

**SECTION 4.** Clause (20) of subsection (a) of section 172 of chapter 6 of the General Laws, as appearing in section 21 of chapter 256 of the acts 2010, is hereby amended by striking out the figure "183" and inserting in place thereof the following words:- 57A of chapter 6C.

**SECTION 5.** Section 183 of said chapter 6 is hereby repealed.

**SECTION 6.** Section 18½ of chapter 6A of the General Laws is hereby amended by striking out, in lines 12 and 13, as appearing in the 2008 Official Edition, the words "the registry of motor vehicles, the merit rating board".

**SECTION 7.** Chapter 6C of the General Laws is hereby amended by inserting after section 57 the following section:-

Section 57A. (a) There shall be within the registry of motor vehicles a motor vehicle insurance merit rating board, in this section called the merit rating board. The merit rating board shall consist of the registrar of motor vehicles, who shall serve as chair, the commissioner of insurance and the attorney general or her designee. The merit rating board shall appoint a director, who shall not be subject to chapter 31. The merit rating board shall formulate and administer a plan for the compiling, gathering and disseminating of information, including operator records and histories, and other data as it deems necessary or appropriate pertaining to motor vehicle accidents, claims under motor vehicle policies and motor vehicle violations in order to facilitate the implementation and operation of the safe driver insurance plan provided in section 113B of chapter 175.

(b) The plan shall include a system for the gathering and maintaining of this information and for its prompt and efficient dissemination to insurance companies making inquiry with respect to the motor vehicle accident, motor vehicle insurance claim and motor vehicle violation record of any owner or operator insured by or applying for insurance from that insurer. These records and data disseminated by the plan shall be used exclusively for motor vehicle insurance purposes and criminal law enforcement purposes. Whoever disseminates or uses records or data disseminated under such plan contrary to this section shall be punished by a fine of not more than \$1,000 for each offense or by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine and imprisonment.

(c) The merit rating board shall have access to criminal offender record information for the purpose of developing the plan. The department of criminal justice information services shall certify the merit rating board and each insurance company doing motor vehicle insurance business within the commonwealth for access to criminal offender record information pertaining to violations of chapter 90 by its insureds. The merit rating board and each such company shall comply with the regulations of the department of criminal justice information services and be subject to sections 172 to 178, inclusive, of chapter 6.

(d) The merit rating board may expend for expenses and for legal, investigative, clerical and other assistance amounts appropriated for those purposes. All costs of administration and operation of the merit rating board shall be borne by insurance companies doing motor vehicle insurance business within the commonwealth. The commissioner of insurance shall apportion estimated costs among all such companies and shall assess them for those costs on a fair and reasonable basis. These estimated costs shall be paid to the commissioner within 30 days after the date of the notice from the commissioner of these estimated costs. The commissioner shall subsequently apportion actual costs among all such companies and shall make assessment adjustments for any variation between estimated and actual costs on a fair and reasonable basis. These estimated and actual costs shall include an amount equal to indirect costs as determined by the secretary of administration and finance and shall also include the cost of fringe benefits as established by the secretary of administration and finance.

**SECTION 8.** The first paragraph of section 4A of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- The executive office shall also include an office of commonwealth performance, accountability and transparency.

**SECTION 9.** Said section 4A of said chapter 7 is hereby amended by striking out, in line 74, as so appearing, the word "secretary" and inserting in place thereof the following word:- governor.

**SECTION 10.** The first paragraph of paragraph (d) of said section 4A of said chapter 7, as so appearing, is hereby further amended by adding the following sentence:- The division may also offer information technology services to the authorities, constitutional offices, municipalities and other political subdivisions of the commonwealth.

**SECTION 11.** Said section 4A of said chapter 7, as amended by section 8 of chapter 56 of the acts of 2010, is hereby further amended by adding the following paragraph:-

(e) The office of commonwealth performance, accountability, and transparency shall be headed by an assistant secretary for commonwealth performance, accountability and transparency, to be appointed by the secretary. The office shall: (1) execute a performance management program throughout the executive department, including within statutory limits for each agency defining missions, creating measurable goals, establishing strategies for achieving them, and relating them to budget development; (2) monitor and review federal grant applications made on behalf of the commonwealth and coordinate efforts to maximize federal revenue opportunities and oversight of compliance with federal reporting requirements; (3) ensure transparency of the commonwealth's administration and finance activities, including the operation of the searchable website required by section 14C; (4) establish and maintain a central intake unit for reports of fraud, waste and abuse; (5) establish and maintain an economic forecasting and analysis unit to coordinate all spending and revenue forecasting by state agencies; (6) perform the executive office's duties for privatization contracts under section 54; and (7) collaborate with other state agencies, authorities and other entities to carry out these purposes.

