible issuers, in order to mitigate
4054 extraordinary increases in sewer costs. Funds disbursed in any fiscal year shall be disbursed on
4055 or before March 31 of the fiscal year. The board, office or commission responsible for setting
4056 sewer charges in each city, town, district or commission that either receives aid itself or is a
4057 member of a regional entity that receives aid pursuant to this section shall certify to the division
4058 of local services that it has reduced sewer charges to reflect its share of any such aid. No
4059 expenditure shall cause the fund to be in deficit at the end of the fiscal year.

4060 Section 2JJ. There shall be established and set up on the books of the commonwealth a
4061 separate fund to be known as the Child Care Quality Fund. There shall be credited to said Fund
4062 revenues received from the sale of Invest in Children distinctive registration plates issued
4063 pursuant to subsection (b) of section 2E of chapter 90. Amounts credited to said fund shall be
4064 available for expenditure by the commissioner of early education and care for providing grants to
4065 not for profit child care organizations for the purpose of improving child care services including,
4066 but not limited to, teacher training, training and education of consumers and parents, the
4067 purchase of educational curricula and materials, specialized training for bilingual and bicultural
4068 providers and consumers and technical assistance for acquiring accreditation by the National
4069 Association for the Education of Young Children.

4070 Section 2QQ. There shall be established and set up on the books of the commonwealth a
4071 separate fund, to be known as the Drinking Water Revolving Fund, consisting of amounts
4072 credited to the fund in accordance with chapter 29C. The fund shall be administered in
4073 accordance with the provisions of said chapter 29C by the board of trustees of the water pollution
4074 abatement trust created thereunder and shall be held in trust exclusively for the purposes and the
4075 beneficiaries described therein. The state treasurer shall be treasurer and custodian of the fund
4076 and shall have the custody of its moneys and securities.

4077 Section 2RR. (a) There is hereby established and set up on the books of the
4078 commonwealth a separate fund to be known as the Workforce Training Fund, in this section
4079 called the Fund. There shall be credited to the Fund the workforce training contributions
4080 required by section 14L of chapter 151A.

4081 (b) Subject to appropriation, the commissioner, which in this section shall have the
4082 meaning assigned by section 1 of chapter 151A, shall make expenditures from the Fund for the
4083 following purposes:

4084 (1) To provide grants to employers, employer groups, labor organizations and
4085 training providers for projects to provide education and training to existing employees and newly
4086 hired workers. In determining who shall receive grants, the commissioner shall consider the
4087 following criteria:

4088 (i) whether the project will increase the skills of low-wage, low-skilled
4089 workers;

4090 (ii) whether the project will create or preserve jobs at wages sufficient to
4091 support a family;

4092 (iii) whether the project will have a positive economic impact on a region
4093 with high levels of unemployment or a high concentration of low-skilled workers;

4094 (iv) whether the employer has made a commitment to provide significant
4095 private investment in training during the duration of the grant and after the grant has expired;

4096 (v) whether the project will supplement, rather than replace, private
4097 investments in training;

4098 (vi) whether the employer is a small business that lacks the capacity to
4099 provide adequate training without such assistance;

4100 (vii) whether the project will provide residents of the commonwealth with
4101 training for jobs that could otherwise be filled only by residents of other nations; and

4102 (viii) whether the project is consistent with the workforce development
4103 blueprint prepared by the regional employment board.

4104 (ix) whether the employer has recently or plans to locate its business in the
4105 commonwealth and employ residents of the commonwealth who will benefit from training,
4106 provided that said employer shall not receive funds until said employer has located its business
4107 in the commonwealth.

4108 Such grants shall be for amounts not to exceed $1,000,000 and shall be for a term
4109 not to exceed two years.

4110 (2) To provide technical assistance to increase training opportunities available to
4111 employees. The commissioner may provide this direct technical assistance by using existing
4112 institutions such as regional employment boards, community colleges, labor organizations,

4113 administrative entities for service delivery areas under the federal Job Training Partnership Act,
4114 and other entities that have expertise in providing technical assistance regarding employee
4115 training or with employees of the department of labor and workforce development or of the
4116 Commonwealth Corporation. Such expenditures shall not exceed $3,000,000 each year and the
4117 commissioner shall demonstrate that each dollar expended generates not less than $5 in private
4118 investment in job training.

4119 (c) The commissioner shall adopt regulations to carry out the purposes of this section,
4120 including the criteria set forth in paragraph (1) of subsection (b). The commissioner may
4121 contract with a private organization to carry out some or all of the commissioner's duties
4122 provided in this section.

4123 (d) Not later than September 1 of each year, the commissioner shall file a report in
4124 writing with the joint committee on commerce and labor and the house and senate committees on
4125 ways and means concerning the grants made in the fiscal year ending on the preceding June 30,
4126 together with such recommendations and additional information as the commissioner considers
4127 appropriate.

4128 (e) Documentary materials or data made or received by an employee of the division of
4129 employment and training, to the extent that such materials or data consist of trade secrets or
4130 commercial or financial information regarding the operation of a business conducted by an
4131 applicant for a grant from the fund established by this section, shall not be public records and
4132 shall not be subject to section 10 of chapter 66.

4133 (f) The director, in consultation with the secretary of economic development, shall adopt
4134 regulations to carry out the purposes of this section, including the criteria set forth in paragraph

4135 (1) of subsection (b). The regulations shall provide for a rolling applications process and shall
4136 allow employers with plans to locate in the commonwealth and employ commonwealth residents
4137 to apply for grants. The director may contract with a private organization to carry out some or
4138 all of the director's duties provided in this section.

4139 The board may require a match or co-investment from participating organizations;
4140 provided, however, that in determining the amount of any match, the board shall establish
4141 different requirements for organizations based on the size of the organization, its profit or not-
4142 for-profit status and financial capacity.

4143 (g) Documentary materials or data made or received by an employee of the department of
4144 workforce development, or by an employee of the division of employment and training, to the
4145 extent that such materials or data consist of trade secrets or commercial or financial information
4146 regarding the operation of a business conducted by an applicant for a grant from the fund
4147 established by this section, shall not be public records and shall not be subject to section 10 of
4148 chapter 66.

4149 (h) The director shall, in accordance with section 328 of chapter 127 of the acts of 1999,
4150 prepare a performance evaluation of the workforce training grants awarded under this section.
4151 The evaluation shall assess the effectiveness of each grant awarded in terms of the: (1)
4152 development of employee skills; (2) increase in employee wages; (3) improvement in employee
4153 retention rates; (4) improvement of employee productivity; (5) impact on employer's business;
4154 and (6) impact on regional economy, including reduction of regional unemployment levels. As a
4155 condition of receiving a grant under this section, the director shall require employers to provide,
4156 within a time frame following the end of the grant period as established by the director, such

4157 information and data determined by the director to be necessary to complete the performance
4158 evaluation.

4159 (i) The director shall make no grant under this section to any person or entity from the
4160 Fund, nor shall any technical assistance be provided by the department out of the proceeds of the
4161 Fund, to any person or entity unless the person or entity applies for and receives a certificate of
4162 tax in good standing with the department of revenue with respect to all tax types for which it
4163 should be registered and for which it is obligated to file reports or returns. A certified copy of
4164 the certificate shall be presented to the director before the issuance of any grant under this
4165 section and before the department provides any technical assistance to any person or entity.

4166 (j) There is hereby established a board to be known as the Workforce Training Fund
4167 Advisory Board, consisting of 9 members, who shall be citizens of the commonwealth, to be
4168 appointed by the governor. Of the 9 members: 3 members shall be persons representing
4169 businesses or employers; 3 shall be persons representing employees or employees of labor
4170 organizations, 2 of whom shall be selected from a list of 5 recommended by the President of the
4171 Massachusetts AFL-CIO; and 3 shall be persons representative of the public, 2 of whom shall
4172 have expertise or experience in workforce training and 1 of whom shall represent a non-profit
4173 workforce training provider. The governor shall designate as chairman of the advisory board 1
4174 of the members appointed as representative of the public. Members shall serve for a term of 6
4175 years. Of the members originally appointed, 1 employer representative and 1 employee
4176 representative shall serve for a term of 4 years, and 1 employer representative and 1 employee
4177 representative shall serve for a term of 6 years; and thereafter, as their terms expire, the governor
4178 shall appoint members for terms of 6 years. Vacancies shall be filled by appointment by the
4179 governor for the remainder of the unexpired term. All members shall serve until the qualification

4180 of their respective successors. Members shall serve without compensation. The advisory board
4181 shall advise the director of the department of workforce development on the administration of the
4182 workforce training fund grant program including, but not limited to, reviewing and making
4183 recommendations on grant requirements and selection criteria and reviewing grant applications
4184 and making recommendations relative to grant awards. The advisory board shall, from time to
4185 time, submit recommendations to the legislature on any legislative changes it deems necessary
4186 for the successful operation of the program.

4187 (k) To provide technical assistance to increase training opportunities available to
4188 employees. The director may provide this direct technical assistance by using existing
4189 institutions such as local workforce investment boards, community colleges, labor organizations,
4190 administrative entities for service delivery areas under the federal Workforce Investment Act, or
4191 its successor statute, and other entities that have expertise in providing technical assistance
4192 regarding employee training or with employees of the departments of labor and workforce
4193 development or of the Commonwealth Corporation. Such expenditures shall not exceed
4194 $3,000,000 each year and the director shall demonstrate that each dollar expended generates not
4195 less than $5 in private investment in job training. Of the $3,000,000, not less than $75,000 shall
4196 be provided annually to the Workforce Investment Board Association to support the activities of
4197 business, labor, education, youth councils and community members in leading regional
4198 workforce development systems; each of the 16 workforce investment boards shall receive
4199 $75,000 annually; and each of the 16 workforce investment boards shall receive $20,000
4200 annually for youth councils.

4201 Section 2TT. There is hereby established and set up on the books of the commonwealth a
4202 separate fund to be known as the Liability Management and Reduction Fund. The purposes of

4203 said fund shall be to provide: (1) insurance coverage to state agencies by charging premiums to
4204 such agencies for the payment of judgments and settlements and the commonwealth's
4205 investigation and litigation costs in connection with tort claims under chapter 258; (2) services to
4206 reduce the number and size of claims against agencies including, but not limited to, risk
4207 reduction training programs and incentive payments of not more than $1,000 for effective risk
4208 reduction suggestions; and (3) such other services and activities as the comptroller shall
4209 determine are desirable to create financial and other incentives for agencies to reduce the
4210 commonwealth's tort and other monetary liability, including litigation costs; provided, however,
4211 that on or before July 1, 1999, any and all proceeds of said fund shall be used exclusively for the
4212 purposes outlined in clause (2). The fund shall consist of premiums charged to agencies, any
4213 amounts appropriated for the purposes of the fund and interest income from investments made by
4214 the state treasurer of amounts in the fund. Monies in the fund shall be expended by the
4215 comptroller under section 16 of chapter 7A, without further appropriation, for the purposes of the
4216 fund.

4217 The comptroller shall submit not later than December 31 of each year to the house and
4218 senate committees on ways and means, the secretary of administration and finance and the
4219 attorney general a report of the activities of the fund. The report shall include a financial
4220 statement which accounts for the revenues, expenditures and changes in fund balance for the
4221 preceding fiscal year. The comptroller shall also submit to said committees and officials, not
4222 later than October 1, 1998 and not later than October 1 of each fiscal year thereafter, a financial
4223 plan presenting all expected and proposed revenues and other financial sources, expenditures and
4224 other financial uses, net gain or loss from operations and changes in fund balance. The first such
4225 report shall make specific recommendations relative to any proposed decrease in the

4226 appropriation in the settlements and judgments account, and any corresponding increase in the
4227 appropriation to particular agencies, as a result of the experience rating established by the
4228 comptroller pursuant to subparagraph (c) of section 16 of chapter 7A. All such reports shall also
4229 specify the number and duties of employees of the fund, if any, the amount of any direct
4230 appropriation requested or expected and any other information relevant to the achievement of the
4231 purposes of the fund. The comptroller may at any time recommend in such reports statutory
4232 changes necessary to expand the scope of said section 16 of said chapter 7A and this section in
4233 order to cover claims other than those asserted under chapter 258.

4234 Section 2ZZ. (a) There is hereby established and set up on the books of the
4235 commonwealth a separate nonlapsing, revolving fund to be known as the Catastrophic Illness in
4236 Children Relief Fund, hereinafter called the fund. The fund shall be administered by The
4237 Catastrophic Illness in Children Relief Fund commission established pursuant to chapter 111K
4238 and shall be credited with monies received pursuant to sections 6, 9 and 10 of said chapter 111K.

4239 (b) The state treasurer, ex officio, shall be the custodian of the fund and shall receive,
4240 deposit and invest all monies transmitted to the treasurer under this section and shall credit
4241 interest and earnings on the fund to said fund.

4242 (c) The state treasurer shall adopt rules and regulations in accordance with chapter 30A
4243 on procedures for the collection of the fee established under section 9 of said chapter 111K.

4244 Section 2AAA. There shall be established and set up on the books of the commonwealth
4245 a separate fund to be known as the Health Insurance Portability and Accountability Act Fund.
4246 The purpose of the fund shall be to provide agencies under the executive office of health and
4247 human services with funding to meet the costs of compliance with the federal Health Insurance

4248 Portability and Accountability Act of 1996, HIPAA. There shall be credited to said fund
4249 revenues from federal reimbursements from Title XIX and Title XXI of the Social Security Act
4250 attributable to funds spent for HIPAA compliance and any other federal reimbursements, grants,
4251 premiums, gifts or other contributions received for HIPAA compliance. Amounts credited to the
4252 fund shall be held as an expendable trust and shall not be subject to further appropriation. No
4253 expenditure made from the fund shall cause the fund to be in deficit at the close of any fiscal
4254 year.

4255 The secretary of health and human services may allocate amounts in said fund to agencies
4256 within said executive office to meet the costs of compliance with HIPAA if the amounts
4257 otherwise available are insufficient for such purpose, in accordance with an allocation plan to be
4258 filed in advance with the secretary of administration and finance and the house and senate
4259 committees on ways and means. The secretary of health and human services shall also file a
4260 quarterly report with the house and senate committees on ways and means containing detailed
4261 information on each agency under the executive office of health and human services including,
4262 but not limited to, the following: (a) year-to-date expenditures from said fund and estimated
4263 year-end expenditures; (b) the status of HIPAA compliance; (c) steps necessary to attain full
4264 compliance with HIPAA and the estimated associated costs; and (d) year-to-date revenues
4265 credited to said fund and estimated year-end receipts.

4266 Section 2DDD. There shall be established and set up on the books of the commonwealth,
4267 a separate fund to be known as the Depar tment of Fire Services Hazardous Materials
4268 Emergency Mitigation Response Recovery Trust Fund, consisting of any monies appropriated to
4269 the fund by the general court, any monies recovered pursuant to chapter 21K of the General
4270 Laws, any monies received from fines and any income derived from the investment of monies

4271 transferred, appropriated or recovered by the fund, not to exceed $250,000 in any fiscal year.
4272 Amounts credited to the fund shall be available for expenditure, without prior appropriation, by
4273 the state fire marshal, as head of the department of fire services, who shall act as trustee, solely
4274 for the mitigation of hazardous materials emergency response incidents throughout the
4275 commonwealth and the reimbursement of all other reasonable related costs to hazardous
4276 materials mitigation emergency response member departments, cities, and towns responding to
4277 said incidents or for other reasonable expenditures necessary to implement the provisions of said
4278 chapter 21K. The department of fire services may incur expenses and the comptroller may certify
4279 amounts for payment in anticipation of expected receipts. Monies deposited in the trust fund that
4280 are unexpended at the end of the fiscal year, provided that said monies do not exceed $250,000,
4281 shall not revert to the General Fund and any funds in excess of $250,000 shall revert to the
4282 General Fund and be made available for appropriation. No expenditures from said fund shall be
4283 authorized that would cause said fund to be deficient at the end of any fiscal year.

4284 Section 2FFF. There is hereby established and set up on the books of the commonwealth
4285 an expendable trust to be known as the Dam Safety Trust. There shall be credited to the trust all
4286 receipts and revenues generated through agreements executed between the department of
4287 environmental management and public or private entities for dam safety purposes, and all fines,
4288 costs, expenses, and interest imposed pursuant to sections 44 to 48A, inclusive, of chapter 253.
4289 The amounts credited to the trust shall be available for expenditure subject to appropriation, by
4290 the department of environmental management up to an amount of $250,000 each fiscal year for
4291 the costs associated with the operations of the office of dam safety within the department, but
4292 such expenditures shall be solely for the purposes stated in this section and no funds shall be
4293 transferred from the trust to any other fund. The comptroller may assess the trust for fringe and

4294 overhead costs pursuant to section 5D and section 6B. If the amount credited to the trust exceeds
4295 $250,000, the excess amount shall be deposited into the General Fund. No expenditure made
4296 from the fund shall cause the fund to become deficient at any point during the fiscal year.

4297 Section 2GGG. Notwithstanding any general or special law to the contrary, the division
4298 of medical assistance and the department of public health shall deposit all monies collected as
4299 civil monetary penalties from nursing homes participating in the Medicaid program authorized
4300 by Title XIX of the Social Security Act into a separate expendable trust fund which shall be
4301 designated and known as the Commonwealth of Massachusetts Civil Monetary Penalties Fund.
4302 Monies collected as civil monetary penalties from nursing homes shall include both monies
4303 collected from Medicaid-only facilities, known as nursing facilities, and the commonwealth
4304 portion of funds collected from dually participating facilities, known as skilled nursing facilities
4305 or nursing facilities, for noncompliance with sections 1919(b), 1919(c) and 1919(d) of the Social
4306 Security Act and monies collected from individuals pursuant to sections 1919(b)(3)(B)(ii)(I),
4307 1919(b)(3)(B)(ii)(II) and 1919(g)(2)(A)(i) of the Social Security Act. The department may
4308 expend monies from this fund without further appropriation in accordance with this section. The
4309 department shall administer the fund in accordance with law including, without limitation,
4310 section 1919(h)(2)(A)(ii) of the Social Security Act. The department shall expend monies in the
4311 fund for measures to protect the health and property of nursing home residents in nursing home
4312 facilities found by the department or the secretary of health and human services to be deficient
4313 including, without limitation, the following: (i) nursing facility staff training and education; (ii)
4314 technical assistance for troubled facilities; (iii) dissemination of best practice models for quality
4315 of care issues, such as malnutrition and dehydration; (iv) state operation of facilities pending
4316 correction of deficiencies or closure; (v) reimbursement of facility residents for lost personal

4317 funds or property; and (vi) costs of relocating residents from 1 facility to another. No expenditure
4318 shall cause the fund to be in deficit at the end of the fiscal year.

4319 Section 2HHH. There shall be set up on the books of the commonwealth a separate fund
4320 to be known as the Open Space Acquisition Revolving Fund. There shall be credited to the fund
4321 all revenues or other financing sources directed to the fund by appropriation, any income derived
4322 from the investing of all amounts credited to the fund and the monies from the repayment of
4323 loans from the fund. Monies credited to the fund may be expended by the department of
4324 environmental management, without further appropriation, for loans to cities and towns for the
4325 acquisition of open space under section 3E of chapter 21.

4326 Section 2III. There shall be established and set up on the books of the commonwealth a
4327 separate fund to be known as the Agricultural Resolve and Security Fund, the funds of which
4328 shall be expended for the purpose of fostering agriculture, as defined in section 1A of chapter
4329 128, in the commonwealth and for furthering other purposes of the department of food and
4330 agriculture as set forth in any general or special law including, but not limited to, agricultural
4331 education, support for sustainable agriculture and pollution prevention, agricultural integrated
4332 pest management programs, agricultural land preservation, control of animal diseases and
4333 emergency preparedness.

4334 The Agricultural Resolve and Security Fund may receive monies from: (1) gifts, grants
4335 and donations from public or private sources; (2) federal reimbursements and grants-in-aid; and
4336 (3) any interest earned from the fund. The state treasurer shall receive, deposit and invest funds
4337 held in such a manner as to ensure the highest interest rate available consistent with the safety of
4338 the fund. The books and records of the fund shall be subject to an annual audit by the state

4339 auditor. The department may expend such funds, subject to appropriation, and no expenditure
4340 from the fund shall cause it to be in deficiency at the close of a fiscal year. The commissioner of
4341 food and agriculture shall report annually to the house and senate committees on ways and
4342 means and the joint committee on natural resources and agriculture on income received into the
4343 fund and the sources of that income, any expenditure from the fund and their purposes and fund
4344 balances.

4345 Section 2JJJ. (a) There shall be established on the books of the commonwealth a separate
4346 fund to be known as the Registers Technological Fund for the benefit of the registers of deeds
4347 under the control of the state secretary. This fund shall consist of the amounts specified in and
4348 collected pursuant to section 31 of chapter 9. The state treasurer shall deposit these amounts into
4349 the fund, which shall be expended solely for the purposes of automation, modernization,
4350 operation and technological improvements at the registries of deeds. The state secretary for the
4351 benefit of the registers under his control, shall submit a spending plan to the clerks of the house
4352 of representatives and senate, who shall refer the plan to the house and senate committees on
4353 ways and means and house and senate committees on post audit and oversight. In preparing the
4354 plan, the secretary shall consult with the commonwealth' chief information officer and require
4355 that the projects and purchases funded through disbursements in this section shall be consistent
4356 with the enterprise information technology strategy, plan and information technology standards
4357 adopted by him. All such monies shall be used to purchase information technology systems that
4358 are interoperable with other like systems that are used or will be used by all registries. The plan
4359 shall include, but not be limited to, the cost and description of all intangible, personal and real
4360 property to be purchased or services to be received and any and all personnel changes for the
4361 automation, modernization, operation and technological improvements. If the general court takes

4362 no final action relative to the plan within 30 days after the date on which the plan is first referred
4363 to those committees, the state treasurer shall disburse the funds according to the plan.

4364 (b) In conjunction with the preparation of the commonwealth' comprehensive annual
4365 financial report, the comptroller shall prepare and issue an annual report detailing the revenue
4366 and expenditure of the fund.

4367 Section 2KKK. (a) There shall be established on the books of the commonwealth a
4368 separate fund for the counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Nantucket,
4369 to be known as the County Registers Technological Fund, for the benefit of the registers of deeds
4370 under the control of the governments of those counties. The fund shall consist of the amounts
4371 specified in and collected pursuant to section 41 of chapter 36. The state treasurer shall deposit
4372 these amounts into the fund, which shall be expended, subject to section 40 of said chapter 36,
4373 solely for the purposes of automation, modernization, operation and technological improvements
4374 at the registries of deeds. Each such register shall submit a spending plan to the clerks of the
4375 house of representatives and senate, who shall refer the plan to the house and senate committees
4376 on ways and means and house and senate committees on post audit and oversight. In preparing
4377 the plan, the register shall consult with the commonwealth' chief information officer and the
4378 state secretary and require that the projects and purchases funded through disbursements in this
4379 section shall be consistent with the enterprise information technology strategy, plan information
4380 and technology standards adopted by him. All such monies shall be used to purchase information
4381 technology systems that are interoperable with other like systems that are used or will be used by
4382 all registries. The plan shall include, but not be limited to, the cost and description of all
4383 intangible, personal and real property to be purchased or services to be received for the
4384 automation, modernization, operation and technological improvements. If the general court takes

4385 no final action relative to the plan within 30 days after the date on which the plan is first referred
4386 to those committees, the state treasurer shall disburse the funds according to the plan.

4387 (b) In conjunction with the preparation of the commonwealth' comprehensive annual
4388 financial report, the comptroller shall prepare and issue an annual report detailing the revenue
4389 and expenditure of the fund.

4390 Section 2LLL. There is hereby established and set up on the books of the commonwealth
4391 a separate fund to be known as the Firearms Fingerprint Identity Verification Trust Fund.
4392 Amounts credited to such fund shall be available, without further appropriation, to the
4393 department of state police for the purposes of financing fingerprint identification verifications
4394 with the fingerprint records maintained by the Federal Bureau of Investigations or any other
4395 federal agency for the verification of firearms license applicant identities. $25 of the fee assessed
4396 under sections 122, 122B, 129B, 131, 131A, 131F, and 131H of chapter 140 of the General Laws
4397 shall be deposited into the fund. The funds shall be utilized for the sole purpose of making
4398 payments charged to the department by the Federal Bureau of Investigations or other entity for
4399 fingerprint identification verification.

4400 Section 2MMM. (a) There is hereby established and set up on the books of the
4401 commonwealth a separate fund to be known as the Massachusetts Science, Technology
4402 Engineering, and Mathematics Grant Fund, hereinafter referred to as the Pipeline Fund, to which
4403 shall be credited any appropriations, bond proceeds or other monies authorized by the general
4404 court and specifically designated to be credited thereto, and any additional funds designated by
4405 the corporation for deposit into the Pipeline Fund, including any pension funds, federal grants or
4406 loans, or private donations made available to the chancellor of higher education for deposit into

4407 the fund. The board of higher education shall hold the Pipeline Fund in an account or accounts
4408 separate from other funds or accounts. Amounts credited to the Pipeline Fund shall be used by
4409 the chancellor of higher education, in consultation with the Massachusetts Development Finance
4410 Agency, the Massachusetts Technology Park Corporation and the Robert H. Goddard Council on
4411 Science, Technology Engineering, and Mathematics Education, established pursuant to section
4412 4A of chapter 15A (in this section, the "council").

4413 (b) The public purpose of the Pipeline Fund shall be to increase the number of students
4414 who participate in programs that support careers in fields related to science, technology,
4415 engineering and mathematics. In furtherance of this public purpose, and in a manner consistent
4416 with the recommendations of the council, the chancellor of higher education, in consultation with
4417 the commissioner of education and the president of the University of Massachusetts, shall
4418 employ the Pipeline Fund through grants and other disbursements and activities that are
4419 calculated to increase the number of qualified science, technology, engineering and mathematics
4420 teachers and to improve the science, technology, engineering and mathematics educational
4421 offerings available in public and private schools. The grants and other disbursements and
4422 activities may involve, without limitation, the University of Massachusetts, state universities and
4423 community colleges, business and industry partnerships, workforce investment boards, private
4424 colleges and universities, and public and private school districts to further the purposes of the
4425 Pipeline Fund. The grants and other disbursements and activities may support, without
4426 limitation: (i) the development and use of innovative curricula, courses and programs in science,
4427 technology, engineering and mathematics for new teachers and in-service teachers that provide
4428 appropriate science, technology, engineering and mathematics content, and instruction in
4429 innovative ways to teach science, technology, engineering and mathematics including, but not

4430 limited to, the use of hands on, experimental learning and e-learning, that are consistent with the
4431 Massachusetts standards and curriculum frameworks established pursuant to sections 1D and 1E
4432 of chapter 69; (ii) the development of a science, technology, engineering and mathematics
4433 network to create, implement, share and make broadly and publicly available the best practices
4434 and innovative programs relative to science, technology, engineering and mathematics
4435 instruction and expanding and maintaining student interest in science, technology, engineering
4436 and mathematics studies and careers; (iii) effective ways to teach science, technology,
4437 engineering and mathematics; (iv) give priority to grants that provide effective course and
4438 curricula for in-service teachers in low income schools or school districts; and (v) summer
4439 programs for high school students, with appropriate stipends, that would allow interested and
4440 motivated students to intern in private or nonprofit corporations or in public programs that are in
4441 a position to further their interest, knowledge and experience in these fields; provided, that
4442 priority for the summer programs shall be given to students in groups that are presently
4443 underrepresented in these fields including, but not limited to, persons of color, women, and those
4444 whose native language is not English; provided further, that not more than 20 per cent of the
4445 fund shall be awarded to any 1 single institution and not more than 5 per cent of the fund shall be
4446 expended pursuant to clause (v).

4447 (c) There shall be under Commonwealth Medicine at the University of Massachusetts
4448 medical school and the department of education's office for mathematics, science and technology
4449 engineering, the Massachusetts Academy for Life Sciences. The Massachusetts Academy for
4450 Life Sciences, subject to appropriation from the Pipeline Fund, shall establish a program which
4451 shall consist of mobile science labs with 1 mobile lab assigned and designated for each of the
4452 following 5 regions: western Massachusetts, central Massachusetts, metropolitan Boston,

4453 northeastern Massachusetts and southeastern Massachusetts. The mission of the Massachusetts
4454 Academy for Life Sciences shall be to encourage students to consider careers in life sciences and
4455 healthcare by participating in enhanced science courses through the use of the mobilelabs.