**SECTION 12.** Section 4D of said chapter 7 is hereby amended by striking out the figure "4", inserted by section 9 of said chapter 56, and inserting in place thereof the following figure:- 2.

**SECTION 13.** Section 53 of said chapter 7 is hereby amended by striking out, in line 27, the word "legal", as so appearing in the 2008 Official Edition, and inserting in place thereof the following words:- information technology, legal.

**SECTION 14.** Section 58 of said chapter 7, inserted by section 2 of chapter 56 of the acts of 2010, is hereby amended by striking out the words "59 to 61" and inserting in place thereof the following words:- 59 to 62.

**SECTION 15.** Said section 58 of said chapter 7, inserted by said section 2 of chapter 56, is hereby amended by inserting after the definition of "Certified business enterprise" and "certified business" the following definition:-

"Disadvantaged business enterprise" or "DBE", a disadvantaged business enterprise as defined in the regulations of the federal Department of Transportation.

**SECTION 16.** Said section 58 of said chapter 7, inserted by said section 2 of chapter 56, is hereby further amended by inserting after the definition of "State purchasing agent" the following definition:-

"Unified certification program" or "UCP", the program, created as required by regulations of the federal Department of Transportation, which requires recipients of that Department's financial assistance that are operating DBE programs to participate in a UCP. The UCP is designated by the commonwealth under federal regulation to require that an applicant apply only once for a DBE certification which shall be honored by all recipients in the commonwealth.

**SECTION 17.** Said chapter 7 is hereby further amended by adding the following section:-

91 Section 62. (a) There shall be established and set up a separate account to be known as the Unified  
92 Certification Program Trust Fund, in this section called the trust fund. The state purchasing agent shall  
93 expend funds in the trust fund, without further appropriation, exclusively for the operation of the UCP.

94 (b) Funds received from the federal government by the following state and regional authorities and  
95 municipal and regional airports, in this section collectively called the participants, and any others that take  
96 part in the UCP, for the purpose of operating the UCP, shall be deposited in the trust: the Massachusetts  
97 Department of Transportation, the Massachusetts Bay Transportation Authority, the Massachusetts Port  
98 Authority, the Berkshire Regional Transit Authority, the Brockton Area Transit Authority, the Cape Cod  
99 Regional Transit Authority, the Greater Attleboro-Taunton Regional Transit Authority, the Lowell Regional  
100 Transit Authority, the Merrimack Valley Regional Transit Authority, the Montachusett Regional Transit  
101 Authority, the Pioneer Valley Regional Transit Authority, the Southeastern Regional Transit Authority, the  
102 Worcester Regional Transit Authority, Barnstable municipal airport, Martha's Vineyard airport, Nantucket  
103 memorial airport, and New Bedford regional airport. The methodology used in determining the allocation  
104 of payments due from each participant shall be determined pursuant to a formula, subject to modification  
105 from time to time, that is established by and between the Massachusetts Department of Transportation,  
106 the participants and the federal Department of Transportation, consistent with applicable federal laws and  
107 regulations.

108 **SECTION 18.** Chapter 8 of the General Laws is hereby amended by striking out the title and inserting in  
109 place thereof the following title:- STATE HOUSE BUREAU AND SUPERINTENDENT.

110 **SECTION 19.** Section 1 of said chapter 8, as appearing in the 2008 Official Edition, is hereby amended  
111 by striking out the first sentence and inserting in place thereof the following sentence:- There shall be  
112 within the executive office for administration and finance a bureau of the state house, headed by a  
113 superintendent of the state house, in this chapter called the superintendent.

114 **SECTION 20.** Section 4 of said chapter 8, as so appearing, is hereby amended by striking out, in line 1,  
115 the words "of state office buildings".

116 **SECTION 21.** Said chapter 8 is hereby further amended by striking out section 6, as so appearing, and  
117 inserting in place thereof the following section:-  
118 Section 6. The superintendent shall direct the making of all repairs and improvements in the state house  
119 and on its grounds, and all executive and administrative departments and officers shall make requisition  
120 upon the superintendent for any such repairs or improvements.

121 **SECTION 22.** Section 9 of said chapter 8, as so appearing, is hereby amended by striking out, in lines 3  
122 to 8, the words "the John W. McCormack state office building, the Leverett Saltonstall state office  
123 building, the Springfield office building, the Pittsfield office building, the Erich Lindemann building, the  
124 Charles F. Hurley building and all state parking areas related thereto, and any other state properties  
125 designated by law, to be the responsibility of the superintendent of state office buildings" and inserting in  
126 place thereof the following words:- and all state parking areas related thereto.

127 **SECTION 23.** Section 9A of said chapter 8, as so appearing, is hereby amended by striking out, in line 1,  
128 the words "state superintendent of state office buildings" and inserting in place thereof the following  
129 word:- superintendent.

130 **SECTION 24.** Chapter 10 of the General Laws is hereby amended by inserting after section 35PP,  
131 inserted by section 8 of chapter 454 of the acts of 2010, the following 2 sections:-

132 Section 35RR. There shall be established and set up on the books of the commonwealth a separate fund  
133 to be known as the Health Information Technology Trust Fund, in this section called the fund. There shall  
134 be credited to the fund revenues from federal reimbursements under the Health Information Technology  
135 for Economic and Clinical Health Act and any other federal reimbursements, grants, premiums, gifts or  
136 other contributions from any source received for or in the support of the health care provider incentive  
137 payment program and for the promotion of electronic health record adoption and health information

exchange in the commonwealth. The secretary of health and human services shall be the fund's trustee, and shall expend the fund, without further appropriation, for incentive payments to eligible Medicaid health care providers in the commonwealth for the adoption, implementation, upgrade or meaningful use of certified electronic health record technology, and to support the planning, implementation and operating costs of administering these payments. The secretary may certify for payment amounts in anticipation of federal revenues collected for the corresponding quarter during the previous fiscal year. For the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the secretary may incur expenses, after written approval from the secretary of administration and finance, and the comptroller shall certify for payment, amounts not to exceed the recent revenue estimate as certified by the MassHealth director, as reported in the state accounting system.

Section 35SS. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Build America Bonds Subsidy Trust Fund, in this section called the fund. There shall be credited to the fund payments received from the United States Treasury for subsidies related to tax credit bonds issued by the commonwealth under the Build America Bonds program. The state treasurer shall be the fund's trustee, and shall expend from the fund, without further appropriation, for the purpose of paying debt service related to the Build America Bonds. The comptroller may, without further appropriation, transfer from any available appropriation any amount determined by the comptroller to have been withheld by the federal government from a Build America Bond subsidy payment.

**SECTION 25.** Section 6 of chapter 14 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following clause:-

9. Shall, on the first business day of each month, publish a report of policy issues under development which shall be accessible on the department website. Said report shall include all draft directives and technical information releases under consideration by the department for issuance in the current and following months, including a brief description of the issue covered by each draft directive or technical information release and the reason for the draft directive or technical information release.

No directive shall be released before it has been listed in two successive reports, excepting emergency circumstances. Emergency circumstances shall be defined as those instances in which the delayed issuance of said directive would significantly harm taxpayer compliance or oversight. Should emergency circumstances require the release of a directive before it has been listed in two successive reports, the department shall publish an emergency report of policy issues under development on its website. A directive listed in an emergency report may be released not sooner than 7 calendar days after the publication of said report.

**SECTION 26.** Chapter 18 of the General Laws, as so appearing, is hereby amended by inserting after section 5H the following 2 sections:-

Section 5I. Notwithstanding any general or special law to the contrary, eligible recipients of direct cash assistance shall not use direct cash assistance funds held on electronic benefit transfer cards for the purchase of alcoholic beverages or tobacco products. An individual or store owner who knowingly accepts electronic benefit transfer cards in violation of this section shall be punished by imprisonment in a jail or house of correction for not more than 2 ½ years or by a fine of not less than \$1,000, or both such fine and imprisonment.