4456 (d) The board of higher education shall, in consultation with the council, promulgate
4457 policies, rules and regulations for the administration and implementation of subsections (a) and
4458 (b). The chancellor of higher education shall file any policies, rules and regulations with the
4459 joint committee on education, the joint committee on higher education, the joint committee on
4460 economic development and emerging technologies and the joint committee on labor and
4461 workforce development for review and comment at least 30 days before the effective date of the
4462 policies, rules or regulations.

4463 (e) The chancellor of higher education shall file a quarterly report with the house and
4464 senate committees on ways and means, the joint committee on economic development and
4465 emerging technologies, the joint committee on labor and workforce development, the joint
4466 committee on education, and the joint committee on higher education on the following: (i) a list
4467 of grant recipients, (ii) the associated grant amounts, (iii) the amounts of non-state funding
4468 leveraged as a result of the grants, (iv) the purposes of the grants, (v) an annual statement of cash
4469 inflows and outflows detailing the sources and uses of funds, (vi) a forecast of future payments
4470 based on current binding obligations, and (vii) a detailed breakdown of the purposes and
4471 amounts of administrative costs charged to the fund.

4472 Section 2NNN. There shall be established and set up on the books of the commonwealth
4473 a separate fund to be known as the Roche Community Rink Fund. There shall be credited to
4474 such fund revenues generated from fees, fines, leases, gifts, grants, interest earned on any monies

4475 within this fund or any other revenue sources at the Roche Community Rink, formerly the Bryant
4476 Rink, in the West Roxbury section of the city of Boston. Revenues credited to the fund shall be
4477 used, not subject to appropriation, for operational costs, capital improvements, equipment and
4478 maintenance of said rink, including the costs of personnel, but no expenditure shall be made
4479 from the fund that shall cause the fund to be in deficit at the close of a fiscal year.

4480 Section 2OOO. There is hereby established and set up on the books of the commonwealth
4481 a separate fund to be known as the Commonwealth Care Trust Fund, in this section called the
4482 trust fund. There shall be credited to the trust fund: (a) all contributions collected under section
4483 188 of chapter 149, (b) all revenue from surcharges imposed under section 18B of chapter 118G,
4484 (c) any transfers from the Health Safety Net Trust Fund, established by section 57 of chapter
4485 118E, (d) revenue deposited from penalties collected under chapter 111M. Amounts credited to
4486 the trust fund shall be expended without further appropriation for programs designed to increase
4487 health coverage, including a program of subsidized health insurance provided to low-income
4488 residents of the commonwealth under chapter 118H and rate increases to certain Medicaid
4489 providers and supplemental payments to certain publicly operated or public-service hospital
4490 entities, as determined by law. Money from the trust fund may be transferred to the
4491 Uncompensated Care Trust Fund, established by section 18 of chapter 118G, or any successor
4492 fund, as necessary to provide payments to acute hospitals and community health centers for
4493 reimbursable health services. Not later than January 1, the comptroller shall report an update of
4494 revenues for the current fiscal year and prepare estimates of revenues to be credited to the trust
4495 fund in the subsequent fiscal year. The comptroller shall file this report with the secretary of
4496 administration and finance, the office of Medicaid, the joint committee on health care financing,
4497 and the house and senate committees on ways and means. If revenues credited to the trust fund

4498 are less than the amounts estimated to be credited to the trust fund, the comptroller shall duly
4499 notify the secretary, office and committees that this revenue deficiency shall require
4500 proportionate reductions in expenditures from the revenues available to support programs
4501 appropriated from the trust fund.

4502 Section 2PPP. There is hereby established and set up on the books of the commonwealth
4503 a separate fund to be known as the Essential Community Provider Trust Fund, in this section
4504 called the trust fund. There shall be credited to the trust fund: (a) any funds that may be
4505 appropriated or transferred for deposit into the trust fund; and (b) any income derived from
4506 investment of amounts credited to the trust fund. In conjunction with the preparation of the
4507 commonwealth' annual financial report, the comptroller shall prepare and issue an annual report
4508 detailing the revenues and expenditures of the trust fund. The comptroller shall certify payments,
4509 including payments during the accounts payable period, in anticipation of revenues, including
4510 receivables due and collectibles during the months of July and August, from the trust fund for the
4511 purpose of making authorized expenditures. The health safety net office shall administer the trust
4512 fund and disburse funds from the trust fund for the purpose of payments to acute hospitals and
4513 community health centers under clause (6) of subsection (b) of section 35 of chapter 118G and
4514 any further regulations promulgated by the office.

4515 Section 2QQQ. There shall be established on the books of the commonwealth the
4516 Medical Assistance Trust Fund, which shall be administered by the secretary of health and
4517 human services. Funds from the trust fund may be expended for supplemental Medicaid
4518 payments to qualifying providers under an approved state plan or federal waiver. Amounts
4519 credited to the trust fund shall not be subject to further appropriation.

4520 Section 2RRR. There is hereby established and set up on the books of the commonwealth
4521 a separate fund to be known as the Department of Developmental Services Trust Fund, in this
4522 section called the trust fund, administered by the secretary of health and human services. There
4523 shall be credited to the trust fund: (a) any receipts from the assessment collected under section 27
4524 of chapter 118G, including transfers by the department of developmental services of amounts
4525 sufficient to pay the assessment for public facilities, (b) any federal financial participation
4526 received by the commonwealth as a result of expenditures funded by such assessments, and (c)
4527 any interest thereon. The secretary may authorize expenditures of amounts from such trust fund
4528 without further appropriation. The comptroller shall transfer to the trust fund no later than the
4529 first business day of each quarter, the amounts indicated by the department of developmental
4530 services to provide the appropriate payment adjustments for operating the intermediate care
4531 facilities for the mentally retarded and the community residences serving individuals with mental
4532 retardation. The comptroller shall establish procedures necessary to effectuate this section,
4533 including procedures for the proper transfer, accounting, and expenditures of funds. The
4534 comptroller may make payments in anticipation of receipts and shall establish procedures for
4535 reconciling overpayments and underpayments from the trust fund. The secretary shall report
4536 semi-annually to the house and senate committees on ways and means on the revenue and
4537 expenditure activity within the trust fund.

4538 Section 2SSS. There is hereby established and set up on the books of the commonwealth
4539 a separate fund to be known as the Educational Rewards Grant Program Fund, hereinafter
4540 referred to as the fund. The fund shall provide, without further appropriation, grants to students
4541 in accredited post-secondary certificate or vocational technology programs or associate degree
4542 programs in targeted high-demand occupations. The department of workforce development and

4543 the board of higher education in consultation with the Massachusetts Workforce Board
4544 Association, the state workforce investment board, the reach higher initiative and the workforce
4545 accountability task force established pursuant to section 11 of chapter 23H shall determine the
4546 eligible high demand occupations. If a Bachelor' degree program is needed for a profession in
4547 critical demand, it may be added to the eligible programs. Of the appropriation for grants, up to
4548 1/3 may be used for students enrolled as full-time students and at least 2/3 of the total grant
4549 amount shall be reserved for students enrolled 1/2 time or less. Grant recipients shall be limited
4550 to dislocated workers or those with incomes at or below 200 per cent of the federal poverty level
4551 or other standards or criteria as may be established by the department and the board in
4552 consultation with the workforce accountability task force established pursuant to section 11 of
4553 chapter 23H. Grants from the program fund shall be a maximum of $3,000 and shall be used to
4554 fund tuition, fees and books; provided, however, that up to 30 per cent of the grant amount may
4555 be applied to fund living expenses. The grant program shall serve as a last resort, after other
4556 federal and state grants have been exhausted. The department of workforce development and the
4557 board of higher education shall jointly administer the grant program.

4558 Section 2TTT. (a) There is hereby established and set up on the books of the
4559 commonwealth a separate fund known as the CITI Fund for the continuation of the
4560 Commonwealth Information Technology Initiative, or CITI, statewide. The University of
4561 Massachusetts shall hold the CITI Fund in an account or accounts separate from other funds or
4562 accounts. Amounts credited to the CITI Fund shall be used by the President of the University of
4563 Massachusetts or his designee, in accordance with subsection (b) and in consultation with the
4564 advisory board established in subsection (d).

4565 b) The public purpose of the CITI Fund shall be to provide funding for a collaborative
4566 approach to information technology education through a series of open competitions for grants to
4567 K-20 educational institutions in the areas of: (1) educator development - to ensure that K-20
4568 faculty in all public higher education institutions and elementary and secondary schools have the
4569 skills to teach courses that meet industry' current and future information technology needs; (2)
4570 curriculum enhancement - to update existing courses and programs of computer science,
4571 management information systems and computer engineering in public higher education and to
4572 update academic discipline courses to facilitate the acquisition of knowledge through the
4573 understanding and application of information technology in the K-12 level; (3) IT across the
4574 curriculum - to implement the integration of information technology education into all aspects of
4575 non-technical disciplines and areas of study; and (4) regional cooperation - create
4576 geographically-based alliances among schools and industry to leverage faculty, courses and other
4577 resources for information technology education.

4578 c) The president of the University of Massachusetts shall, no later than July 1, annually
4579 report to the house and senate committees on ways and means, the joint committee on economic
4580 development and emerging technologies, the joint committee on labor and workforce
4581 development, the joint committee on education and the joint committee on higher education. The
4582 report shall include: (i) a list of grant recipients; (ii) the associated grant amounts; (iii) the
4583 amounts of nonstate funding leveraged as a result of the grants, including in-kind and other non-
4584 cash contributions; (iv) the purposes of the grants; (v) an annual statement of cash inflows and
4585 outflows detailing the sources and uses of funds; (vi) a forecast of future payments based on
4586 current binding obligations; and (vii) a detailed breakdown of the purposes and amounts of
4587 administrative costs charged to the fund.

4588 d) There shall be an advisory board for the CITI Fund which shall consist of 12 members,
4589 8 of whom shall be appointed by the governor - of which at least 2 shall be employed by a public
4590 institution of higher education in the commonwealth, at least 2 shall be employed at a public
4591 school for grades K-12 and at least 2 shall be employed by a corporation based in the
4592 commonwealth. One member shall be appointed by the speaker of the house, 1 member shall be
4593 appointed by the minority leader of the house of representatives, 1 member shall be appointed by
4594 the president of the senate and 1 member shall be appointed by the minority leader of the senate.
4595 The advisory board shall meet at least quarterly or when called by the president of the University
4596 of Massachusetts.

4597 Section 2UUU. (a) There is hereby established and set up on the books of the
4598 commonwealth a separate fund to be known as the Massachusetts Board of Higher Education
4599 Scholar-Internship Match Fund, hereafter referred to as the Scholar/Internship Match Fund. The
4600 board of higher education shall hold the Scholar-Internship Match fund in an account separate
4601 from other funds or accounts. Amounts credited to the Scholarship/Internship Match Fund shall
4602 be used, without further appropriation, by the chancellor of higher education or her designee, in
4603 accordance with the purpose set forth in this section and in consultation with participating
4604 industry and public higher education institutions. An amount not to exceed $100,000 shall be
4605 spent each year to promote the existence of the Scholar-Internship Match Fund with the goal of
4606 attracting and maximizing industry participation.

4607 b) The public purpose of the Scholar-Internship Match Fund shall be to provide a match
4608 for industry scholarships given to Massachusetts students going on to study for a post-secondary
4609 degrees at Massachusetts public higher education institutions. The amount to be matched through

4610 the Scholar-Internship Match Fund shall not exceed $5,000 per student, contingent upon
4611 receiving a corresponding industry scholarship or internship of up to the same amount.

4612 c) The chancellor of higher education shall, not later than July 1, annually report to the
4613 house and senate committees on ways and means, the joint committee on economic development
4614 and emerging technologies, the joint committee on labor and workforce development, the joint
4615 committee on education and the joint committee on higher education. The report shall include:
4616 (i) a list of matching scholarship recipients; (ii) the associated match amount; (iii) the amounts of
4617 non-state funding as a result of the match; (iv) the purposes of the match; (v) whether there was
4618 an internship associated with the industry match; (vi) an annual statement of cash inflows and
4619 outflows detailing the sources and uses of funds; (vii) a forecast of future payments based on
4620 current binding obligations; and (viii) a detailed account of the purposes and amount of
4621 administrative costs charged to the fund. The chancellor shall include in annual report a detailed
4622 5 year legislative review of the Scholar-Internship Match Fund for consideration for
4623 recapitalization.

4624 Section 2VVV. (a) There shall be established and set upon the books of the
4625 commonwealth a separate fund to be known as the international education and foreign language
4626 grant program fund, hereinafter referred to as the international education fund, to which shall be
4627 credited any appropriations, bond proceeds or other monies authorized by the general court and
4628 specifically designated to be credited thereto and additional funds designated for deposit to the
4629 international education fund, including any pension funds, federal grants or loans, or private
4630 donations made available to the commissioner of education for such purpose. The Commissioner
4631 of Education shall hold the international education fund in an account or accounts separate from
4632 other funds or accounts. Amounts credited to the international education fund shall be used by

4633 the commissioner of education, in consultation with the chairman of the board of higher
4634 education, and the global education advisory council to carry out the purposes of subsection (b).

4635 b) The public purpose of the international education fund shall be to increase the number
4636 of Massachusetts students, teachers, administrators and education policymakers participating in
4637 international studies, international exchange programs, and other activities that advance cultural
4638 awareness and promote mutual understanding and respect for citizens of other countries. In
4639 furtherance of this public purpose and in consultation with the chairman of the board of higher
4640 education and the global education advisory council, the Commissioner of Education shall
4641 employ the international education fund in support of programs and activities that advance
4642 cultural awareness, including the awarding of grants to local or regional school districts that use
4643 the funds to support international education programs and promote the study of foreign
4644 languages, including programs that establish foreign language and two-way bi-lingual education
4645 classes, teacher training, and curriculum development to encourage students, teachers,
4646 administrators and educational policy makers to participate in international studies, international
4647 exchange programs and other activities.

4648 Section 2WWW. (a) There is hereby established and set up on the books of the
4649 commonwealth a separate fund to be known as the Workforce Competitiveness Trust Fund,
4650 hereinafter called the fund. The fund shall be administered by the department of workforce
4651 development which shall contract with the Commonwealth Corporation to administer the fund.
4652 The objectives of the fund shall include, but shall not be limited to, the following: supporting, in
4653 conjunction with other private, public and philanthropic resources, the development and
4654 implementation of employer and worker responsive programs to enhance worker skills, incomes,
4655 productivity and retention and to increase the quality and competitiveness of Massachusetts

4656 firms; training and helping the unemployed find suitable employment; improving employment
4657 opportunities for low-income individuals and low wage workers; improving wages to a level
4658 sufficient to support a family or to place individuals on a career path leading to such employment
4659 and wages; training vulnerable youths to master basic academic skills, including the attainment
4660 of a high school degree and encouraging students to advance educationally and receive post-
4661 secondary degrees at colleges or post-secondary vocational schools or beyond; developing
4662 occupational skills and becoming employed in jobs that have career potential; and training older
4663 workers for new occupations. The department shall utilize these projects to improve the
4664 workforce development system by integrating employer and worker needs more fully into
4665 program design and delivery. The department shall support, through grants, partnership programs
4666 and planning, grant applications from the following eligible applicants to provide an integrated
4667 continuum of education and training: employers and employer associations; local workforce
4668 investment boards; labor organizations; community-based organizations, including adult basic
4669 education providers; institutions of higher education; vocational education institutions; one-stop
4670 career centers; local workforce development entities; and nonprofit education, training or other
4671 service providers. The fund shall leverage employer, public, philanthropic and other
4672 contributions and shall be available as a state match for federal funds that meet the requirements
4673 of the fund. The fund shall be an expendable trust fund and not subject to appropriation. Grants
4674 from the fund shall be offered on a competitive basis for a maximum of 3 years and shall not
4675 exceed $500,000.

4676 b) The director of workforce development shall appoint an advisory committee to
4677 represent significant constituencies and beneficiaries of the fund including, but not limited to,
4678 high growth or critical industries; the workforce development system; public education; adult

4679 basic education; the department of transitional assistance; public higher education; labor;
4680 community-based organizations and nonprofit education, training or other service providers; and
4681 advocates of customer populations, including representatives of education, training and the one-
4682 stop career center provider coalitions, including a minimum of 2 labor representatives selected
4683 by the President of the Massachusetts AFL-CIO and 2 representatives of the Massachusetts
4684 Workforce Board Association. The director shall serve as chair of the committee. The committee
4685 shall supply constituent focused labor market information, review general programmatic
4686 parameters and guidelines, assist with the identification of issues and barriers to the fund'
4687 efficiency and effectiveness and the dissemination of relevant information about the fund and
4688 support the general oversight of the fund' implementation. The committee shall meet from time
4689 to time, but not less frequently than quarterly.

4690 c) The Commonwealth Corporation shall be the administrator of the fund and shall
4691 maintain the fund as a separate fund and shall cause it to be audited by an independent
4692 accountant on an annual basis in accordance with generally-accepted accounting principles.

4693 d) There shall be credited to the fund any revenue from appropriations or other monies
4694 authorized by the general court and specifically designated to be credited to the fund, and any
4695 gifts, grants, private contributions, investment income earned on the fund' assets and all other
4696 sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General
4697 Fund.

4698 e) Partnership programs may include costs for support services including, but not limited
4699 to, transportation and childcare, to eliminate barriers to participation in the training program. For

4700 any unionized employer participating as a partner in a grant application, the impacted union shall
4701 be an active participant in the design and implementation of the grant.

4702 f) A competitive grant program shall be established that provides support to partnerships
4703 and eligible applicants as described above, and that leverages applicant co-investment of at least
4704 30 per cent of the grant amount from employers, philanthropic and public or private
4705 organizations. The period of grant operations may be up to 3 years in duration. Grants may be
4706 targeted to specific populations, such as educationally or economically disadvantaged youth,
4707 low-income, low-skilled and low-wage workers, disabled citizens or industries that are deemed
4708 to be of critical consequence to the commonwealth. Special grant programs and funding
4709 allocations shall be determined by the committee and shall be distributed by a regionally-based
4710 competitive bid process, which shall require the defining of economic regions based on labor
4711 market factors as determined by the committee. Each municipality shall be accounted for in a
4712 designated region. A formula for regional distribution shall be created and competition for
4713 formula grant funds shall occur within each identified region and shall be subject to the rules and
4714 regulations established by the committee in consultation with regional partners. Respondents to
4715 the local competitions shall notify, in writing, the region' workforce investment board of their
4716 intent to respond to the request for proposals. A planning grant may be offered to define
4717 employer needs; to make necessary curriculum and other programmatic improvements to align
4718 with employer and worker needs; to determine the feasibility of a proposed workforce
4719 development intervention; to plan for and coordinate strong partnerships among stakeholders; to
4720 identify educational and skill needs of workers and program participants; to link training
4721 initiatives with employer-based career ladders; and to develop case management and additional
4722 support services that would address barriers to participation.

4723 g) A portion of the grant fund shall be used to support the current and future labor force
4724 needs of the healthcare industry. This portion of the fund shall support projects that address
4725 barriers and gaps in the healthcare workforce development pipeline. Small planning and needs
4726 assessment grants may be offered. A project grant program shall be designed by Commonwealth
4727 Corporation in consultation with a Healthcare subcommittee of the fund committee, which shall
4728 include, at a minimum, appointments made by the following organizations: the Massachusetts
4729 Hospital Association; the Massachusetts Extended Care Federation; the Home and Health Care
4730 Association of Massachusetts; the Massachusetts Workforce Board Association; and the
4731 Massachusetts AFL-CIO, as well as representatives of the other mandatory advisory committee
4732 constituencies.

4733 h) A portion of the grant fund shall be used to support the current and future labor force
4734 needs of the travel and tourism industry. This portion of the grant fund shall be used to support
4735 the development of career ladder and wage improvement strategies, including employee
4736 ownership and profit-sharing strategies, within the travel and tourism industry. Small planning
4737 and needs assessment grants may be offered. A project grant program shall be designed by
4738 Commonwealth Corporation in consultation with the travel and tourism advisory committee,
4739 which shall include the primary industry associations that represent the industry in the
4740 commonwealth or, in their absence, a cohort of relevant industry employers, as well as
4741 representatives of the other mandatory advisory committee constituencies.

4742 i) Project grants shall be for a maximum of 3 years, shall be competitively based and
4743 shall not exceed $500,000. The committee shall determine how to apportion the grant fund
4744 between the healthcare industry, the travel and tourism industry and the general grant program;

4745 provided, however, that not more than 7.5 per cent of the funds appropriated in this subsection
4746 may be expended for the administration of each grant.

4747 j) The director of workforce development shall annually, not later than December 31,
4748 report to the secretary of administration and finance, the house and senate committees on ways
4749 and means, the joint committee on community development and small business, the joint
4750 committee on education, the joint committee on economic development and emerging
4751 technologies, the joint committee on labor and workforce development and the joint committee
4752 on public health on the status of grants awarded under this section, including the number of
4753 educational and eligible service providers receiving grants; the number of participants receiving
4754 services; the number of participants placed in employment; the salary and benefits that
4755 participants receive after placement; the cost per participant; and job retention or promotion rates
4756 1 year after training ends.

4757 k) The establishment of the Workforce Competitiveness Trust Fund, or any other worker
4758 training fund, shall not be determined to replace, displace or serve as a substitute for the
4759 Workforce Training Fund established in section 2RR.

4760 Section 2XXX. There shall be established and set upon the books of the commonwealth a
4761 separate fund to be known as the District Local Technical Assistance Fund. Amounts credited to
4762 the fund shall be administered by the division of local services within the department of revenue
4763 which shall determine that the funds are used for activities consistent with the purpose of this act
4764 and the Massachusetts management and accounting reporting system. The amounts shall be
4765 used, without further appropriation, solely for the administration and implementation of this
4766 section.

4767 The fund shall be a separate and expendable trust fund administered by the division of
4768 local services within the department of revenue. There shall be credited to the fund, revenue
4769 from appropriations or other monies authorized by the general court and specifically designated
4770 to be credited to the fund and investment income earned on the fund' assets, and all other
4771 sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General
4772 Fund, and shall be allocated to the regional planning agencies the following fiscal year pursuant
4773 to the formula established in the third paragraph.

4774 One hundred per cent of the monies deposited in the district local technical assistance
4775 fund, but not more than $2,800,000 in the aggregate in any fiscal year, shall be used by the
4776 department of housing and community development to provide grants to regional planning
4777 agencies for technical assistance to municipalities and to develop a state-wide permitting model.
4778 The department shall grant each regional planning district created under chapter 40B or by
4779 special act a fixed base allocation of $150,000, except that the metropolitan area planning
4780 council shall receive a base allocation of $200,000, the Martha' Vineyard commission shall
4781 receive a full annual allocation of $100,000, and the Nantucket Planning and Economic
4782 Development Commission shall receive an annual allocation of $50,000. One-half of the
4783 remainder of the annual disbursement of net cash proceeds to the department of housing and
4784 community development for technical assistance grants under this section shall be allocated
4785 among said entities based on the percentage of the commonwealth' population served by each
4786 entity, with the other half allocated based on the percentage of the commonwealth' communities
4787 served by each entity. Each regional planning agency receiving the funds shall provide matching
4788 resources of not less than 10 per cent, no more than 1/2 of which may be in-kind services, and
4789 shall annually file with the department of housing and community development, the house and

4790 senate committees on ways and means and constituent local governments a report detailing their
4791 expenses and program activities.

4792 Technical assistance services funded by these grants shall be provided at the request of a
4793 municipality in any subject within regional planning expertise, including but not limited to:
4794 zoning and permitting; economic development; land use planning, conservation planning, and
4795 water resources; municipal management; public safety planning and emergency response;
4796 transportation; data management, information technology, geographic information systems,
4797 statistical trends and modeling; and other land use and smart growth issues.

4798 Section 2YYY. There shall be established and set up on the books of the commonwealth
4799 a separate fund, to be known as the Courts Capital Project Fund, hereinafter in this section
4800 referred to as the fund. The fund shall be credited: (i) the portion of any net cash proceeds from
4801 the conveyance, lease or other disposition of any surplus court facilities vacated and determined
4802 to be surplus by the commissioner of capital asset management and maintenance as a result of or
4803 in anticipation of the construction of new court facilities or the consolidation of court facilities in
4804 the cities of Cambridge, Lowell, Salem and Worcester; (ii) any appropriations; (iii) bond
4805 proceeds; or (iv) other monies authorized by the general court and specifically designated to be
4806 credited thereto. The comptroller shall disburse amounts in the fund at the direction of the
4807 secretary of administration and finance, without further appropriation, for the purpose of paying
4808 costs of, or paying down any portion of the debt incurred to pay costs related to the acquisition,
4809 temporary leasing or the construction of any replacement court facilities. The inspector general
4810 of the commonwealth shall make an annual oversight inquiry and report on the Capital Courts
4811 Project Fund and its disbursements. Said report shall be provided to the clerks of the house of

4812 representatives and senate, chairs of house and senate committees on ways and means and chairs
4813 of the joint committee on bonding, capital expenditures, and state assets.

4814 Section 2ZZZ. (a) There shall be established and set up on the books of the
4815 commonwealth a separate fund to be known as the Commonwealth Transportation Fund, which
4816 shall be used exclusively for financing transportation-related purposes. There shall be credited to
4817 the fund all fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90,
4818 all receipts paid into the treasury of the commonwealth and directed to be credited to the
4819 Commonwealth Transportation Fund pursuant to chapters 64A, 64E, 64F and any other
4820 applicable general or special law and all amounts appropriated into the fund by the general court.
4821 The fund shall be subject to appropriation and shall be used for transportation related expenses of
4822 the executive office of transportation or any successor agency or authority, including to pay or
4823 reimburse the General Fund for payment of debt service on bonds issued by, or otherwise
4824 payable pursuant to a lease or other contract assistance agreement by, the commonwealth for
4825 transportation purposes.

4826 (b) Notwithstanding subsection (a), the crediting of receipts from the tax imposed
4827 pursuant to chapter 64A to the fund shall not affect the obligations of the commonwealth relating
4828 to notes issued pursuant to sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the
4829 pledge of receipts from the portion of the tax per gallon imposed pursuant to said chapter 64A
4830 equal to 10 cents per gallon, to secure the payment of such bonds under the circumstances
4831 described in the trust agreements relating to such notes is hereby ratified and confirmed in all
4832 respects and shall remain in full force and effect as long as any such notes issued as of July 1,
4833 2009 remain outstanding in accordance with their terms and secured by funds in the fund.

4834 (c) In addition to those revenues credited to the fund pursuant to subsection (a) there shall
4835 be credited to the fund all monies received by the commonwealth equal to .385 percent of the
4836 receipts from sales, as defined by chapter 64H, and .385 per cent of the sales price of purchases,
4837 as defined by chapter 64I, from that portion of the taxes imposed under said chapters 64H and
4838 64I as excises upon the sale and use at retail of tangible property or of services, and upon the
4839 storage, use or other consumption of tangible property, or of services, including interest thereon
4840 or penalties, but not including any portion of the taxes that constitute special receipts within the
4841 meaning of subsection (b 1/2) of section 10 of chapter 152 of the acts of 1997 or within the
4842 meaning of said subsection (b 1/2); provided, however, that if in a fiscal year the amount
4843 credited to the fund under this subsection is less than $275,000,000, then the comptroller shall
4844 transfer an amount from the General Fund to make up the difference between the amount
4845 credited to the fund and $275,000,000, not later than September 1 of the following fiscal year.

4846 (d) Not less than the following amounts shall annually be distributed from the fund to the
4847 Massachusetts Bay Transportation Authority and regional transit authorities:

4848 (1) $160,000,000 to the Massachusetts Bay Transportation Authority or any fund
4849 controlled by the authority in each fiscal year; and

4850 (2) $15,000,000 to regional transit authorities organized under chapter 161B or
4851 predecessor statutes in each fiscal year.