Section 5J. Notwithstanding any general or special law to the contrary, whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property for his own interest knowing such

funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets or property are of a value of \$100 or more, be punished by a fine of not more than \$15,000 or by imprisonment in a jail or house of correction for not more than 2 ½ years, or imprisonment in a state prison for not more than 5 years, or both such fine and imprisonment, or if such funds, assets or property are of a value of less than \$100 by a fine of not more than \$1,000 or by imprisonment in a jail or house of correction for not more than 1 year, or both such fine and imprisonment.

**SECTION 27.** Section 1 of chapter 21 of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The department of conservation and recreation shall consist of a division of state parks and recreation and a division of water supply protection. Each division shall be under the administrative supervision of a director and shall be under the supervision and control of the commissioner of the department of conservation and recreation. The division of water supply protection shall have control over the watershed systems in accordance with chapter 92A½. The division of state parks and recreation shall have control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities outside of the watershed systems as defined in section 1 of chapter 92A½.

**SECTION 28.** Section 8 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in lines 43 and 44, the words "division of urban parks and recreation, a".

**SECTION 29.** Subsection (o) of section 3A of chapter 21E of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- In each year the department shall determine a minimum audit number of all sites for which annual compliance assurance fees are required to be paid pursuant to section 3B. In determining this number, the department shall take into account the need for audits to ensure a high level of compliance with this chapter and the Massachusetts Contingency Plan, and the need to target audit resources in the most efficient and effective manner.

**SECTION 30.** Chapter 22 of the General Laws is hereby amended by inserting the following section:-

Section 21. (a) The commissioner or his designee may, as an alternative to initiating criminal proceedings, issue a written notice of violation, which shall be a written warning or citation to assess civil monetary fines of not more than \$5,000, for violations of the following statutes or of regulations adopted under these statutes. In addition to the commissioner or his designee, the following individuals may also issue such warnings or citations:

(1) section 13A of this chapter: an inspector assigned to the building division or a designee of the Massachusetts architectural access board;

(2) section 1, 2 or 64 of chapter 105;

(3) section 205A of chapter 140: an inspector assigned to the building division or the engineering division of the department;

(4) section 3V, 9 or 50 of chapter 143: an inspector assigned to the building division of the department;

(5) section 71 or 71D of chapter 143: an inspector assigned to the elevator division of the department;

(6) section 71R of chapter 143: a designee of the recreational tramway board;

(7) any of sections 5 to 41, inclusive, of sections 53 to 54A, inclusive, of sections 70 to 80, inclusive, or of section 89, of chapter 146: an inspector assigned to the engineering division of the department;

(8) section 57 or 60 of chapter 147; and

(9) the regulations of the state building code governing licensing of construction supervisors under clause (i) of section 94 of chapter 143: an inspector assigned to the building division of the department.

(b) The commissioner may promulgate rules and regulations for the administration and enforcement of this section.

(c) The individual issuing the notice of violation shall indicate on the notice that it is for: (1) a written warning; (2) a violation of the specified statute in subsection (a); or (3) a violation of a specified regulation.

(d) A person who receives a notice of violation may appeal to a hearing officer designated by the secretary of public safety and security within 30 days after receipt of the notice. All appeal hearings shall be held in accordance with the standard rules governing informal adjudicatory proceedings adopted under section 9 of chapter 30A.

(e) A person who receives notice of a violation and fails to: (1) pay the fines assessed within 30 days after receipt of the notice; or (2) appeal within the 30 days; or (3) appear at a scheduled appeal hearing, shall be deemed responsible for the violation as stated in the notice. The finding of responsibility shall be admissible as evidence and considered prima facie evidence of responsibility for the violation in any civil proceeding regarding the violation, in any proceeding to suspend or revoke a license, permit or certificate, and in any criminal proceeding.

**SECTION 31.** Section 2H of chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

The proceeds of a one-time settlement or judgment for the commonwealth, the net value of which is \$10,000,000 or more, shall also be deposited in the fund.

**SECTION 32.** Section 2RR of chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after the word "Training", in line 3, the following word:- Trust.

**SECTION 33.** Section 2RR of chapter 29, as most recently amended by chapter 3 of the acts of 2011, is hereby amended by striking out in subsection (b), the words "Subject to appropriation,".

**SECTION 34.** Subsection (b) of said section 2RR of said chapter 29 is hereby further amended by inserting after the word "services" the following words:- shall be the trustee of the fund and, without further appropriation,.

**SECTION 35.** Chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 5G the following section:-

Section 5H. Notwithstanding any general or special law to the contrary, the department of the state treasurer shall report by September 30 to the state comptroller, the executive office for administration and finance and the house and senate committees on ways and means the value of all property assumed abandoned, as defined by chapter 200A of the General Laws, in the previous fiscal year; provided, however, that beginning October 31 and quarterly thereafter the department of the state treasurer shall, within 15 days, certify to the state comptroller the amount collected in abandoned property revenues for the previous quarter. The department of the state treasurer shall certify by October 31, the amount of actual receipts of abandoned property for the previous fiscal year, and beginning in fiscal year 2013, the comptroller shall transfer 75 per cent of the growth in abandoned property revenue that exceeds the amount collected during the previous fiscal year to the Commonwealth Stabilization Fund established by section 2H; provided, however, that said transfer shall be made prior to the certification of the consolidated net surplus for the previous fiscal year as provided in section 5C.

**SECTION 36.** Chapter 29 is hereby further amended by inserting after section 29J, inserted by section 21 of chapter 131 of the acts of 2010, the following section:-

Section 29K. (a) Each state authority shall: (1) if it receives more than \$500,000 in any year from the commonwealth, arrange for an independent financial audit of those funds, according to rules and regulations promulgated by the secretary of administration and finance. Each such audit shall be filed with the state auditor for examination, review and comment; (2) establish an audit committee that shall meet independently of management, retain an independent auditor, and hear the results of the annual audit; (3) establish a compensation committee that shall meet independently of management and shall evaluate and establish executive compensation, including benefits. In establishing executive compensation, the committee shall conduct an analysis of comparable compensation for similar officers of state government, other authorities, and private-sector employers with similar functions and responsibilities. No executive of a state authority shall be compensated for sick, vacation or other leave time to an extent greater than state employees, nor be granted severance pay after removal for cause, nor be granted severance pay in excess of 3 months' salary if removed other than for cause; and (4) prepare an annual financial report which shall disclose the salaries of its executive director, officers, senior management, and other highly compensated employees.

(b) The commonwealth shall not subsidize the pension and other post-employment benefits of non-commonwealth retirees. The secretary of administration and finance shall adopt regulations to ensure that state authorities and other independent entities that participate in the state retirement system or the group insurance commission, as determined by the comptroller, are not subsidized by state appropriation, and that the public employee retiree administration commission and the group insurance commission shall charge them the full actuarial value of their liabilities.

(c) The secretary of administration and finance may promulgate rules and regulations to carry out the provisions of this section.

**SECTION 37.** Section 22C of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 29, the words "on June 30, 2025" and inserting in place thereof the following words:- by June 30, 2040.

**SECTION 38.** Subdivision (1) of said section 22C of said chapter 32 is hereby further amended by striking out the last paragraph, as amended by section 23 of chapter 27 of the acts of 2009, and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, appropriations or transfers made to the Commonwealth's Pension Liability Fund in fiscal years 2012 to 2017, inclusive, shall be made in accordance with the following funding schedule: \$1,478,000,000 in fiscal year 2012, \$1,552,000,000 in fiscal year 2013, \$1,630,000,000 in fiscal year 2014, \$1,727,000,000 in fiscal year 2015, \$1,831,000,000 in fiscal year 2016, and \$1,941,000,000 in fiscal year 2017. Notwithstanding subdivision (1), any adjustments to these amounts based on the next triennial funding schedule shall be limited to increases in the schedule amounts for each of the specified years.

**SECTION 39.** Section 19 of chapter 32A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "Effective", in line 1, the following words:- January 1 and.

**SECTION 40.** Said section 19 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "rate", in line 10, the following words:- in effect.

**SECTION 41.** Section 24 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "system", in line 16, the following words:- and for depositing, investing and disbursing amounts transferred to it under paragraph (d).

**SECTION 42.** Said section 24 of said chapter 32A, as so appearing, is hereby further amended by striking out paragraph (d) and inserting in place thereof the following paragraph: -

(d) Upon authorization by the board, any political subdivision, municipality, county or agency or authority of the commonwealth may participate in the fund using procedures and criteria to be adopted by the board.