4852 Section 2AAAA. There shall be established and set up on the books of the
4853 commonwealth a separate fund to be known as the State Athletic Commission Fund, hereinafter
4854 in this section referred to as the fund, to be administered by the department of public safety. The
4855 fund shall consist of any monies from licensing fees or other fees and fines collected pursuant to

4856 sections 32 to 35, inclusive, sections 40, 40A and 42 of chapter 147 and section 12 of chapter
4857 265. The amounts credited to the fund shall be available for expenditure without further
4858 appropriation by the department of public safety up to an amount not to exceed $200,000 each
4859 fiscal year for the costs of operating and administering the state athletic commission; provided,
4860 however, that if the amount credited to the fund exceeds $200,000, the excess amount shall be
4861 deposited into the General Fund. For the purposes of accommodating discrepancies between the
4862 receipt of retained revenues and related expenditures, the department may incur expense and the
4863 comptroller may certify for payment amounts not to exceed the lower of this authorization or the
4864 most recent revenue estimate as reported in the state accounting system.

4865 Section 2BBBB. There shall be established and set up on the books of the commonwealth
4866 a separate fund to be known as the Commonwealth Substance Abuse Prevention and Treatment
4867 Fund. The fund shall be credited with all sales tax revenues collected from the sale of alcoholic
4868 beverages under chapter 64H which are not part of the dedicated sales tax revenue amount
4869 described in section 35T or section 35BB of chapter 10. Amounts credited to the fund shall be
4870 expended, subject to appropriation, to support substance abuse treatment and prevention services.

4871 Section 3. Every officer having charge of any state agency which receives a periodic
4872 appropriation from the commonwealth, including all periodic appropriations to be met from
4873 budgeted revenues shall annually, on or before a date set by the secretary of administration and
4874 finance submit to the budget director statements (1) showing in detail the amounts appropriated
4875 for the preceding and the current fiscal years; (2) the interchanges during the preceding fiscal
4876 year between the object classes established in accordance with section 27; (3) the deficiencies
4877 and surpluses, if any, in appropriations for the latest complete fiscal year and for the current
4878 fiscal year; (4) estimates of the amounts required for the operations of state agencies and

4879 programs for the ensuing fiscal year, with an explanation of any increased appropriations
4880 recommended and with citations of the statutes relating thereto, a statement indicating the
4881 priorities assigned to each program by said officer; and (5) statements showing in detail the
4882 revenue of the state agency in his charge for the latest complete fiscal year, and the revenue and
4883 estimated revenue thereof for the current fiscal year, and his estimated revenue from the same or
4884 any additional sources for the ensuing fiscal year, with his recommendations as to any changes in
4885 the management, practices, rules, regulations or laws governing such state agency which would
4886 cause an increase or cause a decrease in revenue from operations, fees, taxes or other sources, or
4887 which would facilitate the collection thereof; (6) together with such other information on the
4888 expenditures, revenues, activities, output or performance of any such state agency as may be
4889 required by rule or regulation of the secretary of administration and finance, and any other
4890 information, including the priorities assigned to each program by said officer, required at any
4891 time by the budget director. Every such officer shall also submit to the budget director a
4892 statement showing in detail the number of permanent, temporary, and part-time positions
4893 authorized for the state agency in his charge, categorized by whether those positions are funded
4894 by appropriation, bond authorizations, federal grants, trust funds or other funding sources and the
4895 volume of work performed in the latest complete fiscal year, and justifying his request for
4896 permanent, temporary and part-time positions in the ensuing fiscal year in relation to the volume
4897 of work expected to be performed by the state agency.

4898 All such statements, recommendations and estimates shall, to the fullest possible extent,
4899 conform with the programs of the state agency as defined by the secretary of administration and
4900 finance, with the advice of the officers responsible for the administration thereof and the officer

4901 making the submission to the budget director. The estimates submitted shall not include any
4902 estimate for any new or special purpose or object not authorized by statute.

4903 Section 3A. Any officer having charge of any state agency which receives a periodic
4904 appropriation from the commonwealth, or any officer of a state authority, shall upon the request
4905 of any standing committee of the house or senate, or of any joint standing committee of the
4906 general court, furnish in writing to such committee, in a format prescribed by such committee,
4907 any information requested by such committee that is necessary for the committee to perform its
4908 duties. The information shall include, but not be limited to, historical, current or proposed
4909 operational costs funded through any appropriation, bond authorizations, federal grants, trust
4910 funds or other funding sources, the officer' estimate of the cost of proposed legislation affecting
4911 activities which are or would be under his supervision, estimates of and reasons for any
4912 supplemental funding that is projected to be needed during the fiscal year, estimates of revenue
4913 collections, estimates of proposed changes in fees or taxes, and any other such information as
4914 may be required by the committee. Such estimates shall be provided to such committee within 10
4915 days of the receipt of such a request by the officer. If the officer fails to respond within 10 days,
4916 the matter shall be referred to the house or senate committee on post audit and oversight which
4917 shall, in conjunction with the committee that originally requested the information, determine if
4918 further action is necessary.

4919 Section 3B. The Massachusetts Bay Transportation Authority and the several regional
4920 transit authorities shall annually, on or before September fifteenth, submit to the state budget
4921 director, the joint committee on transportation, the house and senate committees on ways and
4922 means, and the Massachusetts Bay Transportation Authority advisory board (1) statements
4923 showing planned expenditures for the current fiscal year and the subsequent fiscal year;

4924 provided, however, that said statements shall detail planned expenditures according to program
4925 and to the expenditure classification plan promulgated by the state comptroller pursuant to the
4926 provisions of section 27; and (2) a statement detailing the number of full time equivalent
4927 employees of the authority for the current fiscal year and an estimate of the number of full time
4928 equivalent employees for the subsequent fiscal year. The state budget director and the state
4929 comptroller are hereby authorized and directed to establish such procedures as they deem
4930 necessary to implement and enforce the provisions of this section.

4931 Section 4. Every officer having charge of any state agency who, in his annual reports or
4932 otherwise, recommends or petitions for the expenditure of money by the commonwealth from
4933 any source of revenue, including expenditures to be met by assessments or from bond revenues
4934 or trust funds, for any purpose not covered by the estimates required to be submitted under
4935 section 3, shall, annually, on or before a date set by thesecretary of administration and finance,
4936 submit detailed estimates thereof to the budget director, together with any other information
4937 required by said budget director.

4938 Section 5B. The secretary of administration and finance, with the approval of the
4939 governor, shall on or before October 15 of every year, prepare estimates of budgeted revenues
4940 which in his judgment will be available for both the current year and for the annual budget for
4941 the ensuing fiscal year. In making such estimates he shall take into account existing taxes, the
4942 probable economic growth within the state, anticipated federal fund receipts, the anticipated
4943 growth in wages and salaries, departmental and other revenue based on existing laws, the
4944 transfers of capital gains income tax revenue required by section 5G and amounts available to be
4945 transferred into budgetary funds. Such estimates shall be delivered to the house and senate
4946 committees on ways and means and shall be made available to the general public in a

4947 conspicuous manner on the commonwealth's official website within 14 days of submission of
4948 such revisions to the governor.. He shall accompany any revision of previous estimates with
4949 explanations of any changes in his estimates for specific sources of revenue.

4950 In estimating revenues available for the current year, he shall include the amount certified
4951 by the comptroller under the provisions of section 5C as available from the consolidated net
4952 surplus in the operating funds at the close of the preceding fiscal year and not in excess of ½ of 1
4953 per cent of the total state tax revenues in such fiscal year. In estimating revenues to be available
4954 for the annual budget for the ensuing fiscal year, he shall include an amount of any anticipated
4955 consolidated net surplus in operating funds not in excess of ½ of 1 per cent of the estimated total
4956 state tax revenues for the current fiscal year.

4957 The commissioner of revenue shall annually prepare and present with the governor's
4958 proposed budget actual tax expenditures which occurred during the preceding fiscal year, and
4959 estimates of tax expenditures which in his judgment will occur during the current fiscal year and
4960 the ensuing fiscal year. Such estimates of tax expenditures shall be prepared to facilitate a
4961 comparison of increases or decreases from actual collections of the preceding fiscal year the
4962 estimates of such revenue for the then current fiscal year. Such estimates shall also compare
4963 actual tax expenditures during the preceding fiscal year to estimates previously presented for that
4964 fiscal year by the commissioner of revenue under this paragraph.

4965 On or before January 15, the secretary of administration and finance shall meet with the
4966 house and senate committees on ways and means and shall jointly develop a consensus tax
4967 revenue forecast for the budget for the ensuing fiscal year which shall be agreed to by the
4968 secretary and said committees. In developing such a consensus tax revenue forecast, the

4969 secretary and said committees, or subcommittees of said committees, are hereby authorized to
4970 hold joint hearings on the economy of the commonwealth and its impact on tax revenue
4971 forecasts; provided, however, that in the first year of the term of office of a governor who has
4972 not served in the preceding year, said parties shall agree to the consensus tax revenue forecast
4973 not later than January 31 of said year. Said consensus tax estimate shall be net of the amount
4974 necessary to transfer, from the General Fund to the Commonwealth's Pension Liability Fund, to
4975 amortize the unfunded liability of the system according to the schedule established pursuant to
4976 paragraph (1) of section 22C of chapter 32, and of the amounts transferred to the MBTA State
4977 and Local Contribution Fund under section 35T of chapter 10, and to the School Modernization
4978 and Reconstruction Trust Fund under section 35BB of chapter 10. Said consensus tax estimate
4979 shall also include an estimate of taxes collected pursuant to chapter 62 for capital gains income,
4980 as defined therein, and shall be net of any transfers of capital gains income tax revenue projected
4981 to be required by section 5G. Said consensus tax revenue forecast shall be included in a joint
4982 resolution and placed before the members of the general court for their consideration. Such joint
4983 resolution, if passed by both branches of the general court, shall establish the maximum amount
4984 of tax revenue which may be considered for the general appropriation act for the ensuing fiscal
4985 year.

4986 Section 5C. The comptroller shall annually, on or before October 31, certify to the
4987 secretary of administration and finance the amount of the consolidated net surplus in the
4988 budgetary funds at the close of the preceding fiscal year. The amounts so certified shall be
4989 disposed as follows:

4990 a) an amount equal to 1/2 of 1 per cent of total state tax revenue in the preceding fiscal
4991 year shall be available to be used as revenue for the current fiscal year and 1/2 of 1 per cent of

4992 the total state tax revenue in the preceding fiscal year shall be transferred to the Stabilization
4993 Fund.

4994 b) 1/2 of any remaining amount of such consolidated net surplus after amounts made
4995 available in clause (a) shall be transferred to the Stabilization Fund, and 1/2 of any remaining
4996 amount of such consolidated net surplus after amounts made available in clause (a) shall be
4997 transferred to the Commonwealth's State Retiree Benefits Trust Fund; and

4998 c) all transfers specified in this section shall be made from the undesignated fund
4999 balances in the budgetary funds proportionally from those undesignated fund balances, but no
5000 such transfer shall cause a deficit in any of those funds; provided, however, that prior to
5001 certifying the consolidated net surplus in accordance with this section, the comptroller shall, to
5002 the extent possible, eliminate deficits in any fund contributing to the surplus by transferring
5003 positive fund balances from any other fund contributing to the surplus.

5004 Section 5D.The comptroller shall determine, based on procedures established by the
5005 secretary of administration and finance, the amount expended during the fiscal year from each
5006 fund, other than the General Fund, for indirect costs and for the compensation of state personnel.
5007 On the basis of said determination, the comptroller shall charge each fund an amount for indirect
5008 costs and for fringe benefit costs attributable to compensation paid from the other funds, based
5009 on an indirect costs rate and on a fringe benefit rate to be set annually by said secretary. The
5010 amount so charged shall be credited to the General Fund; Upon approval of the secretary, and
5011 subject to regulations established by him, the amount of indirect costs, either in whole or in part,
5012 charged to an account may be waived. The costs of fringe benefits shall be recovered in cash.

5013 The comptroller shall make charges to recover the commonwealth' indirect costs and the
5014 cost of fringe benefits provided to or on behalf of any person paid compensation by a state
5015 agency, authority or public institution of higher education, or by any entity otherwise directly or
5016 indirectly receiving state funds, from any source other than a direct expenditure of an
5017 appropriation charged to a state fund subject to the preceding paragraph. The comptroller may
5018 establish such systems of periodic charges or billings as he considers necessary and appropriate
5019 to ensure the recovery of these costs. Any bill rendered for the purpose of recovery of these costs
5020 shall be payable to the comptroller within 30 days after receipt of the bill and all amounts so paid
5021 shall be credited to the General Fund.

5022 Section 5F. Every officer having charge of any state agency which receives a periodic or
5023 other appropriation from the commonwealth, shall annually, on or before a date set by the
5024 secretary of administration and finance submit to the budget director a department financial plan
5025 for the current fiscal year and, at such times as specified by said secretary, revisions to said
5026 department financial plan; provided, however, that said officer shall also submit said financial
5027 plans to the chairmen of the house and senate committees on ways and means.

5028 The department financial plan shall include statements, in a form prescribed by the
5029 budget director, showing in detail (1) amounts proposed to be expended from each account for
5030 each month in the current fiscal year; (2) amounts projected to be received in each revenue
5031 account, other than revenue from state taxes, federal grants or proceeds of bonds issued by the
5032 commonwealth, for each month in the current fiscal year; and, (3) such other information on the
5033 expenditures, revenues, activities, output or performance of the state agency as required by the
5034 budget director.

5035 The budget director shall provide to the treasurer and comptroller information from
5036 department financial plans for the purpose of developing estimates and projections of monthly,
5037 quarterly and annual cash flow required under section 10B of chapter 10, and for the purpose of
5038 preparing monthly reports of planned and actual expenditure and planned and actual revenue for
5039 each major state program, department, and executive or other constitutional office.

5040 Section 5G. After each quarter, the department of revenue shall certify to the state
5041 comptroller the amount of tax revenues estimated to have been collected during the preceding
5042 quarter from capital gains income. If the department of revenue certifies that the amount of tax
5043 revenues estimated to have been collected from capital gains income exceeds $1,000,000,000 in
5044 a fiscal year, the comptroller shall transfer quarterly any such amount that exceeds
5045 $1,000,000,000 collected during that fiscal year to the Commonwealth Stabilization Fund
5046 established by section 2H. The $1,000,000,000 threshold established in the preceding sentence
5047 shall be adjusted annually to reflect the most recently available annual changes in personal
5048 income of Massachusetts residents, as calculated and published by the Bureau of Economic
5049 Analysis. This transfer shall be made before the certification of the consolidated net surplus for
5050 the previous fiscal year as provided in section 5C. The department of revenue shall report by
5051 November 30 to the state comptroller, the executive office for administration and finance and the
5052 house and senate committees on ways and means tax revenues estimated to have been collected
5053 during the preceding fiscal year from capital gains income. The Comptroller shall not make
5054 adjustment to amounts previously transferred if the capital gains revenue reported on November
5055 30 differs from the amounts estimated during the preceding fiscal year.

5056 5 per cent of any amount transferred to the Commonwealth Stabilization Fund under this
5057 section shall then be transferred from the Commonwealth Stabilization Fund to the State Retiree
5058 Benefits Trust Fund established in section 24 of chapter 32A.

5059 Section 6. The budget director shall study and review all estimates and requests for
5060 appropriations and other authorizations for expenditures of state funds filed with him as provided
5061 by sections three and four, and shall make such investigations as will enable him to prepare an
5062 operating budget for the governor, setting forth such recommendations as the governor shall
5063 determine. The governor may call upon the comptroller for information relative to finances and
5064 for assistance in the preparation of the operating budget. The operating budget shall embody all
5065 estimates, requests and recommendations for appropriations, distributions of state revenues and
5066 other authorizations for expenditures by the commonwealth in accordance with existing law,
5067 other than for capital facility projects and prior-year appropriations, but including those from
5068 retained revenue line-items and those from federal grants, as submitted by each officer having
5069 charge of any state agency which receives a periodic appropriation from the commonwealth. The
5070 budget recommendations of the governor shall not assume future continuing appropriation of the
5071 unspent balances of current or previous appropriations.

5072 The operating budget shall be set out in accordance with the provisions of section 6D and
5073 classified and designated so as to show separately estimates and recommendations for: (a)
5074 expenses for administration, operation and maintenance; (b) deficiencies or surpluses in
5075 appropriations for former years; (c) interest on the public debt and sinking fund and serial bond
5076 requirements; and (d) all requests and proposals for expenditures for new programs and other
5077 undertakings; and shall include in detail definite recommendations of the governor relative to the
5078 amounts which should be appropriated therefor. The operating budget shall show the estimated

5079 state revenue of each state agency. The operating budget shall indicate the number of positions
5080 proposed to be authorized for each state agency or such other public instrumentality for the
5081 ensuing fiscal year, the number of positions for each state agency in the current and ensuing
5082 fiscal years and such other information as may be held to explain the anticipated results of the
5083 proposed appropriations.

5084 Section 6B. (a) The comptroller, in consultation with the secretary of administration and
5085 finance, shall promulgate regulations which shall not be subject to chapter 30A to govern notice
5086 requirements for applications for federal grants by a state agency and the receipt and expenditure
5087 of federal funds. Such requirements shall, at a minimum, include:

5088 1) reference to the federal statutory authority under which the action is proposed;

5089 2) a description of the substance of the application;

5090 3) a fiscal statement setting forth:

5091 i) the projected grant budget per year including the number of personnel to
5092 be funded with federal funds;

5093 ii) the estimated amount of cash match, inkind match or other monies to be
5094 supplied by the state and any other source from which such match will be required, and a
5095 description of the federal allocation formula and matching requirements including whether the
5096 grant is distributed to the commonwealth on the basis of a federally specified formula or on the
5097 basis of the federal grantor' discretion and a description of the federal constraints placed on the
5098 agency' discretion to use the grant; and

5099 iii) the duration of the grant, the number of fiscal years the agency has
5100 been receiving assistance and the number of fiscal years in which assistance can be expected to
5101 continue under the program, and a statement as to the priority of the program alongside other
5102 state or federally funded programs, including whether the agency would request that all or part of
5103 the program be funded out of the General Fund in the event federal funds are reduced or
5104 discontinued.

5105 To avoid any inconsistency or duplication in review, notices given under this
5106 section shall be coordinated with other notice requirements for project or plan proposals in
5107 connection with federal aid including those required under Circular A-95 of the United States
5108 Office of Management and Budget.

5109 b) Upon official notification to a state agency from a federal department or agency of
5110 approval of a state plan or application for federal funds, the state agency shall notify the
5111 secretary of administration and finance and the comptroller promptly of the amount, duration,
5112 payment schedule and other attendant financial terms and conditions. Such notification shall be
5113 for the purposes of appropriate recording. The comptroller shall report to the house and senate
5114 committees on ways and means within 15 days after the last day of each quarter of the fiscal year
5115 detailing, by agency, the status of federal funds applied for, received, and expended.

5116 c) Pursuant to section 6 the budget director shall include all federal grants received or
5117 anticipated by state agencies as a part of the budget.

5118 d) No state agency shall establish new, or expand existing programs involving federal or
5119 other non-state monies beyond the scope of those already established, recognized, and approved
5120 by the general court, until the program and the projected or actual availability of money is

5121 submitted to the budget director for recommendation to the general court as provided in section
5122 6. No state agency may make expenditures from any federal grant unless such expenditures are
5123 made pursuant to specific appropriations of the general court and allotment thereof, said
5124 allotment to be made by the comptroller upon receipt of federal grant funds.

5125 Pursuant to section 2C, all such expenditures shall be charged to the General Federal
5126 Grants Fund. Notwithstanding the amount of the appropriation for a specific federal grant, the
5127 amount so expended from such federal grant shall not exceed the amount actually received and
5128 deposited in the General Federal Grants Fund for such federal grant. To the extent not precluded
5129 by the terms and conditions under which federal monies are made available by the United States
5130 government, a state agency shall use federal grants in accordance with any policies or priorities
5131 established by the general court for the activity being assisted.

5132 e) If federal grant monies become available to the state for expenditure, as provided for in
5133 subsection (a), and the availability of such monies could not reasonably have been anticipated
5134 and included in the budget approved by the general court for the fiscal year in question, the
5135 treasurer may accept such monies on behalf of the state and the department head may make
5136 expenditures of such monies as are authorized by federal and state law. Upon application for, and
5137 receipt of, such monies, the department head shall submit to the house and senate committees on
5138 ways and means a statement:

5139 1) describing the proposed federal expenditures in the same manner as described
5140 in the budget document; and

5141 2) explaining why the availability of such federal grants and the necessity of their
5142 expenditure could not have been anticipated in time for such expenditures to have been approved
5143 as part of the budget enacted for that particular fiscal year.

5144 f) Each spending agency in receipt of federal grant monies shall at the commencement of
5145 each fiscal year, and no later than July thirty-first, and any agency which has not previously been
5146 in receipt of a federal grant shall, upon notification of grant approval, authorize the comptroller
5147 upon his receipt of notice of a federal grant award to initiate such procedures as are established
5148 by the secretary of administration and finance to transfer from the federal grant account to the
5149 General Fund for the costs of fringe benefits, indirect costs and space use charges related to each
5150 federal grant received by that spending agency. Upon approval by the secretary, and subject to
5151 regulations established by him, the amount of indirect costs, either in whole or in part, charged to
5152 a federal grant may be utilized to comply with federal requirements for in kind contributions.
5153 The costs of fringe benefits must, in all cases, be recovered in cash. The comptroller shall not
5154 allow expenditures for the payment of salaries to be made from any federal grant account for
5155 which he has not been authorized to charge the full amount of fringe benefits to the account.
5156 Notwithstanding any provision of general or special law to the contrary, this paragraph shall
5157 apply to all state agencies; provided, however, that any institution of higher learning shall be
5158 exempt from those charges associated with indirect costs, as described in the following
5159 paragraph.

5160 g) Any portion of a federal grant received by an institution of higher learning which,
5161 according to the conditions of said federal grant, is to be paid for or to cover any overhead
5162 expenses, indirect costs, supporting services or facilities, or for any purpose other than the direct
5163 object of the grant, may be transferred in whole or in part to separate accounts and expended

5164 without appropriation for the support of a computer or computers, of another research grant, or
5165 of publishing programs under the exclusive control of such institution, or for faculty research or
5166 research and scholarly work under the supervision of members of the faculty of such institution.

5167 h) No individual, corporation or other organization utilizing grants shall be permitted to
5168 occupy or use land, buildings, equipment or facilities of the commonwealth or use the services of
5169 any officer or employee of the commonwealth during his regular working hours unless there is a
5170 written agreement, approved by the secretary, between said individual, corporation or other
5171 organization and said officer or employee, that the commonwealth will be reimbursed for such
5172 occupancy or use; provided, however, that upon recommendation of any department, institution,
5173 board, commission, agency or employee setting forth good and sufficient reasons, this
5174 requirement may be waived in whole or in part by the secretary on a particular project or
5175 projects. All such reimbursements shall be paid into the state treasury. Notice of such waiver
5176 shall be filed with the state auditor.

5177 i) Federal grants shall not be used to supplement the regular salary or compensation of
5178 any officer or employee of the commonwealth for services performed during his regular working
5179 hours.

5180 j) The following are excluded from subsections (a), (d) and (e):

5181 1) federal grant funds coming to institutions of higher education, including
5182 research grants;

5183 2) research grants to individuals, agencies or institutions not exceeding fifty
5184 thousand dollars in annual amount and not creating new, or expanding existing, programs or
5185 commitments of state resources;

5186 3) any federal grant funds not exceeding five thousand dollars in annual amount;
5187 and

5188 4) federal grant funds made available to the state for costs and damages resulting
5189 from natural disasters, civil disobedience, or other occurrences of sufficient severity to have
5190 occasioned the declaration by the governor of a state of emergency.

5191 Section 6C. In addition to information required by section 6 to be included in the budget
5192 submitted by the governor, said budget shall also include the following information:

5193 a) a description of and the amount of expenditure by state agencies from trust funds and
5194 bond funds anticipated for the subsequent fiscal year; and

5195 b) a narrative description accompanied by appropriate fiscal statements which shall
5196 reconcile the amounts for state revenues and expenditures for the previous fiscal year as
5197 presented by the budget director in the governor' budget with the amounts of state revenues and
5198 expenditures for the previous fiscal year as presented by the comptroller in the annual financial
5199 report of the commonwealth..

5200 Section 6D. Each appropriation contained in the general appropriations or any
5201 supplemental appropriations acts shall include the following information: (a) the line-item
5202 number of the appropriation; (b) the purpose of the appropriation and other restrictive language;
5203 and (c) the amount of the appropriation or the maximum expenditure allowed, set out in numeric
5204 figures. No appropriation otherwise set out in any act shall be valid and the comptroller shall not
5205 allow monies to be expended on any appropriation not conforming to the requirements herein
5206 established.

5207 The general appropriations act shall include the following sections: (a) section 1 which
5208 shall include the enacting clause and general appropriation language; (b) section 1B which shall
5209 set forth the budgeted revenues appropriated in the budget according to category (state tax
5210 revenue, federal reimbursements, departmental revenues and budgeted transfers), by department,
5211 and identifying, by department, budgeted revenues that are restricted for the purpose of
5212 supporting retained revenue line-items; (c) section 2 which shall include all direct appropriations
5213 and authorizations to retain revenue; (d) section 2B which shall include all appropriations from
5214 the Intragovernmental Service Fund; (e) section 2D which shall include all appropriations of
5215 federal grants; and (f) section 2E, which shall set forth appropriations to support transfers to
5216 funds other than budgetary funds.

5217 Supplemental and deficiency appropriations acts shall include, if necessary, the following
5218 sections: (a) section 2 which shall include direct appropriations and authorizations to retain
5219 revenue which do not require changes to the purpose of the appropriation or other restrictive
5220 language; (b) section 2A which shall include direct appropriations and authorizations to retain
5221 revenue which require new language regarding the purpose of the appropriation or other
5222 restrictive language; (c) section 2B which shall include all appropriations from the
5223 Intragovernmental Service Fund; and (d) section 2C which shall include all authorizations to
5224 continue a prior appropriation.

5225 The provisions of this section shall apply to all appropriations of commonwealth funds,
5226 including direct appropriations, retained revenue authorizations, federal grant appropriations,
5227 accounts with prior appropriations continued and appropriations from the Intragovernmental
5228 Service Fund.

5229 Section 6E. The governor shall recommend, the general court shall enact, and the
5230 governor shall approve a general appropriation bill which shall constitute a balanced budget for
5231 the commonwealth. No supplementary appropriation bill shall be approved by the governor
5232 which would cause the state budget for any fiscal year not to be balanced.

5233 Section 7H. The governor shall submit to the general court annually within 3 weeks after
5234 the general court convenes in regular session a budget including an operating budget and a
5235 capital facility budget and long range capital facilities development plan. In the first year of the
5236 term of office of a governor who has not served in the preceding year, the governor shall
5237 recommend the budget within 8 weeks after the convening of the general court. The
5238 recommendations contained therein shall, to the fullest possible extent, conform with the
5239 programs of the several offices and departments as defined by the secretary of administration and
5240 finance with the advice of the agency heads or other officers responsible for the administration
5241 thereof and long range capital facilities development plans as defined by the commissioner of
5242 capital asset management and maintenance. The budget shall also include definite
5243 recommendations of the governor for financing the expenditures recommended.

5244 All appropriations based upon the budget to be paid from budgeted revenues shall be
5245 incorporated in a single bill to be designated the general appropriation bill, set out in conformity
5246 with section 6D. With the budget the governor shall submit to the general court statements
5247 detailing and explaining his reasons for recommending any increase in, decrease in, or deletion
5248 from the budgetary recommendations (a) of any department office, commission, or institution, or
5249 other public agency, or in the case of a department, office, commission or institution within any
5250 executive office established by chapters 6A and 7 of the secretary of such executive office, (b) of
5251 the general court, and (c) of the judiciary.