**SECTION 43.** Section 18 of chapter 32B of the General Laws is hereby repealed.

**SECTION 44.** Said chapter 32B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 18A and inserting in place thereof the following section:-

Section 18B. (a) All retirees, their spouses and dependents insured or eligible to be insured under this chapter, if enrolled in Medicare Part A at no cost to the retiree, spouse or dependents or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, shall be required to transfer to a Medicare health plan offered by the governmental unit under section 11C or section 16, if the benefits under the plan and Medicare Part A and Part B together shall be of comparable actuarial value to those under the retiree's existing coverage, but a retiree or spouse who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost shall not be required to transfer to a Medicare health plan if a transfer requires the retiree or spouse to continue the existing family coverage for the dependent in a plan other than a Medicare health plan offered by the governmental unit.

(b) Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a Medicare health plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The governmental unit may from time to time request from a retiree, a retiree's spouse or a retiree's dependent, proof, certified by the federal government, of eligibility or ineligibility for Medicare Part A and Part B coverage.

(c) The governmental unit shall pay any Medicare Part B premium penalty assessed by the federal government on the retiree, spouse or dependent as a result of enrollment in Medicare Part B at the time of transfer.

**SECTION 45.** Chapter 32B of the General Laws is hereby amended by striking out section 20, as so appearing, and inserting in place thereof the following section:-

Section 20. (a) A city, town, district, county or municipal lighting plant that accepts this section may establish a separate fund, to be known as an Other Post-Employment Benefits Liability Trust Fund, and may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant, or (ii) the treasurer of any other governmental unit or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the Health Care Security Trust board of trustees established under section 4 of chapter 29D, provided that the board of trustees accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule established in chapter 203C, and may, with the approval of the Health Care Security Trust Board of Trustees, be invested in the State Retiree Benefits Trust Fund established by section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter by vote of the city council; in any other city by vote of the city council and approval of the mayor; in a town by vote of the town at a town meeting; in a district by vote of the governing board; in a municipal lighting plant by vote of the board; and in a county by vote of the county commissioners.



(d) Nothing in this section shall affect the validity of any action, taken before July 1, 2011, by any city or town to authorize the contributory retirement system of which the employees of the city or town are members to be the custodian of such a fund.

(e) Every city, town, district, county and municipal lighting plant shall annually submit to the public employee retirement administration commission, on or before December 31, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. On or before June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance, and the board of trustees of the Health Care Security Trust.

**SECTION 46.** Said chapter 32B of the General Laws, as so appearing, is hereby amended by inserting the following 3 sections:-

Section 21. (a) Notwithstanding the provisions of this chapter or any other general or special law to the contrary, upon acceptance of this section in the manner provided for in section 10, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers, co-payments, deductibles, tiered provider network co-payments and other plan design features that are no greater in dollar amount than the co-payments, deductibles, tiered provider network co-payments and other plan design features offered by the commission pursuant to section 4 of chapter 32A in a plan with the largest subscriber enrollment. For purposes of this section, the term "subscribers" shall mean employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision accepting this section; and, for the purposes of this section, "point of service" shall mean a plan offered by an appropriate public authority and shall be considered to fall within a preferred provider organization class.

(b) An appropriate public authority may increase the dollar amounts for co-payments, deductibles, tiered provider network co-payments and other plan design features; provided that such features do not exceed other plan design features offered by the commission pursuant to section 4 of chapter 32A in a plan with the largest subscriber enrollment. Nothing herein shall prohibit an appropriate public authority from including in its health plans higher co-payments, deductibles or tiered provider network co-payments or other plan design features than those authorized by the preceding paragraphs of this section; provided, however, such higher co-payments, deductibles, tiered provider network co-payments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to chapter 150E.

(c) The decision to accept the provisions of this section shall not be subject to bargaining pursuant to chapter 150E or section 19 of chapter 32B.