5252 The governor shall also submit such other messages, statements of supplemental data
5253 relative to the budget as he deems expedient and, from time to time during the session of the
5254 general court may submit supplemental messages on recommendations relative to appropriations,
5255 revenues and loans. Such statements of supplemental data shall include, at a minimum,
5256 statements of projected health care cost trends, caseload eligibility and enrollment trends,
5257 anticipated debt service costs and future growth in payments to fund the commonwealth's
5258 liability for pensions and the commonwealth's liability for retiree health care over the next 5
5259 fiscal years. Upon submission of the budget to the general court, the governor shall, through the
5260 executive office for administration and finance, make available to the public all material relevant
5261 to said budget, including all supporting documents pertinent thereto. This shall include at least
5262 the electronic or other distribution, at the time of submission of the Governor's budget and
5263 subsequently the House and Senate Ways and Means budgets, of (a) copies of these budgets to
5264 the state house library, and to the state office building in Springfield, (b) copies of all reports,
5265 statements, recommendations, or evaluations required by sections 3, 4, 5B, 5D, 6, 7 or any
5266 related reports required by any chapter of the general laws to the state house library. They shall
5267 be placed on public display and made available for reproduction during business hours.

5268 Any information which is required to be filed under this section or section 6, either with
5269 the budget by the governor, or as a part thereof, and which is not contained within the budget as
5270 filed or within accompanying documents filed at the same time, shall be filed by the governor
5271 not later than 14 days following the required filing date; provided, however, that such
5272 information shall be accompanied by a detailed statement explaining the failure to provide the
5273 information at the time the budget was submitted.

5274 In the event that the governor determines from information supplied by the executive
5275 office for administration and finance, from the tax revenue resolution established pursuant to
5276 section 5B, or from any other competent source that the tax revenues or non-tax revenues
5277 supporting the general appropriation bill have materially decreased, or that appropriations or
5278 statutory amendments that would provide funding to support recommended levels of
5279 appropriations have materially changed from the time the general appropriation bill was
5280 originally submitted, he shall submit to the general court by message recommended corrective
5281 amendments to his original budget submission to ensure that total appropriations recommended
5282 in the general appropriation bill do not exceed total revenues supporting said bill. Such message
5283 shall be submitted to the general court within 15 days from the date of such determination.

5284 Section 7I. All requests and recommendations for appropriations or authorizations for
5285 expenditures by the commonwealth, other than those submitted by the governor to the general
5286 court pursuant to section 2 of Article LXIII of the Amendments to the Constitution, shall be
5287 submitted by the governor to the general court; shall be classified to show the request of each
5288 officer having charge of an office, department or undertaking, including the priorities assigned to
5289 each program by said officer, the recommendation of the secretary of the executive office within
5290 which such office, department or undertaking shall be, the recommendation of the governor, and
5291 the prior year appropriation, if any; and shall indicate the number, if any, of permanent positions
5292 proposed to be authorized for an office, department or undertaking and the number of persons to
5293 be served or the number of actions to be taken by such office, department or undertaking.

5294 Section 7L. A law making an appropriation for expenses of the commonwealth shall not
5295 contain provisions on any other subject matter. As used in this section, expenses of the
5296 commonwealth shall include expenses of the executive, legislative, and judicial departments,

5297 interest, payments on the public debt, local aid, and other items of expense authorized or required
5298 by existing law.

5299 Section 7M. The Speaker of the House and the President of the Senate may transfer
5300 funds, as needed, among items of appropriation for the House of Representatives and the Senate,
5301 respectively.

5302 Section 7N. The speaker of the house of representatives and the president of the senate,
5303 acting jointly, may transfer funds, as needed, among the items of appropriation for joint
5304 legislative expenses.

5305 Section 7O. The speaker of the house of representatives and the president of the senate,
5306 acting jointly, may transfer funds, as needed, from the items of appropriation for joint legislative
5307 expenses to the items of appropriation for the house of representatives and the senate.

5308 Section 9B. Any monies made available by appropriation to state agencies under the
5309 control of the governor or a secretary, but not including the courts, the office of the governor and
5310 the office of the lieutenant governor, shall be expended only in such amounts as may be allotted
5311 as provided in this section. The secretary of administration and finance shall allot to each such
5312 state agency the amount which it may expend for each month out of the sums made available to
5313 it by appropriation or otherwise, taking into account the programmatic needs of the program
5314 supported by the appropriation and the cash-flow needs of the commonwealth. The initial
5315 allotment shall be the result of dividing the annual sum available for expenditure by twelve,
5316 unless the full legislative objective of an appropriation would be accomplished, without
5317 amendment, by a lesser allotment than that required by the formula. The secretary may allot a
5318 greater amount than required by the formula provided, however, that the total amount allotted

5319 during the fiscal year will not exceed the amount available through appropriation or otherwise.
5320 If a greater allotment is authorized under the preceding sentence, the secretary shall document on
5321 the state's accounting system the reasons why the greater allotment was authorized, and why the
5322 resulting expenditure will not exceed the amount available through appropriation or otherwise.
5323 Not less than 15 days prior to the initial allotment of such greater amount from any appropriation
5324 for which a supplemental appropriation will become necessary if current rates of spending
5325 continue, the secretary of administration and finance shall file with the house and senate
5326 committees on ways and means a report containing the following information: (1) the amount of
5327 the appropriation which the secretary proposes to allot; and (2) a detailed corrective action plan
5328 to prevent a deficiency in the account or accounts involved; a request for a supplemental or
5329 deficiency appropriation, if such corrective action plan would not eliminate the deficiency or
5330 would violate the legislative objective of the appropriation; or a statement explaining why
5331 neither a corrective action plan nor a supplemental appropriation is necessary.

5332 If so designated, the secretary of administration and finance shall designate such member
5333 or members of his office as may be approved by the governor to exercise the foregoing powers in
5334 the absence of said secretary.

5335 Whenever the officer in charge of each such state agency requests a supplemental
5336 allotment, he shall submit to the budget director, in such form and at such times as he shall
5337 prescribe, such information as may be required by the secretary of administration and finance;
5338 provided, that before any such information relating to such a state agency has been so submitted
5339 to the budget director, it shall first be submitted to the secretary having charge of such state
5340 agency who shall review the same and make such additions thereto, deletions therefrom and
5341 modifications therein as he deems appropriate.

5342 Section 9C. Whenever, in the opinion of the secretary of administration and finance,
5343 budgeted revenues as determined by him from time to time during any fiscal year under section
5344 5B will be insufficient to meet all of the expenditures authorized to be made from any budgetary
5345 fund, , he shall within 5 days notify in writing the governor and the house and senate committees
5346 on ways and means of the amount of such probable deficiency of revenue and the governor shall,
5347 within 15 days after such notification, reduce allotments under section 9B, and submit in writing
5348 a report stating the reason for and effect of such reductions, or submit to the general court
5349 specific proposals to raise additional revenues by a total amount equal to such deficiency. Any
5350 action challenging the legality of an allotment reduction pursuant to this section shall be
5351 commenced in the supreme judicial court for Suffolk county.

5352 Whenever the governor reduces allotments under the preceding paragraph, the governor
5353 shall notify the house and senate committees on ways and means in writing 15 days before any
5354 alterations to the original allotment reduction plan. Any alterations to the original allotment
5355 reduction plan that would seek to increase an allotment must provide an equal reduction in other
5356 allotments or propose to raise additional revenues to total the amount of the allotment increase.

5357 As an alternative to the submission of such proposals to raise additional revenues and to
5358 the extent funds are available, the governor may recommend an appropriation equal to such
5359 deficiency from the Commonwealth Stabilization Fund in the manner provided in section 2H.

5360 Section 9D. Whenever it appears probable to any officer having charge of any office,
5361 department or undertaking, that amounts to be received from the federal government or any other
5362 sources for the purposes of such office, department or undertaking will be less than the amounts
5363 previously estimated to be received from such sources, such officer shall immediately notify the

5364 secretary of administration and finance and the house and senate committees on ways and means
5365 of such anticipated decrease in estimated revenue, and the secretary of administration and
5366 finance shall include such decrease in revenue in the secretary's determination of budgeted
5367 revenues under section 5B and the deficiency, if any, reported under the previous section.

5368 Section 9E. Whenever it appears to any officer having charge of any office, department
5369 or undertaking that any appropriation therefor will be insufficient to meet all of the expenditures
5370 required in the current fiscal year by any provisions of law, rule, regulation or order not subject
5371 to his control, he shall immediately notify the secretary of administration and finance and the
5372 house and senate committees on ways and means of the estimated amount of such additional
5373 requirements, and such amount shall be added by the secretary to any deficiency reported under
5374 section 9C unless, prior to such report, such provisions are changed to make the estimated
5375 additional expenditures unnecessary.

5376 Section 9F. On or before the fifth day of each month, the comptroller shall notify the
5377 secretary of administration and finance and each officer having charge of an office, department
5378 or undertaking which receives a periodic appropriation, of the amount and per cent of each such
5379 appropriation which had been expended at the close of the preceding month for that month and
5380 for the year-to-date, of the amount available for each such appropriation and of the amount and
5381 per cent of each appropriation, if any, for the same purpose expended during the corresponding
5382 period in the preceding fiscal year.

5383 Section 9G. Sums made available by appropriation or otherwise to offices, departments
5384 or undertakings for studies, plans, designs, construction, acquisition, purchase or repair of capital
5385 facilities, of highway improvement facilities, such as a highway, bridge or tunnel, and of

5386 transportation improvement facilities, such as a mass transportation or other public transit
5387 facility, shall be expended only in such amount as may be allotted for expenditure from time to
5388 time by the secretary of administration and finance or said secretary's approved designee. The
5389 officer in charge of each office, department or undertaking shall submit to the secretary, in such
5390 form and at such times as he shall prescribe, such information as may be required by him for
5391 making such allotments; provided that before any such information relating to an office,
5392 department or undertaking within any of the executive offices established by chapter 6A of the
5393 General Laws has been so submitted, it shall first be submitted to the secretary having charge of
5394 such executive office, who shall review the same and make such additions thereto, deletions
5395 therefrom and modifications therein as he deems appropriate.

5396 The secretary of administration and finance is hereby authorized and directed to issue
5397 directives governing expenditure from bond authorizations; such directives shall include, but not
5398 be limited to, the following: (1) such measures as determined by said secretary to be necessary to
5399 regulate the rate of expenditure from any or all bond authorizations, and (2) such measures as
5400 determined by said secretary to be necessary to ensure compliance with such directives,
5401 including requiring prior written approval of said secretary before the award of contract or
5402 grants.

5403 Section 12. Appropriations by the general court shall be made for the fiscal year unless
5404 otherwise specifically provided therein.

5405 Section 12A. Beginning June first of any year, obligations may be incurred against
5406 appropriations for items to be delivered or for services to be rendered on or after the beginning of

5407 the next fiscal year; provided, however, that said obligations are in accordance with law and the
5408 amounts thereof do not exceed one-twelfth of that appropriation for the current fiscal year.

5409 Where the allotment of an appropriation is a condition precedent to expenditure, the
5410 obligations shall not exceed the amount allotted for said appropriation; provided, however, that
5411 during the month of June the comptroller may prepare warrants and the state treasurer may
5412 advance funds to the department of transitional assistance for the purpose of making payments
5413 on and after July first as authorized by chapter 658 of the acts of 1967; and provided further that
5414 said payments are in accordance with law and the amounts thereof do not exceed the amount of
5415 the appropriation, provided, however, that no funds shall be expended until such funds have been
5416 appropriated. The certified copies of the schedules provided for in section 27 shall be filed with
5417 the comptroller and the budget director as of June 1. Where the allotment of an appropriation is
5418 required by law, such allotment shall be made as of June 1.

5419 Notwithstanding any general or special law to the contrary, in order to comply with the
5420 Social Security Act, the state treasurermay transfer to the United States Treasury before July
5421 funds necessary to make July 1 Supplemental Security Income payments to commonwealth
5422 benefit recipients.

5423 Section 12B. Notwithstanding the provisions of any general or special law to the
5424 contrary, and in accordance with generally accepted accounting principles, the fiscal year for the
5425 payment of classified personal services shall be the fiscal year established by clause ninth of
5426 section 7 of chapter 4.

5427 Section 13. Encumbrances outstanding on the records of the comptroller' office at the
5428 close of the fiscal year may be applied to the payment thereof in the two months immediately
5429 succeeding such fiscal year.

5430 Section 15. An appropriation shall supersede an earlier one made for the same object.

5431 Section 16. Payments authorized by appropriation acts shall be made from budgeted
5432 revenue, if no other provision is expressly made therefor.

5433 Section 17. An appropriation act shall not be construed to require a payment to a person
5434 with whom the commonwealth has an unadjusted account. The governor, upon receiving
5435 satisfactory information that money is illegally withheld from the commonwealth by any person,
5436 shall instruct the state treasurer to withhold all payments to him until he pays such account.

5437 Section 18. Except as otherwise provided, no money shall be paid by the commonwealth
5438 without a warrant from the governor drawn in accordance with an appropriation then in effect,
5439 and after the demand or account to be paid has been certified by the comptroller; provided, that
5440 the principal and interest on all public debts shall be paid when due without any warrant and that
5441 no appropriation shall be required for the payment of principal or income of funds held in trust
5442 by the commonwealth, or of sinking funds to meet maturing bonds, or of treasury notes issued
5443 for duly authorized temporary loans, or of corporation and other taxes collected by the
5444 commonwealth for distribution to towns, or for the investment of such funds as the state treasurer
5445 is duly authorized to invest, or for payments authorized by law out of the several prison
5446 industries funds, or for refunds of taxes or penalties or for refunds or payments of interest or
5447 costs lawfully made pursuant to the provisions of chapters 58 to 65A, inclusive; and, provided,
5448 further, that the governor may, without an appropriation, draw his warrant for the payment of his

5449 own salary and the salaries of the justices of the supreme judicial court. No certificate shall be
5450 required from the comptroller for payment of the pay rolls of the members of the council and
5451 general court, or for the traveling and other expenses of members of the general court as
5452 provided in section 9B of chapter 3.

5453 Section 19A. Whenever a provision of a general appropriation act provides that transfers
5454 shall be made from a fund, account or receipts, of a specific sum, a percentage of payments, or a
5455 sum equivalent to payments, such transfers of a specific sum shall be made upon the effective
5456 date of such act, and all other such transfers shall be made monthly unless otherwise provided,
5457 except that at the close of a fiscal year, the amount equivalent to payments in a continuing
5458 account shall be construed to mean the amount of such appropriation.

5459 Section 20. No account or demand requiring the certificate of the comptroller or warrant
5460 of the governor shall be paid from an appropriation unless it has been authorized and approved
5461 by the head of the department, office, commission or institution for which it was contracted; nor
5462 shall any appropriation be used for expensesunless properly approved vouchers therefor have
5463 been filed with the comptroller. No such voucher shall be submitted by such head nor shall any
5464 such approval be given by such head unless sufficient funds are allotted for such purposes at the
5465 time the voucher is submitted or the approval is given.

5466 Section 20A. No order for, or claim for payment for, extra work or materials, furnishings
5467 or equipment, in addition to an existing contract for the construction or repair of any structure or
5468 of public works of any nature whatsoever or for equipment or furnishings, shall be approved by
5469 any official, board, department or commission on behalf of the commonwealth until one week
5470 after notice of intention to act upon such order or claim shall have been filed by him or it with

5471 the comptroller; provided, that, in the case of any such order estimated to involve a cost of less
5472 than fifteen thousand dollars and in the case of any such order necessitated by extreme
5473 emergency involving the health or safety of persons or damage to property or to work in
5474 progress, notice of the approval of such order may be filed after the work has been commenced
5475 or completed, but such notice shall be so filed as soon as practicable, with a brief statement as to
5476 the character of the extreme emergency, if any, and in any event such notice shall be filed before
5477 final payment is made on the contract to which the order or claim for extra work or payment
5478 relates. The foregoing requirements shall not apply to change in quantities of work or materials
5479 covered at unit prices by an item or items in any such original contract, nor to work, other than
5480 extra work, for which payment is specifically provided in the contract or specifications. Every
5481 notice under this section shall contain the number or other designation of such contract, together
5482 with the title and date thereof, and a statement of the amount of the accepted bid and of the
5483 estimated total cost based on the bid prices of such contract, and of the total amount of orders or
5484 claims previously approved for payment, and of the character and location of work proposed or
5485 included under each such order or claim, and of the estimated cost or amount under each such
5486 order or claim. Said notices shall be entered by the comptroller upon a docket and shall be open
5487 to public inspection.

5488 No such order or claim shall be split or divided for the purpose of evading any provision
5489 of this section.

5490 Section 20C. Any commercial vendor to whom any state agency of the commonwealth is
5491 liable for late penalty interest under the provisions of section twenty-nine B shall, prior to
5492 payment of said interest, submit to said state agency an invoice for said interest in accordance
5493 with applicable rules and regulations of the comptroller.

5494 Section 22. Except as otherwise expressly provided, no greater sum from an
5495 appropriation shall be drawn from the treasury at any one time than is necessary to meet
5496 expenses then incurred.

5497 Section 23. Any officer authorized to expend money in behalf of the commonwealth may
5498 have money advanced to him from the treasury for such purposes, in such sums and subject to
5499 such rules and regulations as the comptroller may determine.

5500 The state treasurer shall manage all cash, funds, or investments under the control or
5501 jurisdiction of any state agency, other than nonappropriated funds held by a public institution of
5502 higher education. “State agency" in this section shall mean any department, office, commission,
5503 committee, council, board, division, bureau, institution, office or other agency within the
5504 executive or legislative department, excluding, however, the Massachusetts Bay Transportation
5505 Authority, , and the Massachusetts Port Authority. Funds shall be deemed to be under the
5506 control of a state agency from the date of the initial deposit into any commonwealth account until
5507 the date a check or draft drawn on a commonwealth account clears the disbursing bank.

5508 The state treasurer shall provide for the funding of checks or drafts drawn by any state
5509 officer, department, institution or other agency which has received proper authority to expend
5510 money on behalf of the commonwealth.

5511 Section 23A. Subject to provisions of sections 24 and 25, the comptroller shall provide
5512 for payments by officers receiving advances pursuant to this chapter and to section twenty of
5513 chapter 18B, to eligible organizations under contract with the commonwealth to provide social,
5514 educational or rehabilitative services. Said payments shall be made in accordance with a
5515 schedule to be included in each such contract, on the basis of projected expenses or services and

5516 shall be adjusted monthly and at the end of each contract, pursuant to the submission of a
5517 voucher or other claim for payment, to reflect the actual cost or extent of services rendered.

5518 The comptroller shall establish rules and regulations governing the eligibility of providers
5519 to receive such payments including but not limited to, proper incorporation and recording with
5520 the secretary of state, and compliance with all applicable state and federal laws. Each such
5521 eligible provider shall, at the end of each billing period, submit timely, complete and accurate
5522 documentation prepared in accordance with the terms of its contract and with requirements of the
5523 comptroller. Any violation of the provisions of this paragraph shall result in ineligibility for such
5524 payments for a period of 2 years from the date of disqualification. Prior to reinstatement of
5525 eligibility, a provider must submit proof of ability to comply with the requirements of this
5526 section and with any regulations promulgated pursuant to this section. The comptroller shall
5527 promulgate rules and regulations necessary to carry out the provisions of this section.

5528 Section 24. Such officers shall certify that the amount is needed for immediate use, and,
5529 as specifically as may be, the purposes for which the expenditure is required. The certificate shall
5530 bear the approval of the officer or department having the supervision of such expenditure and,
5531 when filed with the comptroller, his certificate and the warrant and payment shall follow as in
5532 case of claims against the commonwealth.

5533 Section 25. Such officers shall, within 30 days after receipt of an advance, file with the
5534 comptroller a detailed statement of the amounts expended subsequent to the previous accounting,
5535 approved by the officer or department authorized to supervise such expenditure, with vouchers
5536 therefor if they can be obtained. All advances so made shall be accounted for and vouchers
5537 therefor filed with the comptroller before the close of the fiscal year.

5538 Section 26. Expenses of offices and departments for compensation of officers, members
5539 and employees and for other purposes shall not exceed the appropriations made therefor by the
5540 general court or the allotments made therefor by the governor. No obligation incurred by any
5541 officer or servant of the commonwealth for any purpose in excess of the appropriation or
5542 allotment for such purpose for the office, department or institution which he represents, shall
5543 impose any liability upon the commonwealth nor shall any liability be imposed upon the
5544 commonwealth under a subsequent appropriation by any ongoing commitment against a current
5545 year appropriation.

5546 Section 27. Notwithstanding any general law to the contrary, no department, office,
5547 commission and institution shall incur an expense, increase a salary, or employ a new clerk,
5548 assistant or other subordinate, unless an appropriation by the general court and an allotment by
5549 the secretary of administration and finance, sufficient to cover the expense thereof, shall have
5550 been made. As soon as possible after the general appropriation bill or any other appropriation bill
5551 has the force of law conformably to the constitution, the budget director shall file with the house
5552 and senate committees on ways and means and the comptroller a schedule identifying the amount
5553 of each subsidiary account, if any, within every appropriation that shall be made available to
5554 departments, offices, commission or institutions within the state's central accounting system.

5555 Section 27B. No state agency, excepting the departments of the attorney general, state
5556 auditor, state secretary, and state treasurer, shall initiate any encumbrance or make any
5557 expenditure of funds, whether appropriated or not, for the lease or purchase of data processing or
5558 reproduction equipment or systems unless:

5559 (1) if appropriated funds are to be used, a prior request therefor has been made to the
5560 budget director under sections 3 or 4, and at least 30 days written notification has been given to
5561 the house and senate committees on ways and means;

5562 (2) the officer in charge of the agency has certified that funds are specifically available
5563 for the purpose;

5564 (3) in the case of a department, office, commission, board or institution within any of the
5565 executive offices established by chapters 6A and 7, the secretary having charge of such executive
5566 office has approved in writing the encumbrance or expenditure, and

5567 (4) the secretary of administration and finance has approved in writing said encumbrance
5568 or expenditure.

5569 The secretary of administration and finance shall establish rules and regulations
5570 governing the lease or purchase of data processing or reproduction equipment or systems and the
5571 procedure for requesting approval thereof as required by this section.

5572 The secretary of administration and finance shall notify the house and senate committees
5573 on ways and means and the house and senate committees on post audit and oversight of the
5574 general court of any approval granted by him under this section.

5575 Section 27C. Notwithstanding any provision of any special or general law to the contrary:

5576 (a) Any law taking effect on or after January 1, 1981 imposing any direct service or cost
5577 obligation upon any city or town shall be effective in any city or town only if such law is
5578 accepted by vote or by the appropriation of money for such purposes, in the case of a city by the
5579 city council in accordance with its charter, and in the case of a town by a town meeting, unless

5580 the general court, at the same session in which such law is enacted, provides, by general law and
5581 by appropriation, for the assumption by the commonwealth of such cost, exclusive of incidental
5582 local administration expenses and unless the general court provides by appropriation in each
5583 successive year for such assumption.

5584 (b) Any law taking effect on or after January 1, 1981 granting or increasing exemptions
5585 from local taxation shall be effective in any city or town only if the general court, at the same
5586 session in which such law is enacted, provides by general law and by appropriation for payment
5587 by the commonwealth to each city and town of any loss of taxes resulting from such exemption.

5588 (c) Any administrative rule or regulation taking effect on or after January 1, 1981 which
5589 shall result in the imposition of additional costs upon any city or town shall not be effective until
5590 the general court has provided by general law and by appropriation for the assumption by the
5591 commonwealth of such cost, exclusive of incidental local administration expenses, and unless the
5592 general court provides by appropriation in each successive year for such assumption.

5593 (d) Any city or town, any committee of the general court, and either house of the general
5594 court by a majority vote of its members, may submit written notice to the division of local
5595 mandates, established under section 6 of chapter 11 of the general laws, requesting that the
5596 division determine whether the costs imposed by the commonwealth by any law, rule or
5597 regulation subject to the provisions of this section have been paid in full by the commonwealth in
5598 the preceding year and, if not, the amount of any deficiency in such payments. The division shall
5599 make public its determination within 60 days after such notice.

5600 (e) Any city or town, or any 10 taxable inhabitants of any city or town may in a class
5601 action suit petition the superior court alleging that under the provisions of subsections (a), (b)

5602 and (c) of this section with respect to a general or special law or rule or regulation of any
5603 administrative agency of the commonwealth under which any city or town is required to expend
5604 funds in anticipation of reimbursement by the commonwealth, the amount necessary for such
5605 reimbursement has not been included in the general or any special appropriation bill for any year.
5606 Any city or town, or any ten taxable inhabitants of any city or town may in a class action suit
5607 petition the superior court alleging that under the provisions of subsections (a), (b) and (c) of this
5608 section with respect to any general or special law, or rule or regulation of any administrative
5609 agency of the Commonwealth which imposes additional costs on any city or town or which
5610 grants or increases exemptions from local taxation, the amount necessary to reimburse such city
5611 or town has not been included in the general or any special appropriation bill for any year. The
5612 determination of the amount of deficiency provided by the division of local mandates under
5613 subsection (d) of this section shall be prima facie evidence of the amount necessary. The superior
5614 court shall determine the amount of the deficiency, if any, and shall order that the said city or
5615 town be exempt from such general or special law, or rule or regulation of any administrative
5616 agency until the commonwealth shall reimburse such city or town the amount of said deficiency
5617 or additional costs or shall repeal such exemption from local taxation.

5618 (f) Any of the parties permitted to submit written notice to the division of local mandates
5619 under subsection (d) of this section may submit written notice to the division requesting that the
5620 division determine the total annual financial effect for a period of not less than 3 years of any
5621 proposed law or rule or regulation of any administrative agency of the commonwealth. The
5622 division shall make public its determination within 60 days of such notice.

5623 (g) Notwithstanding the provisions of subsection (a), (b) and (c), any city or town shall be
5624 allowed to accept the provision of any law, rule or regulation specified by said subsections
5625 whether or not such law, rule, or regulation is funded by the commonwealth.

5626 (h) This section shall apply to regional school districts and educational collaboratives
5627 organized pursuant to section 4E of chapter 40, to the same extent as it applies to cities and
5628 towns. A regional school district may accept a law, rule or regulation by vote of its school
5629 committee, and an educational collaborative by vote of its board of directors.

5630 (i) This section shall not apply to any costs to cities and towns or exemptions to local
5631 taxation resulting from a decision of any court of competent jurisdiction, or to any law, rule or
5632 regulation enacted or promulgated as a direct result of such a decision.

5633 Section 28. The cost of printing and publishing any publication issued by or on behalf of
5634 the commonwealth by any office or department shall be paid from the appropriation for such
5635 office or department.

5636 Section 29. Any subsidiary account set up as prescribed in a schedule referred to in
5637 section 27, on the books of any department, office, commission or institution, receiving an
5638 appropriation from the commonwealth, may be increased or decreased by the interchange with
5639 any other such subsidiary account within the same appropriation account by the officer in charge
5640 of such department, office, commission or institution upon his certification to the budget director
5641 that such interchange is required to incur obligations to meet statutory responsibilities under
5642 general or special law where funds are otherwise not available, unless otherwise provided by
5643 general or special act. For any certification requesting a transfer to a subsidiary account that has
5644 not been established within a schedule prescribed under said section 27, the officer must include

5645 the reasons for the new subsidiary account. Every such certification shall include a statement of
5646 the details of the necessity of the transfer and of the probable consequences if the said
5647 interchange should not be made. An officer making any such certification shall file forthwith a
5648 copy thereof within the central accounting system in accordance with policies and procedures
5649 adopted by the secretary of administration and finance.

5650 The secretary of administration and finance may establish regulations or policies
5651 governing the interchange of funds under this section.

5652 Section 29A. The secretary of administration and finance shall make, and may from time
5653 to time amend, rules and regulations governing the use of consultants in all departments, offices,
5654 boards, agencies, commissions and institutions. Such rules and regulations shall be open to
5655 public inspection shall not be subject to the provisions of chapter 30A. No person employed by
5656 the commonwealth as a consultant shall directly or indirectly supervise another temporary or
5657 permanent employee of the commonwealth. Consultant contracts, whether written with
5658 organizations or individuals, shall not be used as substitutes for state positions. The secretary
5659 shall submit quarterly to the house and senate committees on ways and means and the house and
5660 senate committees on post audit and oversight a report which identifies all existing consultant
5661 contracts by agency, for all accounts established or maintained by the comptroller, including but
5662 not limited to appropriations, for federal grants, bond authorizations, revolving accounts,
5663 retained revenue line-items, and trust accounts. Said report shall identify each contract, its
5664 duration, its maximum dollar obligation, the name of the contractor, and the services performed
5665 by the contractor.