(d) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

Section 22. (a) Notwithstanding the provisions of this chapter or any other general or special law to the contrary, upon acceptance of this section in the manner provided for in section 10, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers may elect to provide health insurance coverage to all its subscribers by transferring its subscribers to the commission; provided, however, that the appropriate public authority demonstrates that transferring its subscribers to the commission would result in a savings to the appropriate public authority

greater than the potential savings achieved by implementing plan design features pursuant to section 21. For purposes of this section, the term "subscribers" shall mean employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision accepting this section.

(b) The decision to accept the provisions of this section shall not be subject to bargaining pursuant to chapter 150E or section 19 of chapter 32B.

(c) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

Section 23. (a) The appropriate public authority shall evaluate its health insurance coverage and determine any monetary savings realized due to actions taken pursuant to sections 21 or 22 for the first year of implementation of such actions. The appropriate public authority shall then notify its insurance advisory committee or such committee's regional equivalent of the estimated savings and provide any reports or other documentation with respect to the determination of said savings as requested by the committee. Upon the consent of the insurance advisory committee, the appropriate public authority shall deposit 10 per cent of the estimated savings into an escrow account.

(b) The appropriate public authority shall then convene a meeting with the public employee committee to determine in what manner the 10 per cent savings shall be utilized by subscribers; provided, however, that the savings shall only be used for health related programs. Upon a written agreement reached between the appropriate public authority and the public employee committee, the 10 per cent savings deposited in escrow shall be disbursed in accordance with the terms of the agreement.

(c) Negotiations between the appropriate public authority and the public employee committee shall convene solely for the purposes of determining the use of the 10 per cent savings realized during the first year in which plan design changes have been implemented or in which the appropriate public authority transferred its subscribers to the commission.

**SECTION 47.** Section 35A of chapter 62C, as so appearing, is hereby amended by adding the following subsection:-

(f) For purposes of this section, the term "audit days" shall mean the time period during which a taxpayer is under audit. The penalty established in this section shall not be imposed if the department takes more than 18 months, measured by 548 audit days, to issue a proposed assessment. The counting of audit days begins with the date that the commissioner issues a letter notifying a taxpayer that the taxpayer has been selected for an audit of the taxpayer's return, but any day for which the taxpayer has requested additional time beyond the meeting date or response date set forth by the commissioner shall not be counted as an audit day up until the date the requested meeting takes place or the date the requested information has been substantially provided. If there is an interruption in the counting of audit days due to a delay requested by the taxpayer, the counting of days shall resume once the delayed meeting has taken place or the date the requested information has been substantially provided. The commissioner shall provide at least 30 days notice in setting a meeting date and provide a taxpayer with at least 60 days to respond to a request for information.

**SECTION 48.** Section 19C of Chapter 78 of the General Laws, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words "library of last recourse for reference and research services for the commonwealth" and inserting in place thereof the following words:- the library of the commonwealth for reference and research services.

**SECTION 49.** Section 34O of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 120, the words "one hundred and eighty-three of chapter six" and inserting in place thereof the following words:- 57A of chapter 6C.

**SECTION 50.** Chapter 91 of the General Laws is hereby amended by inserting after section 18B the following section:-

Section 18C. Notwithstanding any general or special law to the contrary, the department may issue a general license authorizing small-scale docks, piers, and similar structures, but not commercial marinas or large-scale docks, piers or similar structures, in tidelands, great ponds, rivers and streams, otherwise subject to individual licensing under sections 12, 12A, 13, 14, 18 and 19. The licensee shall comply with all general license performance standards to be issued as regulations by the department. Proponents of projects eligible for such a general license shall certify their compliance with its terms and conditions to the department and shall pay all applicable fees required by this chapter, before beginning construction. In addition, the following provisions of this chapter shall not apply to a general license issued under this section:

(a) The first two paragraphs of section 18 shall not apply to projects subject to a general license, except that the project proponent shall submit to the planning board of the city or town where the work is to be performed the proposed use, the location, dimensions and limits and mode of work to be performed, before its certification to the department.

(b) The first sentence of the third paragraph of section 18 shall not apply to projects subject to a general license, except that the project proponent shall specify by metes, bounds and otherwise the location, dimensions, and limits and mode of performing the work in its certification to the department.

(c) The second sentence of the third paragraph of section 18 shall not apply to projects subject to a general license, except that any changes in use or structural alteration of a licensed structure or fill, whether the structure or fill first was licensed before, on or after the effective date of this section, shall require a new certification for projects eligible for certification or a license for structures which are ineligible for the general license, in accordance with the provisions and procedures established in this chapter and the general license.