5666 Section 29B. The secretary of administration and finance shall make, and may from time
5667 to time amend, rules and regulations governing the procurement and administration of contracts
5668 with organizations providing social, rehabilitative, health, or special education services. Such
5669 rules and regulations shall not be subject to the provisions of chapter 30A. No person employed
5670 by an organization providing social, rehabilitative, health, or special education services as
5671 defined above shall directly or indirectly supervise a temporary or permanent employee of the
5672 commonwealth. Such contracts shall not be written or used by any department, office, agency,
5673 board, commission or institution of the commonwealth to procure full or part-time personal
5674 services, or equipment to be used by such department, office, agency, board, commission or
5675 institution, or any goods or services not required in the direct provision by the contractor of
5676 social, rehabilitative, health, or special education services to populations being served by the
5677 contracting department, office, agency, board, commission, or institution.

5678 Section 29C. Except as otherwise provided for by law, the general court or any agency of
5679 the executive or judicial branches of the government which acquires property or services from a
5680 commercial vendor, including both profit and not for profit corporations, excluding state
5681 employees, recipients of public assistance, cities and towns and other municipal forms of
5682 government, but which does not make full payment by the required payment date for each such
5683 complete and appropriate item of property or service delivered in accordance with an applicable
5684 purchase order contract, shall be liable for late penalty interest to said commercial vendor on the
5685 amount which is due in accordance with the following provisions:

5686 (a) that the required payment date shall be the date on which payment is due under the
5687 terms of the contract for the provision of said property or services; or, if a specific date on which
5688 payment is due is not established by contract, not more than 45 days after receipt of a properly

5689 authorized, approved and submitted invoice for the amount of payment due, unless the usual and
5690 customary time for payment is longer;

5691 (b) that the late penalty interest provided for under this section shall be computed at a rate
5692 to be set semi-annually by the secretary of administration and finance on January first and July
5693 first of each year; provided, however, that said rate shall be equal to the discount rate charged on
5694 said dates by the Federal Reserve Bank of Boston;

5695 (c) that the provisions of this section shall apply to any late penalty interest which may be
5696 due in accordance with the provisions of this section;

5697 (d) that the provisions of this section shall not apply to the delivery of any property or
5698 services made at the beginning of any fiscal year unless a general appropriation act is in effect
5699 for said fiscal year. Upon the passage of a general appropriation act, a required payment date
5700 may be set or the 45 day period as provided in clause (a) may be commenced;

5701 (e) that, within 15 days after the date on which any invoice is received, state agencies
5702 notify any such commercial vendors of any defect or impropriety in such invoice which would
5703 prevent the running of the time period.

5704 Any state agency required to pay interest under the provisions of this section shall pay
5705 any amount required out of funds appropriated for the administration or operation of the program
5706 for which the interest was incurred.

5707 The secretary of administration and finance shall, not more than 60 days after the
5708 conclusion of each fiscal year, file with the house and senate committees on ways and means a
5709 summary report on any interest penalties made under this section during the preceding fiscal

5710 year. Such report shall include the number, amounts, frequency of interest penalty payments, and
5711 reasons such interest payments were made, summarized by state agency and secretariat, where
5712 applicable.

5713 A copy of rules and regulations promulgated pursuant to this section, or any amendment
5714 or repeal of any such rules and regulations, shall be filed with the house and senate committees
5715 on ways and means at least 30 days prior to implementation.

5716 Section 29D. Notwithstanding any provision of law to the contrary, the officer having
5717 charge of any state agency is hereby authorized to retain the services of one or more private
5718 persons, companies, associations or corporations for the purpose of collection of debts owed to
5719 the commonwealth, other than those covered by section 3A of chapter 14, pursuant to
5720 agreements between the comptroller and said private persons, companies, associations or
5721 corporations. No state agency shall assign the account of any debtor to a private collection
5722 agency until such debtor has been sent a notice, at least 30 days prior thereto, of the intention of
5723 the agency to so assign the collection of such unpaid account of such debtor.

5724 The comptroller shall from time to time enter into agreements with one or more private
5725 persons, companies, associations or corporations for the provision of debt collection services on
5726 behalf of state agencies. No such agreement shall be entered into unless proposals for the same
5727 have been invited by public notice published in at least 1 newspaper once a week for at least 2
5728 consecutive weeks and the last publication to be at least one week prior to the time specified for
5729 the opening of said proposals. All such proposals shall be opened in public. The comptroller may
5730 reject any or all of such proposals. Any such agreement shall provide, in the discretion of the
5731 comptroller, the manner in which the compensation for such services will be paid. Under

5732 standards established by the comptroller, such compensation may be added to the amount of the
5733 debt and collected as part thereof by the contractor; deducted and retained by the contractor from
5734 the amount of debt collected; or paid by the commonwealth from the amount of debt collected
5735 without further appropriation therefor.

5736 The comptroller shall, as part of his annual report under section 12 of chapter 7A, list all
5737 private persons, companies, associations or corporations with whom the comptroller has
5738 agreements for collection services during the fiscal year and the amount of debts collected by
5739 and the compensation paid to each such person, company, association or corporation.

5740 Section 29E. Notwithstanding any general or special law to the contrary, the comptroller
5741 may enter into contracts or interdepartmental service agreements for the purpose of identifying
5742 and pursuing increased revenue collection, cost avoidance, the maximum reimbursement
5743 opportunities for certain federally assisted and other programs of the commonwealth and any
5744 other reimbursements of overpayments or other revenues. The contractor payments, or oversight
5745 costs or fees related to this section shall be paid from the revenues or reimbursements collected,
5746 or as otherwise considered appropriate by the comptroller, without further appropriation, and the
5747 comptroller shall establish accounts and procedures within the affected departments as he
5748 considers appropriate and necessary to accomplish the revenue generation purposes of this
5749 section. The comptroller shall notify, in writing, the house and senate committees on ways and
5750 means 60 days before entering into any contract authorized pursuant to this section. The
5751 comptroller shall report on said projects as a part of his annual report under section 12 of chapter
5752 7A.

5753 Section 29F. (a) As used in this section the following words shall, unless the context
5754 requires otherwise, have the following meanings:--

5755 “Affiliates", entities which are affiliates of each other when either directly or indirectly
5756 one concern or individual controls or has the power to control another, or when a third party
5757 controls or has the power to control both.

5758 “Commissioner", the commissioner of the division of capital asset management and
5759 maintenance or his designee within such division.

5760 “Contractor", any person that has furnished or seeks to furnish supplies or services under
5761 a contract with a public agency or with a person under a contract with a public agency.

5762 “Debarment", an exclusion from public contracting or subcontracting for a reasonable,
5763 specified period of time commensurate with the seriousness of the offense.

5764 “Person", any natural person, business, partnership, corporation, union, committee, club
5765 or other organization, entity or group of individuals.

5766 “Public agency", a department, agency, board, commission, authority, activity or
5767 instrumentality of the commonwealth, or of any political subdivision of the commonwealth, or of
5768 two or more subdivisions thereof.

5769 “Public contract", a contract for the furnishing of supplies or services to any public
5770 agency.

5771 “Secretary", the head of an executive office established under chapter 6A or a designee
5772 thereof within such executive office, or the secretary of administration and finance appointed
5773 pursuant to section 4 of chapter 7 or a designee within the executive office.

5774 “Suspension", the temporary disqualification of a contractor who is suspected upon
5775 adequate evidence of engaging or having engaged in conduct which constitutes grounds for
5776 debarment.

5777 (b) The secretary of administration and finance shall establish and maintain a
5778 consolidated list of contractors to whom public contracts shall not be awarded and from whom
5779 offers, bids, or proposals shall not be solicited.

5780 The list shall show at a minimum the following information: (1) the names of those
5781 persons debarred or suspended in alphabetical order with appropriate cross reference where more
5782 than one name is involved in a single debarment or suspension; (2) the basis of authority for
5783 each debarment or suspension, including the secretary or other official who imposed the
5784 debarment or suspension; (3) the extent of restrictions imposed; (4) the termination date of each
5785 debarment or suspension; and (5) in the case of a suspension, the hearing date, if and when set,
5786 for debarment proceedings.

5787 The secretary of administration and finance shall cause the list to be kept current by the
5788 issuance of notices of additions and deletions. The list shall be published on a periodic basis,
5789 together with notices of additions and deletions therefrom, in the goods and services bulletin and
5790 the central register published by the state secretary and in such other publications as the secretary
5791 of administration and finance shall designate. The secretary of administration and finance shall
5792 also forward said list to the inspector general, the attorney general, and the state auditor. A
5793 secretary or the commissioner, as the case may be, upon imposing a debarment or suspension or
5794 removing a suspension shall forthwith notify the secretary of administration of all information
5795 required for inclusion on such list.

5796 (c) Debarment may be imposed for the following causes but debarment shall be imposed
5797 in all causes where debarment is required by law:

5798 (1) conviction or final adjudication by a court or administrative agency of
5799 competent jurisdiction of any of the following offenses: (i) a criminal offense incident to
5800 obtaining or attempting to obtain a public or private contract or subcontract, or in the
5801 performance of such contract or subcontract; (ii) a criminal offense involving embezzlement,
5802 theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any
5803 other offense indicating a lack of business integrity or business honesty which seriously and
5804 directly affects the contractor's present responsibility as a public contractor; (iii) a violation of
5805 state or federal antitrust laws arising out of the submission of bids or proposals; (iv) a violation
5806 of state or federal laws regulating campaign contributions; (v) a violation of chapter 268A; (vi)
5807 a violation of any state or federal law regulating hours of labor, prevailing wages, minimum
5808 wages, overtime pay, equal pay, child labor, or worker's compensation; (vii) a violation of any
5809 state or federal law prohibiting discrimination in employment; or (viii) repeated or aggravated
5810 violation of any state or federal law regulating labor relations or occupational health or safety; or
5811 (ix) repeated or aggravated violation of any state or federal law protecting the environment; or
5812 (x) a violation of federal law prohibiting the employment of unauthorized aliens; or

5813 (2) substantial evidence, as determined by a secretary or the commissioner, of any
5814 of the following acts: (i) willfully supplying materially false information incident to obtaining or
5815 attempting to obtain or performing any public contract or subcontract; (ii) willful failure to
5816 comply with record-keeping and accounting requirements prescribed by law or regulation; (iii) a
5817 record of failure to perform or of unsatisfactory performance in accordance with the terms of one
5818 or more public contracts, provided that such failure to perform or unsatisfactory performance has

5819 occurred within a reasonable period of time preceding the determination to debar and provided
5820 further that such failure to perform or unsatisfactory performance was not caused by factors
5821 beyond the contractor's control; (iv) a record of health and safety or environmental violations of
5822 a sufficient frequency and severity so as to evidence a pattern of noncompliance with existing
5823 state and federal laws, or any rules and regulations applicable thereto; (v) any other cause
5824 affecting the responsibility of a contractor which the secretary or the commissioner determines to
5825 be of such serious and compelling nature as to warrant debarment. Notwithstanding any other
5826 provision of this section, any contractor debarred or suspended by any agency of the United
5827 States shall by reason of such debarment or suspension be simultaneously debarred or suspended
5828 under this section, with respect to non-federally aided contracts; the secretary or the
5829 commissioner may determine in writing that special circumstances exist which justify
5830 contracting with the affected contractor. The secretary or the commissioner shall give written
5831 notice to the secretary of administration and finance of any such determination.

5832 (d) No contractor may be suspended unless a secretary or the commissioner has first
5833 informed the contractor by written notice of the proposed suspension mailed by registered or
5834 certified mail to the contractor's last known address, except when the secretary or the
5835 commissioner determines that immediate suspension is necessary to prevent serious harm to the
5836 commonwealth, in which case the suspension shall take effect immediately upon signing by the
5837 secretary or the commissioner of an order of suspension, and notice shall be mailed to the
5838 contractor at the earliest opportunity. The notice shall inform the contractor of the reasons for
5839 the proposed suspension and shall state that the contractor may within 14 days respond in writing
5840 and may in such response request a hearing. The secretary or the commissioner may extend the
5841 period for response at the request of the contractor. The secretary or the commissioner shall

5842 determine whether to impose the suspension or, in the case of an emergency suspension imposed
5843 prior to notice to the contractor, whether to continue the suspension after reviewing the
5844 contractor's response, if any, and making such investigation as the secretary or the commissioner
5845 determines is necessary and appropriate. An indictment, or any information or other filing by a
5846 public agency charging a criminal offense, for any of the offenses listed in paragraph (1) of
5847 subsection (c) shall constitute adequate evidence to support a suspension.

5848 If the contractor requests a hearing, and the suspension is not based on an indictment, the
5849 secretary or the commissioner shall conduct a hearing according to the rules for the conduct of
5850 adjudicatory hearings established by the secretary of administration and finance pursuant to
5851 chapter 30A. Such hearing shall be initiated within thirty days of the imposition of the
5852 suspension, unless the contractor requests that the hearing be delayed. Officers and employees
5853 of the office of the inspector general and records of said office shall not be subject to subpoena
5854 for such hearing, if in the opinion of the inspector general production of records or testimony
5855 would prejudice any pending investigation by said office.

5856 A suspension shall not exceed 12 months unless a pending administrative or judicial
5857 proceeding in which the contractor is a party may result in a conviction or final adjudication of
5858 an offense listed in paragraph (1) of subsection (c).

5859 (e) No contractor may be debarred under this section unless a secretary or the
5860 commissioner proposing the debarment has first informed the contractor by written notice of the
5861 proposed debarment mailed by registered or certified mail to the contractor's last known address.
5862 The notice shall inform the contractor of the reasons for the debarment and shall state that the
5863 contractor will be afforded an opportunity for a hearing if the contractor so requests within

5864 fourteen days of receipt of the notice. A hearing requested under this subsection shall be
5865 conducted by the secretary or the commissioner within 60 days of receipt of the request, unless
5866 the secretary or the commissioner grants additional time therefor at the request of the contractor.
5867 The hearing shall be conducted according to the rules for the conduct of adjudicatory hearings
5868 established by the secretary of administration and finance pursuant to chapter 30A. A debarment
5869 shall not be imposed until (i) 14 days after receipt by the contractor of notice of the proposed
5870 debarment if no hearing is requested, or (ii) the issuance of a written decision by the secretary or
5871 the commissioner which makes specific findings that there is sufficient evidence to support the
5872 debarment and that debarment for the period specified in the decision is required to protect the
5873 integrity of the public contracting process. A contractor shall be notified forthwith of the
5874 decision by registered or certified mail, and of the contractor's right to judicial review in the
5875 event that the decision is adverse to the contractor. If a suspension precedes a debarment, the
5876 suspension period shall be considered in determining the debarment period.

5877 (f) A debarment or suspension may include all known affiliates of a contractor. The
5878 decision to include a known affiliate within the scope of a debarment or suspension shall be
5879 made on a case-by-case basis, after giving due regard to all relevant facts and circumstances.
5880 The offense or act of an individual justifying suspension, or the evidence justifying a suspension,
5881 may be imputed to the entity with which the individual is connected when such offense or act
5882 occurred in connection with the individual's performance of duties for or on behalf of the entity
5883 or with the knowledge, approval, or acquiescence of the entity or one or more of its principals.
5884 The entity's acceptance of the benefits derived from the conduct shall be evidence of such
5885 knowledge, approval, or acquiescence. The offense or act of an entity justifying debarment, or
5886 the evidence justifying a suspension, may be imputed to any officer, director, shareholder,

5887 partner, employee or other individual associated with the entity who participated in, knew of, or
5888 had reason to know of the entity's act. An entity or individual shall not be suspended or debarred
5889 except in accordance with the procedures set forth in this section, provided that a public agency
5890 may reject a bid or proposal from any contractor when the public agency reasonably determines
5891 that such contractor is not responsible or eligible.

5892 (g) In determining whether to debar a contractor, or the period of a debarment, all
5893 mitigating facts and circumstances shall be taken into consideration. Except as precluded by
5894 law, a debarment may be removed or the period thereof may be reduced by the secretary or the
5895 commissioner who imposed the debarment or suspension upon the submission of an application
5896 supported by documentary evidence setting forth appropriate grounds for the granting of relief,
5897 such as newly discovered material evidence, reversal of a judgment or conviction, bona fide
5898 change of ownership or management, or the elimination of the cause for which the debarment
5899 was imposed.

5900 (h) During the period for which a person has been debarred or suspended, that person
5901 shall not submit or cause to be submitted offers, bids, or proposals to any public agency, nor
5902 shall any public agency solicit or consider offers, bids, or proposals from, nor execute, renew, or
5903 extend any contract with, a debarred or suspended contractor, and a contractor shall not contract
5904 for supplies or services from a debarred or suspended subcontractor on any public contract.

5905 (i) The secretary of administration and finance shall by regulation drawn up in
5906 consultation with each secretary and the commissioner provide for, upon the request of any
5907 secretary or the commissioner the timely commencement by, the removal to, or consolidation at
5908 the executive office of administration and finance of debarment or suspension proceedings. Such

5909 regulations also shall provide that the contractor against whom debarment or suspension
5910 proceedings have been initiated may apply to the secretary of administration for consolidation of
5911 such proceedings at the executive office for administration and finance. Such proceedings shall
5912 be conducted by the secretary of administration and finance or his designee in accordance with
5913 the provision of this section.

5914 Section 29G. Notwithstanding the provisions of any general or special law to the
5915 contrary, the officer having charge of a state agency is hereby authorized to retain the services of
5916 private persons, companies, associations or corporations for the purpose of recoupment of
5917 overcharges to the commonwealth for utility expenses including, but not limited to, electric, gas,
5918 water and sewer expenses, pursuant to agreements between the operational services division
5919 within the executive office for administration and finance and any such private persons,
5920 companies, associations or corporations. The state purchasing agent of the operational services
5921 division shall, from time to time, enter into agreements with private persons, companies,
5922 associations or corporations for the provision of overcharge recoupment services on behalf of
5923 state agencies. No such agreement shall be entered into unless proposals for the same have been
5924 invited by public notice published in such manner as the state purchasing agent shall direct to
5925 ensure the widest possible cost-effective dissemination of the notice, for at least 2 consecutive
5926 weeks prior to the time specified for the opening of said proposals. All such proposals shall be
5927 opened in public. Said state purchasing agent may reject any and all proposals. Any such
5928 agreements shall provide, in the discretion of said state purchasing agent, the manner in which
5929 compensation for such services shall be paid. Under regulations established by said state
5930 purchasing agent, such compensation may be deducted and retained from the recoupment of
5931 overcharges or paid by the commonwealth from existing expenditure accounts without additional

5932 appropriation therefrom; provided, further, that said state purchasing agent is authorized and
5933 directed to allow access to such agreements by political subdivisions of the commonwealth,
5934 including but not limited to towns, cities, counties, local housing authorities, and any other
5935 instrumentalities. Said state purchasing agent shall report to the comptroller annually a list of all
5936 private persons, companies, associations or corporations with whom said state purchasing agent
5937 has agreements for recoupment of overcharges during the fiscal year, and the amount of
5938 overcharges recouped and the compensation paid to each such person, company, association, or
5939 corporation. Said comptroller shall include and disclose this information as part of the annual
5940 report under section 12 of chapter 7A.

5941 Section 29H. (a) Except as otherwise provided by law, the comptroller may assess late
5942 charge rates, in addition to any other late fees or interest provided by law, against any person,
5943 entity or contractor owing an overdue payment to the commonwealth, or to a city, town housing
5944 or other authority or entity as provided under section 8 of chapter 7A, subject to the following
5945 provisions:-

5946 1) that the required payment date shall be the date on which payment is due under
5947 the laws, rules or regulations administered by the comptroller or other entity authorized to charge
5948 a late fee or interest; and

5949 2) that notice of intent to assess and collect late charges through debt collection,
5950 intercept, or other legal process shall be provided to the debtor prior to collection.

5951 b) The comptroller may adopt rules and regulations to implement this section.

5952 c) The comptroller shall deposit all late fees and interest that the comptroller collects on
5953 behalf of the commonwealth in the revenue account that pertains to the original accounts

5954 receivable, and shall retain and expend all other late charges assessed under this section without
5955 further appropriation, in consultation with the information technology division of the executive
5956 office for administration and finance, for the costs of electronic revenue collection options,
5957 including intercept, that increase revenue and debt collection within the commonwealth.

5958 d) The comptroller shall include in the annual financial report a summary report on any
5959 late charges collected under this section during the preceding fiscal year. The report shall include
5960 the number, amounts, and frequency of late charges collected, summarized by state agency and
5961 secretariat, where applicable.

5962 Section 29I. The comptroller shall develop and implement a payment system and
5963 regulations for interdepartmental fiscal transactions including interdepartmental service
5964 agreements and interdepartmental chargebacks. The chargeback system and regulation shall
5965 require state agencies that purchase legislatively authorized goods or services from approved
5966 chargeback departments to remit fiscal obligations within 30 days of receipt of notice of said
5967 obligation. The comptroller shall submit periodic reports on request to the house and senate
5968 committees on ways and means listing those agencies which do not meet the 30 day payment
5969 schedule. Said report shall also include but not be limited to the identification of the agency
5970 receiving said goods or services and the agency providing said goods or services; provided, that
5971 said identification includes the name of the agency and the item number, the goods or services
5972 provided, and the amount of outstanding obligation. The comptroller is authorized to take such
5973 action as he deems necessary to ensure compliance with the payment obligations under this
5974 section.

5975 Section 29J. Notwithstanding section 50 of chapter 3, or any other general or special law
5976 to the contrary, a state agency or state authority shall not use state funds to pay for an executive
5977 or legislative agent, as defined in section 39 of said chapter 3, unless the executive or legislative
5978 agent is a full-time employee of the state agency or state authority.

5979 Section 30. No officer or board shall insure any property of the commonwealth without
5980 special authority of law.

5981 Section 31. The comptroller, in consultation with the personnel administrator and the
5982 secretary of administration and finance, may establish a centralized payroll system and may
5983 include therein salaries payable by the commonwealth, for all classified services in any agency
5984 of the commonwealth and for teachers and supervisors employed in any school or college in any
5985 department of the commonwealth and any salary payable by the commonwealth to a person
5986 holding a statutory position.

5987 Such centralized payroll system shall conform to such rules and regulations as the
5988 secretary of administration and finance, with the approval of the state treasurer, the comptroller,
5989 and the personnel administrator, may from time to time make. Such rules and regulations shall
5990 not be subject to the provisions of chapter 30A. Notwithstanding any other general or special
5991 law to the contrary, and in accordance with section 148 of chapter 149, to ensure the timely
5992 payment of wages and related payroll charges for work authorized by a spending authority and
5993 performed by employees, the comptroller shall have full authority to mandate the payment of
5994 such wages and payroll charges and prescribe, regulate and direct any spending authority to take
5995 the appropriate actions necessary to properly account for payroll charges, to ensure that payroll

5996 accounts are not in deficit at the close of the fiscal year and any other actions necessary to
5997 support sound fiscal management including appropriation, allotment or other funding limits.

5998 The comptroller shall require certification from each spending authority that each
5999 employee receiving a salary under the warrant is being paid for duties performed directly for the
6000 employing agency and not for duties performed for another state agency.

6001 The state treasurer or other state official authorized to expend money on behalf of the
6002 commonwealth may pay any salary, wages or other compensation to any person in the service of
6003 the commonwealth by means of deposits to employee bank accounts, provided, employees have
6004 expressly authorized said deposits.

6005 The state treasurer or other state official authorized to expend money on behalf of the
6006 commonwealth may pay any retirement benefit due to any retired employee in the state system
6007 or retired teachers in the teachers retirement system by means of deposits to such retired person's
6008 bank account, provided, the retired persons have expressly authorized said deposits.

6009 The comptroller or other state official authorized to expend money on behalf of the
6010 commonwealth may comply with administrative wage garnishments for child support, student
6011 loans, state or federal tax liens, court order bankruptcy orders or other garnishments as
6012 determined by the comptroller which name the commonwealth as employer and mandating
6013 deductions under state or federal law for employees of the commonwealth in amounts not more
6014 than the percentage allowable under state or federal law or a greater amount as authorized by the
6015 employee, provided that the Commonwealth shall not use state resources or be compelled to
6016 comply with voluntary private garnishments or trustee process orders. For the purposes of this
6017 section, the term “employee" shall mean “employee" as defined in section 1 of chapter 32.

6018 Section 31A. (a) Upon the death of a state employee who is eligible for vacation under
6019 the rules of the director of personnel and standardization, or judge, justice or any other employee
6020 of the courts of the commonwealth who is eligible for vacation, payment shall be made in an
6021 amount equal to the vacation allowance as earned in the vacation year prior to the employee'
6022 death but which had not been granted, and, in addition, that portion of the vacation allowance
6023 earned in the vacation year during which the employee died, up to the time of his separation from
6024 the payroll; provided, that no monetary or other allowance has already been made therefor. The
6025 bureau of personnel and standardization may, upon request of the appointing officer of the
6026 deceased employee, authorize the payment of such compensation upon the establishment of a
6027 valid claim therefor, in the following order of precedence.

6028 First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the
6029 employee under the state employees'; retirement system;

6030 Second: If there be no such designated beneficiary, to the estate of the deceased.

6031 The chief administrative justice of the trial court of the commonwealth may, upon request
6032 of the appointing officer of the deceased employee, authorize the payment of such compensation
6033 for the court system upon the establishment of a valid claim therefor, in the same order of
6034 precedence.

6035 b) Employees who are eligible for vacation under the rules of said personnel
6036 administrator and whose services are terminated by dismissal through no fault or delinquency of
6037 their own, or by retirement, shall be paid or at the option of the employee, entitled to a
6038 contribution to a qualified retirement plan established in the employee' name under section
6039 401(a) of the Internal Revenue Code and under chapter 32 an amount equal to the vacation

6040 allowance as earned in the vacation year prior to such dismissal or retirement which had not been
6041 granted, and, in addition, that portion of the vacation allowance earned in the vacation year
6042 during which such dismissal or retirement occurred, up to the time of separation; provided, that
6043 no monetary or other allowance has already been made therefor.

6044 c) Employees who are eligible for vacation under the rules of said administrator and
6045 whose services were terminated for reasons other than those defined in subsections (a) or (b)
6046 shall be paid or at the option of the employee, entitled to a contribution to a qualified retirement
6047 plan established in the employee' name under section 401(a) of the Internal Revenue Code and
6048 under chapter 32 an amount equal to the vacation allowance credited but not granted to them as
6049 of the final date of the next preceding vacation year; provided, that no monetary or other
6050 allowance has already been made therefor.

6051 d) Managers and employees, except employees covered under the provisions of chapter
6052 150E, currently in the employment of the commonwealth who retire and who have accrued
6053 unused sick-leave credits shall be paid or at the option of the employee, entitled to a contribution
6054 to a qualified retirement plan established in the employee' name under section 401(a) of the
6055 Internal Revenue Code and under chapter 32 an amount equal to 20 per cent of the value of such
6056 credits computed by multiplying the number of days of sick-leave available times the daily rate
6057 of salary compensation received by the manager or employee at the time of his retirement;
6058 provided, however, that such payment for unused sick-leave shall not affect the amount of
6059 retirement allowance available to such manager or employee.

6060 Section 31B. Teachers in institutions of the commonwealth having weekly payrolls, at the
6061 option of the department within which such institutions are established, may be paid weekly.

6062 Section 31C. Any officer or employee of the commonwealth, employed in a non-teaching
6063 position in any school or college within any department of the commonwealth, whose regular
6064 service is rendered between September 1 and June 30, may be granted the vacation leave to
6065 which he is entitled either during the period of his regular service, or after the expiration of said
6066 period, as is determined by the employing authority of such officer and employee. Funds made
6067 available by appropriation for the payment of personal services required in the operation and
6068 maintenance of such schools shall be available for the payment of vacations, which, under the
6069 authority of this section, are granted to be taken after the termination of the period of regular
6070 service of an officer or employee subject to this section.

6071 Section 31D. Whenever an officer or employee or former officer or employee of the
6072 commonwealth dies, and the commonwealth owes him any sum or sums, by reason of services
6073 rendered or by reason of the terms of his employment, the comptroller may issue such sums to
6074 the beneficiaries designated to the employee under section 31A. Payments made as provided in
6075 this section shall discharge the liability of the commonwealth to all persons with respect to such
6076 sum or sums.

6077 Section 31E. Notwithstanding the provisions of any general or special law to the
6078 contrary, a state employee, during working hours and at such times as are approved by his
6079 supervisor and in accordance with regulations promulgated hereunder, may, without loss of
6080 salary, provide voluntary services at a public elementary, secondary, or vocational-technical
6081 school to assist the improvement of a student' or school' educational program; provided,
6082 however, that said voluntary services do not exceed the equivalent of one work day per month.
6083 There shall be no requirement that the employee have a child as a student in the school or school
6084 district. Said services shall not be compensated by a school.

6085 Section 32. Any check issued by the state treasurer or by any agent or agency of the
6086 commonwealth, other than checks issued in payment of obligations of the state board of
6087 retirement and the teachers' retirement board, which is not presented for payment within one
6088 year from its date shall be payable only at the office of the state treasurer. On the thirtieth day of
6089 June in each year the comptroller shall transfer to the abandoned property fund all funds which
6090 are identified by the state treasurer as funds of the commonwealth which have remained in the
6091 unclaimed check fund for at least one year. On such date, the comptroller also shall refund to the
6092 unemployment compensation fund and to each applicable account of monies separately
6093 accounted for by the comptroller as other than commonwealth monies, such amounts which in
6094 the opinion of the state treasurer represent all monies of such unemployment compensation fund
6095 or such account which have remained in the unclaimed check fund for at least one year. All
6096 checks issued in payment of obligations of the state board of retirement and the teachers'
6097 retirement board shall be payable only in accordance with the provisions of subdivision (3) of
6098 section 11 of chapter 32.

6099 Section 32A. No wage or salary which is or shall be due from the commonwealth shall be
6100 payable later than 6 years after the same has or shall become due, and the obligation of the
6101 commonwealth to pay such wage or salary or otherwise to pay for the services rendered by the
6102 person to whom the wage or salary is or shall be due shall not be enforceable if the wage or
6103 salary is not claimed within six years after the same has or shall become due; provided,
6104 however, that section 32 shall be applicable and controlling in the case of any wage or salary
6105 represented by a check issued by the state treasurer or by any agent or agency of the
6106 commonwealth. On the thirtieth day of June in each year the comptroller shall transfer to the
6107 General Fund so much of the balance then in the unclaimed wage fund as, in the opinion of the

6108 state treasurer, shall not be needed for payments during the ensuing fiscal year from the said
6109 unclaimed wage fund. On such date the comptroller also shall refund to the unemployment
6110 compensation fund and to each applicable account of monies separately accounted for by the
6111 comptroller as other than commonwealth monies, such amount of the said balance as the state
6112 treasurer shall advise him shall represent all unclaimed wages or salaries from monies of the said
6113 fund or such account, respectively, the payment of which shall have been outlawed in accordance
6114 with this section during the fiscal year ending on such date.

6115 Section 34. (a) State officers, departments, institutions and other agencies may, with the
6116 written consent of the state treasurer, deposit a portion of the public monies in their possession in
6117 national banks, federal savings banks, and federal savings and loan associations, lawfully doing
6118 business within the commonwealth, and in trust companies, savings banks and cooperative banks
6119 chartered under the laws of the commonwealth. The state treasurer shall publish a list of
6120 qualified banks and shall transmit that list at least once every 6 months to the governor. The state
6121 treasurer shall not include on the list a state-chartered bank having a descriptive rating as
6122 described in clauses (d) or (e) of the sixth paragraph under section 14 of chapter 167 or any
6123 federally insured depository institution having an assigned rating of (C) or (D) under section
6124 807(b)(2) of the Community Reinvestment Act of 1977, 12 U.S.C. 2901 et seq.

6125 b) A state treasurer who knowingly makes a deposit in violation of subsection (a) shall be
6126 guilty of misconduct and maladministration in his office within the meaning of the constitution,
6127 any other officer who knowingly makes a deposit in violation of subsection (a) shall be guilty of
6128 misconduct and maladministration in his office, and a depository institution knowingly receiving
6129 a deposit in violation of subsection (a) shall be disqualified from receiving such monies for the
6130 period of 3 years from the date of the deposit.

6131 c) All interest received on any deposits under this section shall be paid to the
6132 commonwealth.

6133 Section 35. No bond or security belonging to the commonwealth shall be transferred
6134 except with the written approval of the governor. A note, bond, mortgage or other security which
6135 has been made to the state treasurer by name may be assigned, transferred or discharged by him
6136 or by any successor in office.

6137 Section 36. If the state treasurer is authorized to discharge a mortgage held by the
6138 commonwealth, he may instead thereof assign it; but such assignment shall not impose upon the
6139 commonwealth any liability, express or implied.

6140 Section 37. Real estate acquired by the commonwealth by foreclosure may, with the
6141 approval of the governor and council, be conveyed by the state treasurer upon payment of the
6142 amount of the mortgage debt with the interest and expenses accrued thereon.

6143 Section 38. With the exception of funds used in connection with a deferred compensation
6144 program for state employees, and funds of the state employees' retirement system or the
6145 teachers' retirement system, all funds over which the commonwealth has exclusive control shall
6146 be invested by the state treasurer as follows:

6147 (a) In the public funds of the United States or of the District of Columbia or of this
6148 commonwealth, or in the legally authorized bonds of any other state of the United States, other
6149 than a territory or dependency thereof, which has not within the 20 years prior to the making of
6150 such investment defaulted in the payment of any part of either principal or interest of any legal
6151 debt.

6152 (b) In repurchase agreements secured by United States Treasury obligations or United
6153 States Treasury obligations bearing a maturity date not later than one year.

6154 (c) In the bonds or notes of a county, city or town of this commonwealth. (d) In shares of
6155 beneficial interest issued by money market funds registered with the Securities and Exchange
6156 Commission under the Investment Company Act of 1940, as amended, operated in accordance
6157 with section 270.2a-7 of Title 17 of the Code of Federal Regulations, that have received the
6158 highest possible rating from at least 1 nationally recognized statistical rating organization. The
6159 purchase price of shares of beneficial interest purchased pursuant to this section shall not include
6160 a commission charged by the money market funds.

6161 (e) In any other security that qualifies for inclusion in a fund operated in accordance with
6162 section 270.2a-7 of Title 17 of the Code of Federal Regulations, as amended.

6163 (f) In investment agreements or guaranteed investment contracts rated, or with a financial
6164 institution whose senior long-term debt obligations are rated, or guaranteed by a financial
6165 institution whose senior long-term debt obligations are rated, at the time the agreement or
6166 contract is entered into, in 1 of the 2 highest rating classifications by a nationally recognized
6167 rating service if the agreements or contracts do not exceed 1 year in duration.

6168 (g) In investment agreements with a corporation whose principal business is to enter into
6169 the agreements if: the corporation and the investment agreements of the corporation are each
6170 rated in 1 of the 2 highest rating classifications by a nationally-recognized rating service; the
6171 commonwealth has an option to terminate each agreement in the event that the rating is
6172 downgraded below the 2 highest rating classifications; and the agreements or contracts do not
6173 exceed 1 year in duration.

6174 (h) In the promissory notes of an industrial, commercial, finance, banking, railroad or
6175 public utility corporation conducting business in this state when such notes mature not later than
6176 one year subsequent to their respective dates of issue; provided, however, that, at the time of any
6177 such investment, (1) such corporation has capital stock, premium thereon and surplus of at least
6178 $25,000,000, (2) the securities of such corporation are eligible for investment by life insurance
6179 companies authorized to do business in the commonwealth, and (3) all outstanding debt
6180 obligations of such corporation which have any rating from two or more standard rating services
6181 are rated within the three highest classifications established by at least two such rating services,
6182 or, if none of the outstanding debt obligations of such corporation has any rating from two such
6183 rating services, that such outstanding debt obligations are rated at the time of investment within
6184 the three highest classifications established by at least two such rating services, or the notes of
6185 such corporation at the time of investment are rated prime by the National Credit Office;
6186 provided, further, that the commonwealth' investment in the notes of any one company shall not
6187 exceed twenty per cent of the capital and surplus of such company.

6188 (i) In bankers acceptances and bills of exchange eligible for purchase by federal reserve
6189 banks and which have been accepted by a bank, a trust company, a private banker or an
6190 investment company, or by a banking corporation which is organized under the laws of the
6191 United States or of any state thereof and which is a member of the federal reserve system.

6192 The state treasurer may purchase with a portion of the State Lottery Fund, as established
6193 and defined in section 35 of chapter 10, from insurance companies lawfully doing business in the
6194 commonwealth, annuities payable to the commonwealth to be used for payment of lottery prizes.
6195 Such annuities shall not be subject to the provisions of section 118 of chapter 175limiting
6196 payment of annuities to individuals, and shall, to the extent that such annuities are payable to the

6197 commonwealth, be exempt from taxation under section 20 of chapter 63. Contracts for the
6198 purchase of such annuities shall be subject to competitive bidding and shall be awarded to the
6199 lowest responsible bidder. All such bids and contracts shall be public records.

6200 The state treasurer may also purchase with a portion of the said State Lottery Fund,
6201 bonds, notes, shares in combined investment funds or other interest bearing obligations in
6202 accordance with the standards set forth in subdivision (3) of section 23 of chapter 32.

6203 Funds in connection with a deferred compensation program for state employees may be
6204 invested by the treasurer pursuant to section 64; provided, however, that such funds, whether or
6205 not invested, shall remain in the sole control of the treasurer, and may be used by the
6206 commonwealth at any time and for any purpose.

6207 The treasurer may lend securities purchased from funds authorized by this section,
6208 provided that at the time of the execution of the loan at least one hundred per cent of the market
6209 value of the security lent shall be secured by cash or securities guaranteed by the United States
6210 government or any agency of the United States government. At all times during the term of each
6211 such loan the collateral shall be equal to not less than 95 per cent of the full market value of the
6212 security and said collateral shall not be more than $100,000 less than the full market value of the
6213 security.

6214 Section 38A. Notwithstanding any contrary provision of law, the state treasurer may
6215 establish one or more combined investment funds for the purpose of investing funds of the
6216 commonwealth, trust funds, and funds under the custody of agencies, authorities, commissions,
6217 boards, political subdivisions and other public units within the commonwealth; provided, that the
6218 state treasurer shall adopt appropriate accounting procedures from which the exact interest of

6219 such funds so combined for investment can be determined. The state treasurer may adopt such
6220 rules and regulations as may be necessary to administer the provisions of this section. The
6221 management of any fund established under this paragraph shall be competitively procured not
6222 later than once every 7 years.

6223 The state treasurer is authorized to sell to all agencies, authorities, commissions, boards,
6224 political subdivisions and other public units within the commonwealth, participation units in any
6225 such combined investment fund. Such participation units issued by the treasurer are made legal
6226 investments for all the funds under the custody of such agencies, authorities, commissions,
6227 boards, political subdivisions and other public units within the commonwealth. With the advice
6228 of the investment advisory council, the state treasurer shall adopt rules and regulations as may be
6229 necessary to administer the provisions of this section.

6230 The state treasurer may invest any funds established under this section in only those
6231 instruments permitted within this chapter or chapter 32.

6232 Section 38B. There shall be in the office of the state treasurer a deferred compensation
6233 committee, consisting of three members, one of whom shall be appointed by the governor, shall
6234 represent the employees who contract with the state treasurer for a deferred compensation
6235 program under section 64, and shall be chairman, one of whom shall be appointed by the
6236 commissioner of insurance, and one of whom shall be appointed by the state treasurer. Said
6237 committee shall meet from time to time and shall oversee the operation of the day to day
6238 operation of the deferred compensation program. The members of said committee shall serve
6239 without compensation, but shall be reimbursed for expenses necessarily incurred in the
6240 performance of their duties.

6241 Section 38C. In connection with or incidental to the acquisition or carrying of any
6242 investment or program of investment or carrying of bonds or notes, the state treasurer, after
6243 consultation with the finance advisory board, may enter into such contracts as he may determine
6244 to be necessary or appropriate to place the investment or obligation of the commonwealth, as
6245 represented by the bonds or notes, investment or program of investment and the contract or
6246 contracts, in whole or in part, on such interest rate or cash flow basis as he may desire, including
6247 without limitation interest rate swap agreements, insurance agreements, forward payment
6248 conversion agreements, futures, contracts, contracts providing for payments based on levels of,
6249 or changes in, interest rates or stock or other indices, contracts to exchange cash flows or a series
6250 of payments and contracts to hedge payment, rate, spread or similar exposure, including without
6251 limitation interest rate floors or caps, options, puts and calls. Such contracts shall contain such
6252 payment, security, default, remedy and other terms and conditions as the state treasurer, after
6253 consultation with the finance advisory board, may deem appropriate and shall be entered into
6254 with such party or parties as the state treasurer, after consultation with the finance advisory
6255 board, may select, after giving due consideration, where applicable, for the creditworthiness of
6256 the counterparty or counterparties, including any rating by a nationally recognized rating agency
6257 or any other criteria as may be appropriate. Scheduled, periodic payments to be made by the
6258 commonwealth pursuant to any such contract in existence on August 1, 2008 or any such
6259 contract related to bonds or notes of the commonwealth which shall be entered into by the state
6260 treasurer after August 1, 2008 shall constitute general obligations of the commonwealth to which
6261 the full faith and credit of the commonwealth shall have been pledged.

6262 Section 39. When the commonwealth holds any bond, note or certificate of indebtedness
6263 payable to bearer and issued by a county, city, town or district or any domestic corporation, such

6264 county, city, town, district or corporation shall, at the request of the state treasurer, issue in
6265 exchange therefor a bond, note or certificate of the same effect, payable to the commonwealth by
6266 name. The commonwealth shall pay the expense involved in making such exchange. Any county,
6267 city, town, district or corporation neglecting or refusing to comply with this section shall be
6268 punished by a fine of not more than $50.

6269 Section 40. No deposit required to be made by any corporation in trust with the state
6270 treasurer, or any part thereof, shall consist of a mortgage upon real estate or of a loan upon
6271 personal notes or of notes secured by collateral. He may receive, as a part of such deposit, money
6272 or certificates of deposit, or certified checks on any approved state depositary, and may hold the
6273 same without interest until it may reasonably be invested in a proper legal security.

6274 Section 41. The state treasurer shall have the custody and keep a separate account of all
6275 notes, bonds and mortgages belonging to the commonwealth, and shall receive all money
6276 accruing therefrom. All deeds and instruments conveying real estate to the commonwealth shall,
6277 when recorded, be deposited with and safely kept by him. Such records shall not include those
6278 pertaining to real property acquired for the use of state agencies, pursuant to sections 32, 33 and
6279 39 of chapter 7C.

6280 Section 44. The income or any surplus of funds belonging to or in the custody of the
6281 commonwealth shall, unless otherwise provided, be added to the principal.

6282 Section 45. No securities shall hereafter be purchased for any sinking fund which do not
6283 mature on or prior to the maturity date of the indebtedness on account of which said sinking fund
6284 was established.

6285 Section 46. The state treasurer, instead of selling any securities, belonging to any fund
6286 over which the commonwealth has exclusive control, to meet maturing liabilities, may transfer
6287 them to any other such fund upon terms and conditions approved by the governor and council.

6288 Section 47. The state treasurer may borrow at any time during the fiscal year, in
6289 anticipation of the receipts for that year, such sums of money as may be necessary for the
6290 payment of ordinary demands on the treasury, and other legal obligations, including guaranties,
6291 of the commonwealth, and may issue notes therefor. Money so borrowed and notes so issued
6292 may be at such rates of interest as shall be found necessary. He shall repay any sums borrowed
6293 under this section as soon after said receipts are paid as is expedient, but in any event before the
6294 close of the fiscal year in which the same were borrowed.

6295 Notes issued under and pursuant to this section may bear on their face a statement that if
6296 principal and interest thereon are not paid when due said notes will be accepted thereafter at face
6297 value plus accrued interest to the date of such acceptance as payment to that extent of taxes owed
6298 by the bearer to the commonwealth under chapters 62, 62B, 63, or 63B. Notes bearing such
6299 legend shall be accepted in payment of such taxes, including penalty and interest thereon, at face
6300 value plus accrued interest by all persons responsible for collecting taxes but shall otherwise be
6301 payable in accordance with their terms as provided in the first paragraph of this section.

6302 Section 48. Bonds issued by the commonwealth shall be signed by the state treasurer or a
6303 deputy treasurer and approved by the governor. Notes issued by the commonwealth shall be
6304 signed by the state treasurer or a deputy treasurer, approved by the governor, and countersigned
6305 by the comptroller or a deputy comptroller or an assistant to the comptroller.

6306 Section 48A. Facsimiles of the signature of the governor on original issues or transfers of
6307 bonds or notes of the commonwealth shall have the same validity and effect as his written
6308 signature, and facsimiles of the seal of the commonwealth may be used on bonds and notes of the
6309 commonwealth and shall have the same validity and effect as though said seal were impressed
6310 thereon. Interest coupons, if any, attached to any bond or note of the commonwealth may bear
6311 the facsimile signature of the state treasurer. If any officer whose signature or a facsimile of
6312 whose signature appears on any notes, bonds or coupons shall cease to be such officer before the
6313 delivery of, and receipt of proceeds from the borrowing evidenced by, such notes or bonds, such
6314 signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such
6315 officer had remained in office until such delivery and receipt of proceeds.

6316 Section 48B. Any official statement prepared in connection with the sale of any bonds or
6317 notes of the commonwealth and all advertising of such bonds and notes, the interest on which is
6318 excludable from gross income for federal income tax purposes under the provisions of section
6319 103 of the Internal Revenue Code (26 USC 103), shall include a reference to the collateral tax
6320 consequences which may result under section 86 of said Code (26 USC 86) to the holders of
6321 such bonds or notes who are recipients of social security benefits.

6322 Section 49. The aggregate principal amount of bonds, if any, of any issue of
6323 commonwealth bonds stated to mature in any year may vary from the aggregate principal amount
6324 of bonds of such issue stated to mature in any other year. The state treasurer may agree at or
6325 prior to the time such issue of bonds is issued with the holders of bonds of such issue or with a
6326 trustee, which shall be a trust company or bank with trust powers doing business in the
6327 commonwealth, for the benefit of such holders to establish a sinking fund for such issue of
6328 bonds, to make deposits into such sinking fund according to a schedule theretofore established

6329 by the state treasurer and to use the monies in such sinking fund only for (a) the payment of
6330 principal of or interest on, or purchase, at a price not to exceed par of, the bonds of such an issue
6331 or (b) the payment of principal of or interest on, or purchase, at a price not to exceed par of, the
6332 bonds of any one or more specified maturities of such an issue. The full faith and credit of the
6333 commonwealth is pledged to the making of payments to any such sinking fund. Withdrawals
6334 from any such sinking fund for the payment of principal of or interest on such bonds, or for the
6335 purchase thereof as permitted by this paragraph, may be made without further appropriation or
6336 authorization by any officer of the commonwealth. Pending their application for such purpose,
6337 monies in any such sinking fund shall be held by the state treasurer or such trustee and invested
6338 in (i) direct obligations of, or obligations the payment of the principal and interest of which are
6339 unconditionally guaranteed by, the United States of America; (ii) obligations of the Federal
6340 National Mortgage Association, Government National Mortgage Association, Federal Financing
6341 Bank, Federal Intermediate Credit Banks, Federal Bank for Cooperatives, Federal Land Banks,
6342 Federal Home Loan Banks, Farmers Home Administration, Export-Import Bank of the United
6343 States, Student Loan Marketing Association, United States Postal Service, Tennessee Valley
6344 Authority or Federal Home Loan Mortgage Corporation or by any other agency or corporation
6345 which has been or is hereafter created pursuant to an act of Congress of the United States as an
6346 agency or instrumentality of the United States of America; (iii) housing authority bonds issued
6347 by public agencies or municipalities and fully secured as to the payment of both principal and
6348 interest by a pledge of annual contributions under an annual contributions contract or contracts
6349 with the United States of America or project notes issued by public agencies or municipalities
6350 and fully secured as to the payment of both principal and interest by a requisition or payment
6351 agreement with the United States of America; (iv) interest-bearing time deposits or certificates of

6352 deposit of banking institutions or trust companies organized under the laws of any state of the
6353 United States or any national banking association, provided that such deposits or certificates
6354 shall be continuously and fully secured by obligations described in clauses (i) to (iii), inclusive,
6355 having a market value, exclusive of accrued interest, at least equal to the aggregate amount of
6356 such deposits and certificates; (v) any of the securities described in clauses (i) to (iii), inclusive,
6357 which are subject to repurchase agreements with any bank or trust company organized under the
6358 laws of any state of the United States or any national banking association; or (vi) obligations that
6359 have been advance refunded or defeased prior to their maturity, that are fully and irrevocably
6360 secured as to principal and interest by moneys or securities described in clauses (i) to (iii),
6361 inclusive, held in trust for the payment thereof, and that are not callable prior to maturity except
6362 at the option of the holder thereof. Securities purchased as an investment of monies credited to
6363 any sinking fund shall be deemed at all times to be a part of such sinking fund. Notwithstanding
6364 any provision in any act authorizing all or part of an issue of commonwealth bonds to the effect
6365 that such bonds shall be issued upon the serial payment plan or to the effect that the maturities
6366 thereof shall be so arranged that the amounts payable in the several years of the period of
6367 amortization, other than the final year, shall be as nearly equal as in the opinion of the state
6368 treasurer it is practicable to make them or to any similar effect, the provisions of this paragraph
6369 shall apply to any issue of commonwealth bonds made after January first, nineteen hundred and
6370 eighty unless the act authorizing such issue expressly states that the provisions of this paragraph
6371 shall not apply to such issue.

6372 Bonds of the commonwealth may be issued as registered bonds or as bearer bonds, with
6373 or without coupons, as the state treasurer may deem best. Such bonds shall bear interest at such
6374 rate or rates, including rates variable from time to time according to an index, banker' loan rate

6375 or otherwise, as the state treasurer, with the approval of the governor, shall fix. The provisions of
6376 this paragraph shall apply to any bonds issued after January first, nineteen hundred and eighty-
6377 two unless the act authorizing such issue expressly states that the provisions of this paragraph
6378 shall not apply.

6379 Registered bonds may be uncertificated. Books shall be maintained by or on behalf of the
6380 state treasurer specifying the persons entitled to uncertificated bonds, and the rights represented
6381 thereby shall be registered upon such books. A true copy of the official actions of the
6382 commonwealth relating to such bonds shall be kept by or on behalf of the state treasurer, a copy
6383 of which, verified to be such by an authorized officer, shall be admissible before any court of
6384 record, administrative body or arbitration panel without further authentication.

6385 Bonds or notes of the commonwealth which are subject to the requirement imposed by
6386 Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth that the
6387 governor recommend the term thereof to the general court shall not be issued, and monies to
6388 finance projects authorized to be financed by such bonds or notes shall not be advanced in
6389 anticipation of the issuance thereof, until legislation has been enacted upon such term
6390 recommendation.

6391 Unless otherwise specifically provided, a provision in any statute authorizing the state
6392 treasurer to issue and sell bonds of the commonwealth shall authorize him to issue and sell such
6393 bonds in such denominations as he shall determine to be in the best interests of the
6394 commonwealth, and any requirement that the maturities thereof be so arranged that the amounts
6395 payable in the several years of the period of amortization other than the final year shall be as
6396 nearly equal as in the opinion of the state treasurer it is practicable to make them shall mean that

6397 the amounts so payable shall be as nearly equal considering the denominations of the bonds
6398 issued and sold as in the opinion of the state treasurer it is practicable to make them.

6399 Bonds issued pursuant to two or more bond authorization acts may be consolidated for
6400 the purpose of sale and issued, sold, printed, and delivered as a single bond issue despite the
6401 requirement of any bond authorization act requiring or designating a particular total for bonds
6402 issued pursuant to that act. Notwithstanding any requirement of any such act that bonds issued
6403 thereunder shall bear any particular designation, bonds consolidated pursuant to this section shall
6404 be designated on their face "Consolidated Loan of" followed by the year of issue and the series
6405 thereof in such year. Notwithstanding the provisions of this section, the state treasurer shall
6406 separately account for the bonds issued under and the proceeds received from bond sales under
6407 the particular authorizing act. In connection with any such consolidated issue, the state treasurer
6408 shall specify at the time of issuance (i) the amount of proceeds to be allocated to each bond
6409 authorization act or section thereof, in which case allocation of proceeds shall occur at the time
6410 of issuance, or (ii) the various sections of bond authorization acts to which proceeds of the issue
6411 may be allocated as expenditures are made pursuant to the authorizations referenced in such
6412 sections, in which case allocation of proceeds shall occur at such later time or times as such
6413 expenditures shall occur, or (iii) any combination of the foregoing. In lieu of allocating proceeds
6414 in accordance with clause (ii), the state treasurer may allocate proceeds of the issue to
6415 expenditures incurred under 1 or more bond authorization acts not specified at the time of
6416 issuance, including without limitation bond authorization acts enacted after the time of issuance,
6417 so long as the term limitations contained in the substituted bond authorization acts and the
6418 related term recommendations of the governor are not inconsistent with the term of the
6419 consolidated issue.

6420 Notwithstanding any general or special provision of law to the contrary, a provision in
6421 any statute authorizing the state treasurer to issue and sell bonds of the commonwealth providing
6422 that such bonds shall bear interest at such rate as the state treasurer, with the approval of the
6423 governor, shall fix; or a provision of similar import, shall be construed to provide that such bonds
6424 shall bear interest at such rate or rates as the state treasurer, with the approval of the governor,
6425 shall fix.

6426 Unless otherwise specifically provided, a provision in any act authorizing the state
6427 treasurer to issue and sell bonds of the commonwealth shall authorize him, with the approval of
6428 the governor, to issue and sell bonds subject to call for redemption at any time or from time to
6429 time, with or without premium, as he determines to be in the best interest of the commonwealth.
6430 The provisions of this section shall apply to all bonds issued after the effective date of this act.

6431 Bonds or notes of the commonwealth may be sold at par, premium or discount and may
6432 be sold as instruments the principal amount of which either remains constant or increases during
6433 the life of the instrument. Whenever bonds or notes are issued under a statute to which the
6434 provisions of this paragraph apply, the amount issued shall be deemed to be the net proceeds of
6435 the issue,; provided that the state treasurer may determine to apply all or a portion of any
6436 premium received on the sale of any such bonds or note, without appropriation, to the costs of
6437 issuance thereof or other financing costs related thereto or to the payment of the principal thereof
6438 or sinking fund installments with respect thereto, in which case the amount of any premium so
6439 applied shall not be included in the amount of the issue. The provisions of this paragraph shall
6440 apply to any bonds or notes issued after January first, nineteen hundred and eighty-eight unless
6441 the act authorizing such issue expressly states that the provisions of this paragraph shall not
6442 apply.

6443 In connection with the issuance of bonds and notes of the commonwealth which are
6444 intended to qualify for tax exemption under the Internal Revenue Code of 1986, and to induce
6445 the purchase of such bonds and notes, the state treasurer may covenant on behalf of the
6446 commonwealth with the purchasers or with the holders from time to time of such bonds or notes
6447 or with a trustee or trustees for the benefit of such holders with respect to compliance with the
6448 requirements of said Internal Revenue Code relative to such tax exemption, including without
6449 limitation compliance with provisions relating to the use of proceeds by private parties, the
6450 investment of proceeds and the payment of rebate, so-called, to the federal government. Any
6451 such covenant may appear on the bonds or notes or may be included in a separate contract or
6452 trust indenture, a copy of which shall be available for public inspection at the office of the state
6453 treasurer. Any right of a holder of a bond or note in respect of any such covenant may be
6454 enforced as a claim against the commonwealth.

6455 A provision in any act authorizing the state treasurer to issue and sell bonds of the
6456 commonwealth shall also authorize the state treasurer, without any further authorization, to
6457 borrow from time to time on the credit of the commonwealth such sums of money as may be
6458 necessary for the purpose of making payments for the purposes for which such bonds are
6459 authorized and to issue and renew, from time to time, notes of the commonwealth therefor in
6460 anticipation, of such bonds, bearing interest payable at such time and at such rates as shall be
6461 fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for
6462 such terms not exceeding three years, as the governor may recommend to the general court
6463 pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the
6464 Commonwealth. The provisions of this paragraph; (i) shall apply to all bond authorization acts in
6465 effect as of July 1, 1999 and all bond authorization acts validly enacted after such date, unless

6466 any particular act expressly states that the provisions of this paragraph shall not apply; and (ii)
6467 shall constitute authority to issue notes in anticipation of such bonds in addition to and not in
6468 limitation of any authority to issue notes in anticipation of bonds contained in any bond
6469 authorization act.

6470 Section 49A. Notwithstanding any other provisions of the laws of the commonwealth,
6471 whenever the state treasurer is authorized to issue and sell bonds of the commonwealth and he
6472 determines to issue and sell all or a portion of such bonds in denominations of less than five
6473 thousand dollars (minibonds), he may issue and sell such minibonds at public or private sale,
6474 maturing in such amounts and upon such dates, at such interest rate or rates, payable at such time
6475 and in such manner, at par or at discount, in bearer or registered form, and upon such other terms
6476 and conditions, all as he shall determine to be in the best interests of the commonwealth;
6477 provided that (1) not more than fifty million dollars principal amount of minibonds shall be sold
6478 by the state treasurer in any one fiscal year; (2) no minibond shall mature more than five years
6479 after its date; (3) no one sale to a purchaser of minibonds shall be in an aggregate principal
6480 amount equal to or greater than five thousand dollars; and (4) each minibond shall provide that it
6481 shall be redeemed by the commonwealth upon due presentation by an appropriate person on any
6482 business day after one year from its date of sale by the state treasurer at such price as the state
6483 treasurer shall determine according to a schedule established with respect to each issue of
6484 minibonds prior to the sale thereof. The state treasurer may adopt regulations with respect to the
6485 issuance and sale of minibonds. A facsimile of the signature of the state treasurer on minibonds
6486 shall have the same validity and effect as his written signature. Sections forty-five, forty-nine,
6487 and fifty-three of this chapter shall not apply to the issuance of minibonds.

6488 Section 49B. In addition to any other security provided by laws, bonds and notes of the
6489 commonwealth may, in the discretion of the state treasurer, be secured or supported, in whole or
6490 in part, by insurance or by lines or letters of credit or other credit or liquidity facilities provided
6491 by any bank, trust company or other financial institution.

6492 The state treasurer may enter into agreements with brokers for the placement of any such
6493 commonwealth notes issued as commercial paper.

6494 Section 49C. (a) In issuing bonds of the commonwealth, pursuant to the provisions of law
6495 applicable thereto, the state treasurer is authorized, pursuant to the conditions set forth in this
6496 section, to set aside and issue portions of said bonds in such form as shall be appropriate for the
6497 purposes of the college opportunity program, as defined in section 5A of chapter 15C, or for the
6498 purposes of such other college savings programs as may be established pursuant to paragraph
6499 (f1/2) of section 5 of said chapter 15C.

6500 b) Before issuing any bonds in a fiscal year for the use of a college savings program, the
6501 state treasurer shall prepare a report establishing the maximum amount of bonds to be issued in
6502 that year for use of such programs. Said report, and any subsequent amendment thereto which
6503 revises said maximum amount, shall include the state treasurer' reasons for determining that it is
6504 prudent for the commonwealth to authorize use of such bonds to the stated extent, in light of the
6505 anticipated future interest and principal payments on such bonds, as compared to the anticipated
6506 interest and principal payments on commonwealth bonds not issued in connection with such
6507 programs, and in light of available financial arrangements to limit or control the commonwealth'
6508 potential costs of meeting its obligations on such bonds, and in light of such other considerations
6509 as the state treasurer shall deem relevant. The state treasurer shall file copies of said report, and

6510 of any amendments thereto, with the Educational Financing Authority, the secretary of
6511 administration and finance, and the house and senate ways and means committees.

6512 c) For the purposes of issuing bonds to support college savings programs, the state
6513 treasurer shall have, in addition to his other powers and duties, the following additional powers
6514 and duties:

6515 i) To employ financial, marketing, legal and other consultants and advisors for the
6516 purpose of consulting with the commonwealth on the implementation and ongoing
6517 administration of the savings programs and to enter into contracts and agreements necessary in
6518 connection therewith.

6519 ii) To enter into appropriate agreements or arrangements with banks or other
6520 financial institutions or with other departments or agencies of the commonwealth or other public
6521 entities to provide protection for the commonwealth from risks associated with the variable
6522 interest rate on such bonds, and to provide liquidity for purchasers of such bonds in the event of
6523 extraordinary circumstances which require them to have access to their capital, including but not
6524 limited to interest rate swap agreements, interest rate caps, liquidity facilities, futures
6525 agreements, letters of credit and similar arrangements, including provisions regarding the
6526 custody of commonwealth funds and the maintenance of collateral and other security for the
6527 commonwealth' obligations thereunder.

6528 iii) To establish procedures to ensure that interest on such bonds is and remains
6529 excludable from the gross income of the owners thereof for federal income tax purposes.

6530 iv) To establish a schedule of fees and charges, including premiums in connection
6531 with the sale of such bonds, sufficient to provide for the estimated costs of the program incurred

6532 by the commonwealth, including the costs of any agreements or arrangements entered into
6533 pursuant to paragraph (ii) and reasonable amounts to allow the commonwealth to self-insure
6534 against possible variations in interest rates on such bonds; provided that the difference in
6535 anticipated future interest and principal payments on such bonds as compared to the anticipated
6536 interest and principal payments on commonwealth bonds not issued in connection with such
6537 programs shall not exceed five million dollars per year. Any such fees or charges shall be
6538 received by the state treasurer impressed with a trust on behalf of the participants in such college
6539 savings programs and shall be deposited in a separate fund. The amounts in said fund, including
6540 any income earned on amounts therein, shall be expended by the state treasurer, without
6541 appropriation, solely for the commonwealth' cost of operating such college savings programs,
6542 including without limitation the costs of agreements or arrangements entered into pursuant to
6543 paragraph (ii) and the costs of self-insuring against variations in interest rates on such bonds.

6544 v) To take such further actions and establish such further procedures as shall be
6545 appropriate to carry out the purposes of the savings programs.

6546 d) All bonds, or units of participation therein, issued pursuant to this section shall be
6547 subject to the following provisions:

6548 i) Any payment received by a purchaser of such bonds or units of participation in
6549 accordance with the provisions of this section and chapter 15C and the interest or other income
6550 earned in connection therewith shall be exempt from all taxation by the commonwealth and any
6551 of its political subdivisions, including income, commonwealth, transfer, inheritance, death and
6552 personal property taxes.

6553 ii) The bonds and units of participation are hereby made securities in which
6554 administrators, guardians, executors, trustees, fiduciaries, and others authorized to invest in
6555 bonds of the commonwealth may properly and legally invest funds and shall be exempt from
6556 qualification and registration under the securities laws of the commonwealth.

6557 iii) The commonwealth hereby covenants and agrees to take all steps reasonably
6558 necessary to provide that interest on said bonds and units of participation whenever paid or
6559 accrued shall be excluded from the gross income of any person having an interest therein under
6560 the Internal Revenue Code of 1986 as amended from time to time.

6561 e) The provisions of section fifty-three shall not apply to the sale of any bonds issued in
6562 connection with college savings programs.

6563 Section 50. The state treasurer shall annually in December certify to the budget director
6564 the amount necessary to provide for serial and sinking fund payments with respect to any bonds
6565 or notes of the commonwealth for the fiscal year beginning on July first following.

6566 Section 53. Whenever there is to be an issue of bonds or notes of the commonwealth
6567 maturing at a time later than three years from their dates, excepting such bonds or notes as are to
6568 be issued for the investment of cash in any of the sinking or other established funds of the
6569 commonwealth, the state treasurer shall solicit bids for the purchase thereof, and shall provide
6570 reasonable notice to the public of such solicitations. The state treasurer may reserve the right to
6571 reject any or all bids. If no bid is accepted, the whole or any part of the loan may be awarded to
6572 any person. Compliance with the provisions of this section may be waived with respect to an
6573 issue of bonds or notes upon the approval of the finance advisory board, established under the
6574 provisions of section ninety-seven of chapter six.

6575 Section 53A. The state treasurer is hereby authorized, upon request of the governor, to
6576 issue and sell refunding bonds of the commonwealth in an amount to be specified by the
6577 governor from time to time for the purpose of paying, at maturity or upon acceleration or
6578 redemption, any bonds of the commonwealth then outstanding, including the payment of any
6579 redemption premium thereon and any interest accrued or to accrue to the date of maturity,
6580 acceleration or redemption of such bonds; provided, however, that the state treasurer shall not
6581 issue any such refunding bonds unless he shall find that the present value, discounted at such rate
6582 as he shall deem appropriate, of the principal and interest payments due on the refunding bonds
6583 is less than the present value, discounted at such rate, of the principal and interest payments to be
6584 paid, from the proceeds of such refunding bonds and investment earnings thereon, on the bonds
6585 to be refunded. In addition to and without compliance with the foregoing, the state treasurer may,
6586 upon request of the governor, issue and sell refunding bonds of the commonwealth in an amount
6587 to be specified by the governor from time to time for the purpose of substituting fixed-rate bonds
6588 for variable-rate bonds or 1 form of variable-rate bonds for another. The proceeds of any
6589 refunding bonds authorized by this section may also be used to purchase bonds in lieu of paying
6590 such bonds at maturity or redemption, through a tender offer or otherwise, whereupon the state
6591 treasurer may declare the purchased bonds to be paid in full. Such refunding bonds may be
6592 issued at such time prior to the maturity, acceleration or redemption of the bonds to be refunded
6593 thereby as the state treasurer, with the approval of the governor, may deem advisable. The
6594 issuance of such bonds, the security therefor, the maturities and other details thereof, the rights of
6595 the holders thereof and the rights, duties and obligations of the commonwealth with respect
6596 thereto shall be governed by the provisions of this chapter which relate to the issuance of bonds,
6597 insofar as such provisions may be appropriate therefor. Without limiting the generality of the

6598 foregoing, the provisions of section forty-nine applicable to sinking funds established with
6599 trustees shall apply to the deposit of refunding bond proceeds with a trustee except that such
6600 proceeds shall be held for the benefit of the holders of the bonds to be refunded thereby. All
6601 bonds issued by the commonwealth as aforesaid shall be designated on their face General
6602 Obligation Refunding Bonds or Special Obligation Refunding Bonds, as appropriate, and shall
6603 be issued for such maximum term of years, not exceeding thirty years, as the governor may
6604 recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the
6605 Constitution of the Commonwealth, provided, however, that the bonds of any particular issue
6606 shall mature not later than five years after the date of final maturity of the bonds being refunded
6607 by such issue; and provided, further, that the debt service on such refunding bonds shall be
6608 charged to the various budgeted funds of the commonwealth in proportion to the principal
6609 amounts being refunded.

6610 The state treasurer shall file a report with the house and senate committees on ways and
6611 means no later than thirty days after the sale of any refunding bonds issued pursuant to this
6612 section. Said report shall include written documentation of compliance with the provisions of this
6613 section, including, but not limited to, the issue or issues to be refunded, the projected dollar
6614 savings and the projected present value savings.

6615 Section 54. The state treasurer may require each bidder submitting a proposal pursuant to
6616 section 53, as a condition precedent to the consideration of such bidder' proposal, to submit a
6617 good faith deposit or otherwise secure such bidder' proposal, in such manner and amount as the
6618 state treasurer shall determine to be appropriate.

6619 Section 55. The state treasurer may annually expend such sums as the general court shall
6620 appropriate for the purpose of providing for and advertising sales of bonds for the direct debt of
6621 the commonwealth and for the purpose of preparing and paying for bond books necessary for
6622 such sales.

6623 Section 56. Funds from a sale of specific bonds or other securities which have reverted at
6624 the close of a fiscal year, in accordance with the provisions of the act authorizing the
6625 expenditures to be financed by the sale of said bonds or other securities, or in accordance with
6626 the provisions of section fourteen shall first be transferred in the succeeding fiscal year or years
6627 on the books of account of the commonwealth, without appropriation, to the fund which is liable
6628 for the maturities on said bonds or other securities but only in such amount as is necessary to
6629 meet the specific bonds or other securities matured and paid from said fund, if any, in a fiscal
6630 year. When such transfers are no longer required to meet such maturities any balance of said
6631 funds remaining, after setting aside a sufficient amount to cover any such bonds or other
6632 securities which have matured but have not been presented for payment, shall be transferred,
6633 without appropriation, on the books of account of the commonwealth to the fund from which
6634 said bonds or other securities were paid.

6635 Section 58. The state treasurer may, upon terms and regulations prescribed by the
6636 governor and council, issue, in denominations of not less than one thousand dollars, registered
6637 bonds in exchange for any coupon bonds of the commonwealth, which, with the exception of the
6638 coupons, shall be in conformity with the laws authorizing the issue of such coupon bonds. He
6639 shall mutilate and retain the bonds so received in exchange. The comptroller shall certify such
6640 registered bonds; and he and the state treasurer shall each keep a register of their dates, numbers
6641 and amounts, the names of the persons to whom they were issued, when they are payable, and for

6642 what bonds they were issued in exchange. The state treasurer may also, upon the same terms and
6643 regulations, issue in substitution for mutilated, defaced or endorsed bonds presented to him other
6644 bonds of like or equivalent issues.

6645 Section 59. If it appears to the governor and council that any interest-bearing bond of the
6646 commonwealth identified by number and description has, without bad faith upon the part of the
6647 owner, been lost or destroyed, wholly or in part, they shall, under regulations and with
6648 restrictions as to time and retention for security or otherwise prescribed by them, order the state
6649 treasurer to issue a registered duplicate of such bond, payable at the same time, bearing the same
6650 rate of interest as the bond lost or destroyed, and so marked as to show the number and date of
6651 the original bond. If such bond was of a class or series which has been called in for redemption
6652 before the application for a reissue, it shall be paid, with such interest only as would have been
6653 paid if the bond had been presented in accordance with such call.

6654 Section 60. The owner of such bond shall surrender so much thereof as may remain, if
6655 any, and shall give to the state treasurer a bond in double the amount of said lost or destroyed
6656 bond and of the interest which would accrue until the principal is due and payable, with a
6657 sufficient surety, a resident of the commonwealth, approved by the governor and council,
6658 conditioned to indemnify and save harmless the commonwealth from any claim on account of
6659 said lost or destroyed bond.

6660 Section 60A. Unless otherwise specifically provided, provisions contained in any act
6661 heretofore or hereafter enacted by a vote, taken by the yeas and nays of two-thirds of each house
6662 of the general court present and voting thereon, and approved by the governor, authorizing the
6663 state treasurer to issue and sell bonds or notes of the commonwealth or authorizing the

6664 commonwealth to borrow money requiring that the principal of and interest on such bonds or
6665 notes shall be (i) paid by or from a particular fund or funds of the commonwealth now existing or
6666 hereafter created, (ii) part of the debt and expenses of a particular district, or (iii) assessed by
6667 particular methods, or other provisions or words of similar import, shall not affect the status of
6668 such bonds and notes as general obligations of the commonwealth to which the full faith and
6669 credit of the commonwealth is pledged for the payment of principal and interest when due. All
6670 bonds and notes executed in accordance with the provisions of this chapter shall be deemed to be
6671 general obligations of the commonwealth to which its full faith and credit is pledged for the
6672 payment of principal and interest when due, unless specifically provided on the face of such
6673 bond or note to the contrary. All bonds or notes of the commonwealth executed in accordance
6674 with the provisions of this chapter shall have all of the qualities and incidents of negotiable
6675 instruments under the Uniform Commercial Code.

6676 There is hereby established a direct debt limit for the commonwealth which shall apply to
6677 any direct bonds issued whose issuance would cause the sum of the principal amounts of all
6678 direct bonds issued by the commonwealth and then outstanding to exceed the limit set herein;
6679 provided, however, that bonds for the payment or redemption of which, either at or prior to
6680 maturity, refunding bonds shall have been issued, shall be excluded in the computation of
6681 outstanding bonds; and provided, further, that the principal amount of bonds issued at a discount
6682 shall be the original net proceeds of such bonds. For the fiscal year starting July 1, 2011, such
6683 limit shall be $17,070,000,000. For each subsequent fiscal year, the limit shall be the lesser of:
6684 (a) the product of the limit established for the previous fiscal year and 1.05; or (b) the product of
6685 the limit established for the previous fiscal year and the ratio of the value of the implicit price
6686 deflator for state and local government purchases for the preceding fiscal year to such value for

6687 the fiscal year 2 years prior. The calculation described in this paragraph shall be announced by
6688 the treasurer not later than September 30 of any year. The preceding paragraph shall not apply to
6689 direct bonds in excess of the direct debt limit. The treasurer is authorized to issue regulations
6690 enforcing the provisions of this paragraph. Under no circumstances shall the provisions of this
6691 paragraph be interpreted to impair any bond covenants or other guarantees to bond holders
6692 relative to any such bonds or notes issued prior to July 1, 1990.

6693 Section 60B. A. In this section, the following words shall have the following meanings.

6694 1. "Committee", the capital debt affordability committee established under this
6695 section.

6696 2. (a) "Tax supported debt", direct debt, as further described and limited in the
6697 first sentence of the second paragraph of section 60A; and other forms of debt, including state
6698 agency capital leases supported in whole or part by State tax revenues and debt of the department
6699 of transportation, and other units of commonwealth government which, in the opinion of the
6700 committee, are supported directly or indirectly by state tax revenues.

6701 (b) "Tax supported debt", includes debt issued by the department of
6702 transportation under chapter 6C that is secured by a pledge of future federal aid from any source.

6703 B. This section applies only to tax supported debt. This section shall not be construed to
6704 affect the authority of the Governor to submit any bills under the procedures established in
6705 amendments 62 or 63 to the Constitution of Massachusetts, or the authority of the General Court
6706 to continue its independent analysis of commonwealth debt affordability or to consider bills that
6707 authorize commonwealth debt or appropriations bills under amendments 62 or 63 to the
6708 Constitution of Massachusetts.

6709 C. There shall be within the executive office of administration and finance, but not
6710 subject to its supervision or control, a capital debt affordability committee consisting of the
6711 following voting members: the secretary of administration and finance who shall chair the
6712 committee, the treasurer, the comptroller, the secretary of transportation, one individual
6713 appointed by the governor who shall be an expert in public finance and who shall be a resident of
6714 the commonwealth and employed by a public or private institution of higher education, and 2
6715 individuals appointed by the treasurer who shall be experts in state public finance , and who shall
6716 be residents of the commonwealth and not employed by state government, either as a state
6717 employee or as an independent contractor. The house and senate chairs of the committees on
6718 bonding, capital expenditures and state assets and the committees on ways and means shall be
6719 nonvoting members of the committee. Any voting member may delegate his appointment. Each
6720 individual appointed by the secretary or treasurer shall serve terms established by the appointing
6721 authority, but not longer than 4 years. Each appointed individual may serve a second or
6722 subsequent terms, and each appointed individual may continue to serve after his term expires if
6723 desired by the appointing authority.

6724 D. The chairman shall call meetings of the committee as needed to perform its duties.

6725 E. The committee shall review on a continuing basis the size and condition of the
6726 commonwealth tax supported debt as well as other debt of any authority of the commonwealth
6727 that is determined to be a component unit of the commonwealth by the comptroller under
6728 subsection (c) of section 12.of chapter 7A.

6729 (1) On or before September 10 of each year, the committee shall submit to the
6730 governor and the general court the committee's estimate of the total amount of new
6731 commonwealth debt that prudently may be authorized for the next fiscal year.

6732 (2) In making its estimate, the committee shall consider:

6733 (a) the amount of State bonds that, during the next fiscal year:

6734 (i) will be outstanding; and

6735 (ii) will be authorized but unissued;

6736 (b) the capital program prepared by the secretary of administration and
6737 finance;

6738 (c) capital improvement and school construction needs during the next 5
6739 fiscal years, as projected by the Massachusetts School Building Assistance Authority;

6740 (d) projections of debt service requirements during the next 10 fiscal
6741 years;

6742 (e) the criteria that recognized bond rating agencies use to judge the
6743 quality of issues of state bonds;

6744 (f) any other factor that is relevant to:

6745 (i) the ability of the state to meet its projected debt service
6746 requirements for the next 5 fiscal years; or

6747 (ii) the marketability of state bonds;

6748 (g) the effect of authorizations of new state debt on each of the factors set
6749 out in this subsection;

6750 (h) Identification of pertinent debt ratios, such as debt service to General
6751 Fund revenues, debt to personal income, debt to estimated full-value of property, and debt per
6752 capita.

6753 (i) A comparison of the debt ratios prepared for subparagraph (h) with the
6754 comparable debt ratios for the 5 other states in New England, New York and 5 other states the
6755 committee determines to offer a fair comparison to the commonwealth.

6756 (j) A description of the percentage of the state's outstanding general
6757 obligation bonds constituting fixed rate bonds, variable rate bonds, bonds that have an effective
6758 fixed interest rate through a hedging contract, and bonds that have an effective variable interest
6759 rate through a hedging contract. The report shall also include, for each outstanding hedging
6760 contract, a description of the hedging contract, the outstanding notional amount, the effective
6761 date, the expiration date, the name and ratings of the counterparty, the rate or floating index paid
6762 by the state and the rate or floating index paid by the counterparty, and a summary of the
6763 performance of the state's hedging contracts in comparison to the objectives for which the
6764 hedging contracts were executed.

6765 (k) the amount of issuances, debt outstanding, and debt service
6766 requirement of other classes of commonwealth tax supported debt as well as other debt of
6767 commonwealth units.

6768 (3) The estimate of the committee shall be advisory, and shall not bind the
6769 governor or the general court.

6770 F. On or before October 15 of each year, after considering the current estimate of the
6771 committee, the governor shall determine:

6772 (1) the total authorizations of new commonwealth debt that the governor considers
6773 advisable for the next fiscal year; and

6774 (2) the preliminary allocation of new commonwealth debt for capital facility projects;

6775 Section 61. The comptroller or any other person authorized to approve claims for
6776 materials, supplies or other articles furnished to, or for service or labor performed for, the
6777 commonwealth, may, before approving any such claim, require the claimant to certify on oath
6778 that all the articles have been furnished, for which the claim has been made, or that the service or
6779 labor has been performed, and that no commission, discount, bonus, present or reward of any
6780 kind has been received or promised or is expected on account of the same.

6781 Section 63. If a department, commission, board, officer, employee or agent of the
6782 commonwealth is about to expend money or incur obligations purporting to bind the
6783 commonwealth for any purpose or object or in any manner other than that for and in which such
6784 department, commission, board, officer, employee or agent has the legal and constitutional right
6785 and power to expend money or incur obligations, the supreme judicial or superior court may,
6786 upon the petition of not less than twenty-four taxable inhabitants of the commonwealth, not more
6787 than six of whom shall be from any one county, determine the same in equity, and may, before
6788 the final determination of the cause, restrain the unlawful exercise or abuse of such right and
6789 power.

6790 Section 64. The state treasurer, on behalf of the commonwealth, may contract with an
6791 employee to defer a portion of that employee's compensation and may, for the purposes of

6792 funding a deferred compensation program for the employee, established in accordance with the
6793 United States Internal Revenue Code, the “Code", invest the deferred portion of the employee's
6794 income in a life insurance or annuity contract, mutual fund, a bank investment trust, and/or
6795 additional investment alternatives available under the program. The treasurer, before making the
6796 investment, shall solicit bids from fund managers, investment managers, and insurance
6797 companies authorized to conduct business within the commonwealth pursuant to chapter 175,
6798 mutual fund managers, and banks, which bids shall be sealed, and opened at a time and place
6799 designated by the treasurer. A bid submitted by an insurance company, mutual fund, bank
6800 investment trust or other fund manager or investment manager, to fund the deferred
6801 compensation program shall, where applicable, clearly indicate the interest rate which shall be
6802 paid on the deferred funds, the commissions which will be paid to the salesmen, the load
6803 imposed for the purpose of administering the funds, mortality projections, expected payouts, tax
6804 implications for participating employees and other information as the treasurer may require. Any
6805 contract entered into between an employee and the commonwealth pursuant to this section shall
6806 include the information in terms the employee can reasonably be expected to understand.

6807 As used in this section the word “employee" shall have the same meaning as “employee"
6808 in section 1 of chapter 32 and shall include members of the state police temporarily assigned to
6809 and paid by the Massachusetts Department of Transportation, the Massachusetts Port Authority
6810 or any other board, agency, commission or authority to which they may be temporarily assigned
6811 and by which they are paid, and consultants and independent contractors who are natural persons
6812 paid by the commonwealth.

6813 An employee may defer compensation; provided, however, that such deferral does not
6814 exceed the maximum allowable under the appropriate provisions of the Code, as amended and in
6815 effect for the taxable year, and appropriate regulations thereunder.

6816 Such deferred compensation program shall be in addition to and not a part of the
6817 retirement program or pension system as provided under said chapter 32 and any other benefit
6818 program provided by law for such employee. Any compensation deferred under such a plan
6819 shall continue to be included as regular compensation, as defined in section 1 of said chapter 32,
6820 for the purpose of computing the retirement and pension benefits earned by any such employee,
6821 but any compensation so deferred shall not be included in the computation of any taxes withheld
6822 on behalf of any such employee.

6823 The state treasurer, on behalf of the commonwealth, shall contract with every person,
6824 who is receiving compensation from the commonwealth for services performed for the
6825 commonwealth and who is not eligible for membership or has exercised an option not to
6826 participate in the state retirement system set forth in chapter 32, to defer a portion of that person's
6827 compensation, and shall invest the deferred portion of that person's income in a deferred
6828 compensation program established in accordance with said Code. For persons holding positions
6829 which would have rendered the holder of the position eligible for participation in the
6830 commonwealth's deferred compensation program on November 5, 1990, the state treasurer shall
6831 contract for plan years prior to January 1, 1993, to defer 6 per cent of that person's regular
6832 compensation, as defined in section 1 of chapter 32 for the period subsequent to December 31,
6833 1945, but no greater than the maximum deferral allowable for that person pursuant to the
6834 provisions of said Code for government deferred compensation programs. For persons holding
6835 positions which would not have rendered the holder of the position eligible for participation in

6836 the commonwealth's deferred compensation program on November 5, 1990, the state treasurer
6837 shall contract to defer 7 ½ per cent of that person's regular compensation, as defined in said
6838 section 1 of said chapter 32 for the period subsequent to December 31, 1945, but no greater than
6839 the maximum deferral allowable for that person pursuant to the provisions of said Code for
6840 government deferred compensation programs.

6841 Notwithstanding the provisions of this section, the state treasurer need not contract with
6842 any part-time, seasonal or temporary employee not required by said Code to participate in a
6843 public retirement system. All contracts formed with part-time, seasonal or temporary employees
6844 pursuant to the provisions of the previous paragraph shall entitle the employee to a single-sum
6845 distribution of the employee's deferrals plus reasonable interest.

6846 Nothing in this section shall be construed to create or grant any rights not previously
6847 enjoyed under chapter 32A or chapter150E.

6848 Section 64A. The state treasurer of the commonwealth, on behalf of the commonwealth,
6849 may contract with an employee to make contributions for and in the name of such employee,
6850 from amounts otherwise payable to the employee as current compensation, to an Individual
6851 Retirement Account (“IRA") by such employee established in accordance with the U.S. Internal
6852 Revenue Code, (the “Code"). The participating employee may invest that portion of his income
6853 so contributed to an IRA in an annuity contract, mutual fund, bank investment trust or other
6854 investment authorized by the Code. Before making such deduction, the treasurer shall be
6855 required to solicit bids from insurance companies authorized to conduct business within the
6856 commonwealth pursuant to chapter 175, mutual fund managers, and banks, which bids shall be
6857 sealed, and opened at a time and place designated by the treasurer. Any bid submitted by an

6858 insurance company, mutual fund, or bank investment trust seeking investment of the IRA
6859 contribution shall, where applicable, clearly indicate the interest rate which shall be paid on the
6860 invested funds, any commissions which will be paid to the salesmen, any load imposed for the
6861 purpose of administering the funds, expected payouts, tax implications for participating
6862 employees and such other information as the treasurer may require. Upon the treasurer's
6863 determining which provider offers the product or products most beneficial to the employee in
6864 each category for which bids were solicited, the treasurer may offer such employee the
6865 opportunity to establish an IRA with 1 or more such providers. The employee who wishes to
6866 invest his IRA funds with any such provider, or combination of providers, may authorize the
6867 treasurer to deduct from amounts otherwise payable to the employee, at one time or on a periodic
6868 basis, amounts to be paid into the employee's IRA. If the employee so elects, the treasurer shall
6869 pay to the providers the amount designated by the employee, in the name of the employee, to the
6870 employee's IRA. Amounts so paid to the providers for the employee's IRA account shall belong
6871 exclusively to the employee. Except as otherwise provided herein, the treasurer may restrict an
6872 employee's right to contract to have contributions made to an IRA through deductions and
6873 payments by the treasurer, to those providers selected as the result of the competitive bidding
6874 process outlined herein, but the authority conferred upon the treasurer shall not be construed to
6875 restrict or limit the right of any employee to establish one or more IRAs with such banks,
6876 insurance companies, or similar authorized institutions as the employee may choose in any
6877 manner other than through an authorized deduction by the treasurer of a portion of the employees
6878 compensation as outlined herein. Any contract entered into between an employee and the
6879 commonwealth pursuant to this section shall include all information in terms the employee can
6880 reasonably be expected to understand.

6881 As used in this section the word “employee" shall have the same meaning as “employee"
6882 in section 1 of chapter 32 and shall include members of the state police temporarily assigned to
6883 and paid by the Massachusetts Department of Transportation, the Massachusetts Port Authority
6884 or any other board, agency, commission or authority to which they may be temporarily assigned
6885 and by which they are paid, and consultants and independent contractors who are natural persons
6886 paid by the commonwealth.

6887 An employee may contribute a portion of his compensation to an IRA under the program
6888 outlined herein so long as such contribution, for an employee who is single, is the lesser of
6889 $2,000 or 100 per cent of his compensation for a taxable year, and, for an employee who is
6890 married, the contribution is the lesser of $2,250 or 100 per cent of his compensation for a taxable
6891 year. If an employee has any compensation deferred under a deferred compensation plan for
6892 employees of the commonwealth, if one is established by the treasurer under section 64, then the
6893 aggregate amount of such deferred compensation deduction and amounts contributed to such
6894 employee's IRA shall not exceed the limits imposed upon such combined deduction and
6895 contribution by the Code.

6896 Notwithstanding any provisions to the contrary, the treasurer shall not be required to
6897 solicit bids to invest the contributed portion of an employee's income into the employee's IRA
6898 provided: (a) the treasurer is authorized by the employee to pay that portion of the employee's
6899 compensation into the employee's IRA in the same investment products as provided through a
6900 deferred compensation or IRA plan for employees of the commonwealth administered by the
6901 state treasurer, or a deferred compensation plan for employees of the city or town administered
6902 by the treasurer, provided such plan resulted from the solicitation of bids in accordance with
6903 bidding requirements comparable to those required under this section; or (b) the treasurer is

6904 authorized by the employee to pay that portion of the employee's compensation into the
6905 employee's IRA in the investment products offered pursuant to a deferred compensation plan or
6906 an IRA investment option program developed through a competitive selection process, provided
6907 that such plan or program resulted from the solicitation of bids by a group of any combination of
6908 3 or more city, town, county or public authority treasurers acting as a “Common Group" for
6909 purposes of soliciting such proposals in accordance with bidding requirements comparable to
6910 those required under this section.

6911 Such IRA plan shall be in addition to and not a part of the retirement program or pension
6912 system as provided under said chapter 32 and any other benefit program provided by law for
6913 such employee. Any compensation contributed by the employee to his IRA under such a plan
6914 shall continue to be included as regular compensation, as defined in section 1 of said chapter 32,
6915 for the purpose of computing the retirement and pension benefits earned by any such employee,
6916 but any compensation so contributed shall not be included in the computation of federal taxes but
6917 shall be included in the computation of state taxes withheld on behalf of any such employee.

6918 Section 64B. The treasurer or, if there is no treasurer, the chief financial officer by
6919 whatever name that person is called, on behalf of any political subdivision, body politic and
6920 corporate, or public instrumentality created by the commonwealth or any county, city or town or
6921 group thereof by whatever name the body is called, including without limitation, an agency,
6922 authority, board, corporation or district, including also without limitation, any regional school,
6923 police, fire, refuse or sewage district, and hereinafter referred to as a “governmental body,”
6924 which is not otherwise subject to any general or special law authorizing deferred compensation
6925 contracts with its employees, may contract with an employee of such governmental body to defer
6926 a portion of an employee’ compensation and may, for the purposes of funding a deferred

6927 compensation program for said employee, established in accordance with the U.S. Internal
6928 Revenue Code, (the "Code") invest the deferred portion of the employee' income in a life
6929 insurance or annuity contract, mutual fund, or a bank investment trust. The treasurer or chief
6930 financial officer shall, before making any such investment, solicit bids from insurance companies
6931 authorized to conduct business within the commonwealth pursuant to chapter 175, mutual fund
6932 managers, and banks, which bids shall be sealed, and opened at a time and place designated by
6933 the treasurer or chief financial officer. Any bid submitted by an insurance company, mutual fund,
6934 or bank investment trust to fund the deferred compensation program shall, where applicable,
6935 clearly indicate the interest rate which shall be paid on the deferred funds, any commissions
6936 which will be paid to the salesmen, any load imposed for the purpose of administering the funds,
6937 mortality projections, expected payouts, tax implications for participating employees and such
6938 other information as the treasurer or chief financial officer may require. Any contract entered
6939 into between an employee and the governmental body pursuant to this section shall include all
6940 such information in terms the employee can reasonably be expected to understand.

6941 As used in this section the word "employee" shall have the same meaning as the word
6942 "employee" in section 1 of chapter 32 and shall include consultants and independent contractors
6943 who are natural persons paid by the governmental body.

6944 Notwithstanding any general or special law to the contrary, the treasurer or chief financial
6945 officer shall not be required to solicit bids to invest the deferred portion of an employee' income
6946 provided: (a) the treasurer or chief financial officer elects to invest such funds in the same
6947 investment products as are provided through the deferred compensation plan for employees of
6948 the commonwealth administered by the state treasurer, provided such plan resulted from the
6949 solicitation of bids in accordance with bidding requirements comparable to those required under

6950 this section; or (b) the treasurer or chief financial officer elects to invest such funds in the
6951 investment products offered pursuant to a plan developed through a competitive process,
6952 provided that such plan resulted from the solicitation of bids by a group of any combination of 3
6953 or more city, town, county or public authority treasurers or treasurers or chief financial officers
6954 of governmental bodies covered by this section acting as a "Common Group" for purposes of
6955 soliciting such proposals in accordance with bidding requirements comparable to those required
6956 under this section.

6957 An employee may defer compensation; provided, however, that such deferral does not
6958 exceed the maximum allowable under the appropriate provisions of the Code, as amended and in
6959 effect for the taxable year, and appropriate regulations thereunder.

6960 Such deferred compensation program shall be in addition to and not a part of any
6961 retirement program or pension system as provided under said chapter 32 and any other benefit
6962 program provided by law for such employee. Any compensation deferred under such a plan
6963 shall continue to be included as regular compensation, as defined in section 1 of said chapter 32,
6964 for the purpose of computing any retirement and pension benefits earned by any such employee,
6965 but any compensation so deferred shall not be included in the computation of any taxes withheld
6966 on behalf of any such employee.

6967 Section 64C. The treasurer or, if there is no treasurer, the chief financial officer, by
6968 whatever name that person is called, of any political subdivision, body politic and corporate, or
6969 public instrumentality created by the commonwealth or by any county, city, or town or group
6970 thereof by whatever name the body is called, including without limitation an agency, board,
6971 authority, corporation or district, including, also without limitation, any regional school, police,

6972 fire, refuse or sewage district, hereinafter referred to as a “governmental body,” which is not
6973 subject to a general or special law authorizing deferred compensation contracts with its
6974 employees, may contract with an employee of that governmental body to make contribution for
6975 and in the name of such employee, from amounts otherwise payable to the employee as current
6976 compensation, to an Individual Retirement Account (“IRA”) by such employee established in
6977 accordance with the U.S. Internal Revenue Code, (the “Code”). The participating employee may
6978 invest that portion of his income so contributed to an IRA in an annuity contract, mutual fund,
6979 bank investment trust or other investment authorized by the Code. Before making such
6980 deduction, the treasurer or chief financial officer shall be required to solicit bids from insurance
6981 companies authorized to conduct business within the commonwealth pursuant to chapter 175,
6982 mutual fund managers and banks, which bids shall be sealed and opened at a time and place
6983 designated by the treasurer or chief financial officer. Any bid submitted by an insurance
6984 company, mutual fund, or bank investment trust seeking investment of the IRA contribution
6985 shall, where applicable, clearly indicate the interest rate which shall be paid on the invested
6986 funds, any commissions which will be paid to the salesmen, any load imposed for the purpose of
6987 administering the funds, expected payouts, tax implications for participating employees and such
6988 other information as the treasurer or chief financial officer may require. Upon the treasurer’ or
6989 chief financial officer’ determining which provider offers the product or products most beneficial
6990 to the employee in each category for which bids were solicited, the treasurer or chief financial
6991 officer may offer such employee the opportunity to establish an IRA with one or more such
6992 providers. The employee who wishes to invest his IRA funds with such provider, or combination
6993 of providers, may authorize the treasurer or chief financial officer to deduct from amounts
6994 otherwise payable to the employee, at one time or on a periodic basis, amounts to be paid into the

6995 employee' IRA. If the employee so elects, the treasurer or chief financial officer shall pay to the
6996 providers the amount designated by the employee, in the name of the employee, to the employee'
6997 IRA. Amounts so paid to the providers for the employee' IRA account shall belong exclusively
6998 to the employee. Except as otherwise provided herein, the treasurer or chief financial officer may
6999 restrict an employee' right to contract to have contributions made to an IRA through deductions
7000 and payments by the treasurer or chief financial officer, to those providers selected as the result
7001 of the competitive bidding process outlined herein, but the authority conferred upon the treasurer
7002 or chief financial officer shall not be construed to restrict or limit the right of any employee to
7003 establish one or more IRAs with such banks, insurance companies, or similar authorized
7004 institutions as the employee may choose in any manner other than through an authorized
7005 deduction by the treasurer or chief financial officer of a portion of the employee' compensation
7006 as outlined herein. Any contract entered into between an employee and the governmental body
7007 pursuant to this section shall include all information in terms the employee can reasonably be
7008 expected to understand.

7009 As used in this section the word "employee" shall have the same meaning as the word
7010 "employee" in section 1 of chapter 32 and shall also include consultants and independent
7011 contractors who are natural persons paid by the governmental body.

7012 An employee may contribute a portion of his compensation to an IRA under the program
7013 outlined herein so long as such contribution, for an employee who is single, is the lesser of
7014 $2,000 or 100 per cent of his compensation for a taxable year, and, for an employee who is
7015 married, the contribution is the lesser of $2,250 or 100 per cent of his compensation for a taxable
7016 year, such dollar amount to be adjusted to reflect any applicable amendments to the code adopted
7017 from time to time. If an employee has any compensation deferred under a deferred compensation

7018 plan for employees of the governmental body, if one is established by the treasurer or chief
7019 financial officer under section 64B, then the aggregate amount of such deferred compensation
7020 deduction and amounts contributed to such employee' IRA shall not exceed the limits imposed
7021 upon such combined deduction and contribution by the Code.

7022 Notwithstanding any provisions to the contrary, the treasurer or chief financial officer
7023 shall not be required to solicit bids to invest the contributed portion of an employee' income into
7024 the employee' IRA provided: (a) the treasurer or chief financial officer is authorized by the
7025 employee to pay that portion of the employee' compensation into the employee' IRA in the same
7026 investment products as are provided through a deferred compensation or IRA plan for employees
7027 of the commonwealth administered by the state treasurer or a deferred compensation plan for
7028 employees of the governmental body administered by the treasurer or chief financial officer,
7029 provided such plan resulted from the solicitation of bids in accordance with bidding requirements
7030 comparable to those required under this section; or (b) the treasurer or chief financial officer is
7031 authorized by the employee to pay that portion of the employee' compensation into the
7032 employee' IRA in the investment products offered pursuant to a deferred compensation or IRA
7033 plan developed through a competitive selection process, provided that such plan resulted from
7034 the solicitation of bids by a group of any combination of 3 or more city, town, county or public
7035 authority treasurers or treasurers or chief financial officers of government bodies covered by this
7036 section acting as a "Common Group" for purposes of soliciting such proposals in accordance
7037 with bidding requirements comparable to those required under this section.

7038 Such IRA plan shall be in addition to and not a part of any retirement program or pension
7039 system as provided under said chapter 32 and any other benefit program provided by law for
7040 such employee. Any compensation contributed by the employee to his IRA under such a plan

7041 shall continue to be included as regular compensation, as defined in section 1 of said chapter 32,
7042 for the purpose of computing any retirement and pension benefits earned by any such employee,
7043 but any compensation so contributed shall not be included in the computation of federal taxes but
7044 shall be included in the computation of state taxes withheld on behalf of any such employee.

7045 Section 64D. Any governmental body, as defined in section 64B, may require any person,
7046 who is receiving compensation from the governmental body for services performed and who is
7047 not a member of a retirement system as provided under chapter 32 or any other retirement system
7048 which meets the requirements of Section 3121(b)(7)(F) of the Internal Revenue Code and the
7049 regulations promulgated thereunder, to participate in the deferred compensation program
7050 established with regard to the governmental body, or tax sheltered annuity or any other defined
7051 contribution plan. The treasurer, or if there is no treasurer, the chief financial officer by whatever
7052 name that person is called, on behalf of a governmental body which has accepted the provisions
7053 of this section shall contract with any person, who is receiving compensation from the
7054 governmental body for services performed for the governmental body and who is not eligible for
7055 membership in the retirement system set forth in said chapter 32 that pertains to the
7056 governmental body, to withhold from that person' compensation at least such amounts as are
7057 necessary to provide the minimum level of benefits required to qualify said deferred
7058 compensation program, tax sheltered annuity or other defined contribution plan as a retirement
7059 system for said person as defined under said Section 3121(b)(7)(F) of said Code and the
7060 regulations promulgated thereunder but no greater than permitted under other provisions of the
7061 Internal Revenue Code.

7062 All contracts formed with part-time, seasonal or temporary employees pursuant to the
7063 provisions of the first paragraph shall entitle the employee to a single-sum distribution of the
7064 employee' deferral plus reasonable interest.

7065 A governmental body may accept the provisions of this section by a majority vote of the
7066 selectmen for a town, the city council for a city, the county council for a county, the district
7067 members in a district, the members of the authority in an authority, and the governing body, by
7068 whatever name and in whatever form composed, in any other political subdivision, body politic
7069 and corporate, or public instrumentality created by the commonwealth.

7070 Any governmental body already requiring, on the effective date of this act, participation
7071 in a public retirement system for persons who are receiving compensation from the governmental
7072 body for services performed and who are not members of a retirement system as provided under
7073 said chapter 32 shall be deemed to have accepted this section without the requirement of a
7074 majority vote of the selectmen for a town, the city council for a city, the county council for a
7075 county, the district members in a district, the members of the authority in an authority, and the
7076 governing body, by whatever name and in whatever form composed, in any other political
7077 subdivision, body politic and corporate, or public instrumentality created by the commonwealth.

7078 Section 65. The secretary having charge of any of the executive offices established by
7079 chapters 6A and 7 may by rule or regulation not inconsistent with the law delegate to 1 officer
7080 within the office of the secretary, in whole or in part, the authority to exercise in his name any
7081 power, or to discharge in his name any duty conferred upon such secretary by sections 27A, 27B,
7082 29, and 29A; sections 24C, 25B, 36 and paragraph (5A) of section 46 of chapter 30; and section
7083 15, section 15F, section 16A, and section 16B of chapter 31.

7084 The secretary of administration and finance shall from time to time make a random
7085 examination of approvals granted and actions taken by such secretary or his designee identified
7086 in the preceding paragraph, under the provisions of the aforementioned sections, in order to
7087 determine the extent of compliance with the provisions of such sections and the rules or
7088 regulations established thereunder. Following any such examination, the secretary of
7089 administration and finance may, after consultation with the secretary, by order transfer from such
7090 officer to the secretary of administration and finance, for such period of time as said secretary
7091 deems appropriate, the authority to give such approvals or to take such actions. Upon making
7092 such order, the secretary of administration and finance shall forthwith file a copy of said order
7093 with the budget director, the comptroller, and the house and senate committees on ways and
7094 means, specifying the scope of the authority so transferred and the duration of said transfer.

7095 Section 66. Any officer or employee who knowingly violates, authorizes or directs
7096 another officer or employee to violate of this chapter, or any rule or regulation promulgated
7097 thereunder, or any other law relating to the incurring of liability or expenditure of public funds,
7098 shall be punished by a fine of not more than $1,000 or by imprisonment in a jail or house of
7099 correction for not more than 1 year, or both.

7100 Section 71. This chapter shall not be construed to affect the obligation of the state
7101 treasurer to withhold from the receipts, distributions, reimbursements or other assistance payable
7102 to any city, town or other local governmental unit under any reimbursement, grant, assistance or
7103 other local aid program any amount determined in accordance with section 10 of chapter 44 A or
7104 any amount certified to the state treasurer as owing to a public instrumentality of the
7105 commonwealth pursuant to paragraph (b) of section 10 of chapter 372 of the acts of 1984 or

7106 paragraph (d) of section 10 or section 11 of chapter 29 C, or any similar provision relative to
7107 local aid intercepts.

7108 SECTION 98. Chapter 58 of the General Laws, as so appearing, is hereby amended by
7109 striking out section 18C and inserting in place thereof the following section:-

7110 Section 18C.(a) In this section, "budgeted aid" shall mean unrestricted aid to cities and
7111 towns, including proceeds from the state lottery established under chapter 10, payments in lieu of
7112 taxes from the commonwealth to cities and towns and education aid to cities and towns under
7113 chapter 70.

7114 (b) In fiscal year 2012 and each fiscal year thereafter, the state treasurer shall, subject to
7115 appropriation but not subject to allotment under section 9B of chapter 29, distribute budgeted aid
7116 to cities and towns. The distribution shall be made in 12 equal payments, on or before the last
7117 day of each month.

7118 Notwithstanding clause Forty-first of section 7 of chapter 4 or any other general or
7119 special law to the contrary, the commissioner of revenue or any official responsible for a local
7120 reimbursement or assistance program reported by said commissioner under section 25A shall
7121 use, as appropriate, the most recent city and town population estimates of the United States
7122 Bureau of the Census in calculating distributions or assessments under local reimbursement or
7123 assistance programs. Such distribution programs shall include, but not be limited to, the chapter
7124 70 school aid program, and aid to regional public libraries. Such assessments shall include, but
7125 not be limited to, air pollution control districts, the metropolitan area planning council, the old
7126 colony planning council, the Massachusetts Bay Transportation Authority and any other entity
7127 for which said commissioner is required to give notice under said section 25A.

7128 (c) This section shall not be construed to prohibit the distribution of other state
7129 government payments to cities and towns that are not budgeted aid through one or more of the
7130 monthly payments to cities and towns. Nor shall this section be construed to prohibit the
7131 deduction from distributions to satisfy amounts owed to the state by cities and towns under
7132 section 20A or any other general or special law.

7133 SECTION 99. Section 2 of chapter 62F of the General Laws, as appearing in the 2008
7134 Official Edition, is hereby amended by striking out the definitions of "Cumulative net state tax
7135 revenues,", "Cumulative permissible tax revenues,", "Permissible revenue growth rate," and
7136 "Permissible tax revenue,".

7137 SECTION 100. Section 6A of said chapter 62F is hereby repealed.

7138 SECTION 101. Chapter 81 of the General Laws is hereby amended by inserting after
7139 section 8A the following 2 sections:-

7140 Section 8B. The commissioner of highways or the commissioner of the department of
7141 conservation and recreation shall require that any person proposing to bid on any work,
7142 excepting the construction, reconstruction, repair or alteration of buildings, to be awarded by the
7143 division of highways or by the department of conservation and recreation, respectively, and the
7144 commissioner of highways shall require that any person proposing to bid on any such work to be
7145 awarded by a municipality under section 34 of chapter 90, submit a statement under the penalties
7146 of perjury setting forth his qualifications to perform such work. Such statement shall be in such
7147 detail and form and shall be submitted at such times as such commissioner may prescribe under
7148 rules promulgated by said division or commission, respectively, subject to the requirements of
7149 chapter 30A. Such rules may require such information as may be necessary to implement this

7150 section and may establish a basis for the classification and maximum capacity rating of bidders
7151 which shall determine the class and aggregate amount of work such bidders are qualified to
7152 perform. The statement shall set forth, among other matters that may be prescribed by the rules,
7153 the proposed bidders' financial resources, his current bonding capacity, his experience, the
7154 number and kinds of equipment which he has for use on such work, and the number, size and
7155 completion dates of other construction jobs, whether in this state or another state, which he has
7156 under contract. The information contained within such statement, together with other relevant
7157 available information and the proposed bidder' past performance on work of a similar nature,
7158 may be considered by said division or commission in determining whether or not the proposed
7159 bidder is qualified to perform any specific work for which proposals to bid are invited.

7160 Based on information received and available and on past performance of the prospective
7161 bidder on work of a similar nature, each such commissioner, acting through a prequalification
7162 committee consisting of engineering personnel of said division or commission, respectively, to
7163 be appointed by him, shall determine the class and aggregate amount of work that a prospective
7164 bidder is qualified to perform, and shall limit a proposed bidder to such class and aggregate
7165 amount of work as he may be qualified to perform. Said aggregate amount of work shall not be
7166 less than the amount of the bidder' current bonding capacity, as verified to the commissioner'
7167 satisfaction, by a surety company incorporated pursuant to section 105 of chapter 175, or
7168 authorized to do business in the commonwealth under section 106 of said chapter 175, and
7169 satisfactory to the commissioner; provided, however, that if there is more than 1 surety company,
7170 the surety companies shall be jointly and severally liable. Said division or commission shall limit
7171 the bid proposals to be furnished to a prospective bidder to such bidders as are determined by its
7172 commissioner to have the classification and capacity rating to perform the work required.

7173 Any such statement filed with either such commissioner by a prospective bidder shall be
7174 confidential, and shall be used only by the division of highways or the department of
7175 conservation and recreation, as the case may be, in determining the qualifications of such
7176 prospective bidder to perform work for said division or commission, or for a municipality under
7177 the provisions of said section 34. No information contained in such statement shall be imparted
7178 to any other person without the written consent of said bidder.

7179 If any prospective bidder fails to file the statement required by this section, or if, in the
7180 judgment of the commissioner, the prospective bidder is not qualified to carry out the work
7181 required under a contract which is proposed to be awarded, the commissioner shall refuse to
7182 furnish such prospective bidder with bid proposals for such work and shall reject any bid by such
7183 prospective bidder for such work.

7184 Only persons filing the statement required herein shall be authorized as prime contractors
7185 and then only as to the class and aggregate amount of work which their qualifications warrant.

7186 Any bidder qualified as authorized herein shall be promptly notified by the
7187 commissioner.

7188 Any prospective bidder who is aggrieved by any decision or determination of the
7189 prequalification committee or the commissioner which affects his right to bid may file a new
7190 application for qualification at any time, or within fifteen days after receiving notice of such
7191 decision the applicant may request in writing a hearing before an appeal board to reconsider his
7192 application or qualifications. The appeal board in the division of highways shall consist of the
7193 commissioner, the associate commissioners and the chief engineer of highways, or their
7194 designees, and the appeal board in the department of conservation and recreation shall consist of

7195 the commissioner, the associate commissioners, and the director or chief engineer of the division
7196 involved, or their designees.

7197 Any bidder or prospective bidder who so requests shall be granted a hearing by such
7198 appeal board at which he may submit any and all additional information or evidence bearing
7199 upon his finances, current bonding capacity, experience or other qualifications which may be
7200 relevant thereto. Such hearing shall be held without delay and the board shall promptly render its
7201 decision after taking into consideration all relevant information or evidence submitted relating to
7202 the bidder' qualifications. The appeal board may modify, amend or reverse any previous decision
7203 of the prequalification committee or the commissioner with respect to the qualification of the
7204 applicant or may sustain such previous decision. Such hearing shall be deemed to be an
7205 adjudicatory proceeding, and any bidder or prospective bidder who is aggrieved by the decision
7206 of the appeal board shall have a right to judicial review under said chapter 30A.

7207 The commissioner of highways or the commissioner of the department of conservation
7208 and recreation shall not consider any bid filed with him by any person for any contract to be
7209 awarded by said division or commission, respectively, who has not been qualified as required by
7210 the rules promulgated by said division or commission, and any such bid of any unqualified
7211 bidder may be rejected without being opened. No contract shall be awarded to any bidder not
7212 qualified to bid thereon at the time fixed for receiving bids.

7213 Any person, firm or corporation who knowingly and willfully makes, or causes to be
7214 made, any false or fraudulent statement in any application for qualification filed with such
7215 department or commission as required herein shall, upon final conviction, be disqualified from

7216 submitting bids on contracts advertised by the division or commission for a period of one year
7217 following the date of said conviction.

7218 This section shall not apply to any prospective bidder the aggregate amount of whose
7219 work with said division of highways or with the department of conservation and recreation,
7220 including the amount of his proposal, is less than $50,000.

7221 Section 8C. Any contract for the resurfacing, maintenance, minor reconstruction, or
7222 minor repair of any major state highway or numbered route within the city of Boston, between
7223 said city and state highway route 128, of state highway route 3 as far south as the junction of
7224 state highway route 139, on which the average daily traffic exceeds 70,000 vehicles per day, and
7225 any contract for the maintenance, minor reconstruction, or minor repair of state highway route
7226 128 between its junction with state highway route 3 in the town of Braintree and its junction with
7227 U.S. route 1 in the town of Lynnfield, to be awarded by the division of highways, the department
7228 of conservation and recreation, or by a municipality under section 34 of chapter 90 shall, unless
7229 such contract involves the performance of emergency work as hereinafter described, provide that
7230 no work shall be performed between the hours of 6:30 and 9:00 ante meridian on lanes inbound
7231 to the city of Boston or between the hours of 4:00 and 6:00 post meridian on lanes outbound
7232 from the city of Boston, Monday through Friday, except holidays. No such work, except
7233 emergency work, shall be performed on such a highway or route by a public employee during
7234 such hours. As used in this section emergency work shall include only those projects
7235 immediately necessary to insure the safety of persons using such highways or routes.

7236 SECTION 102. Each executive office shall comply with the requirements of section 4A
7237 of chapter 6A of the General Laws, as inserted by section 12 of this act, and section 4R of

7238 chapter 7 of the General Laws, as inserted by section 29 of this act not later than July 1, 2012.
7239 Such compliance shall be documented in reports by each executive office to the house and senate
7240 committees on ways and means, the house and senate committees on post-audit and oversight
7241 and the joint committee on state administration and regulatory oversight not later than July 1,
7242 2012.

7243 SECTION 103. The state lottery commission shall comply with the requirements of
7244 section 26A of chapter 10 of the General laws, as inserted by section 87 of this act, not later than
7245 July 1, 2012. Such compliance shall be documented in a report by the state lottery commission to
7246 the house and senate committees on ways and means, the house and senate committees on post-
7247 audit and oversight and the joint committee on state administration and regulatory oversight not
7248 later than July 1, 2012.

7249 SECTION 104. The comptroller shall promulgate the schedule of revenue accounts, as
7250 required in section 2 of chapter 29 of the General Laws, as inserted by section 97, not later than
7251 June 30, 2012.

7252 SECTION 105. Any appropriation previously available for expenditure in multiple fiscal
7253 years under section 14 of chapter 29 of the General Laws shall not be available after June 30,
7254 2011.

7255 SECTION 106. The state treasurer shall competitively procure any fund established
7256 under section 38A of chapter 29 of the General Laws, as inserted by section 97, not later than
7257 September 30, 2011.

7258 SECTION 107. Sections 82 and 83 shall take effect for the fiscal year ending on June 30,
7259 2011.

7260 SECTION 108. Section 98 shall take effect for the fiscal year starting on July 1, 2012.

7261 SECTION 109. Except as otherwise specified, this act shall take effect on July 1, 2011.