(d) The sixth paragraph of section 18 shall not apply to projects subject to a general license, except that before certification, the project proponent shall give notice to the selectmen of the town or the mayor of the city and the conservation commission of the town or city where the work is to be performed and published at the same time in a newspaper or newspapers having a circulation in the area affected by the project, at the expense of the proponent.

(e) The seventh and eighth paragraphs of section 18 shall not apply to projects subject to a general license.

(f) The ninth paragraph of section 18 shall not apply to projects subject to a general license, except that the project proponent shall submit a plan of the work or structure to the department in its certification. The general license for these projects shall be void unless, within 60 days after certification, the certification and the accompanying plan are recorded in the registry of deeds for the county or district where the work is to be performed. Work or change in use shall not commence until the certification is recorded and the department has received notification of the recordation.

(g) The tenth paragraph of section 18 shall not apply to projects subject to a general license, except that the project proponent shall submit a certification by the clerk of the affected municipalities that the work to be performed or changed in use is not in violation of local zoning ordinances and by-laws in its certification to the department.

(h) The eleventh paragraph of section 18 shall not apply to projects subject to a general license, except that these assessments shall be paid by the project proponent in its certification to the department.

(i) Section 20 shall not apply to projects subject to a general license, except that the project proponent shall submit to the department plans of any proposed work to be performed and a copy of any legislative grant in its certification to the department.

(j) The department shall promulgate regulations to implement this section. The regulations shall protect the public rights in tidelands in accordance with this chapter.

**SECTION 51.** Section 25 of chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 73, 75 and 79, the figure "\$3" and inserting in place thereof in each instance the following figure:- \$5.

**SECTION 52.** Section 6 of chapter 118H of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 to 16, the words "a copayment toward the purchase of each pharmaceutical product and for use of emergency room services in acute care hospitals for nonemergency conditions equal to that required of enrollees in the MassHealth program, as described in clause (5) of section 25 of chapter 118E", and inserting in place thereof the following words:- copayments equal to those required of enrollees in the MassHealth program.

**SECTION 53.** Section 27 of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall, if said violation is willful, be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, however, that an employee so aggrieved and who prevails in such an action if the violation is not willful, shall be awarded damages as determined by the court for any lost wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 54.** Section 27F of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall, if said violation is willful, be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, however, that an employee so aggrieved and who prevails in such an action if the violation is not willful, shall be awarded damages as determined by the court for any lost wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 55.** Section 27G of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall, if said violation is willful, be awarded treble damages, as liquidated damages, for any lost wages and other benefits and

shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, however, that an employee so aggrieved and who prevails in such an action if the violation is not willful, shall be awarded damages as determined by the court for any lost wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 56.** Section 27H of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall, if said violation is willful, be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, however, that an employee so aggrieved and who prevails in such an action if the violation is not willful, shall be awarded damages as determined by the court for any lost wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 57.** Section 150 of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An employee claiming to be aggrieved by a violation of sections 33E, 148, 148A, 148B, 150C, 152, 152A or 159C or section 19 of chapter 151 may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits. An employee so aggrieved who prevails in such an action shall, if said violation is willful, be awarded treble damages, as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, however, that an employee so aggrieved and who prevails in such an action if the violation is not willful, shall be awarded damages as determined by the court for any lost wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.

**SECTION 58.** Section 113B of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 160, the words "183 of chapter 6" and inserting in place thereof the following words:- 57A of chapter 6C.

**SECTION 59.** Said chapter 175 is hereby further amended by striking out section 168, as most recently amended by section 154 of chapter 240 of the acts of 2010, and inserting in place thereof the following section:-

Section 168. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Home state", with respect to an insured: (1) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or (2) if 100 per cent of the risk is located out of the state referred to in clause (a)(1), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

"State", any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands and American Samoa.

"Unauthorized company", an insurer not licensed to engage in the business of insurance in the commonwealth of Massachusetts.

587 "Unauthorized insurance", any property and casualty insurance permitted to be placed with an  
 588 unauthorized company eligible to accept such insurance.

589 (b) The commissioner may, upon the payment of the fee prescribed by section 14, issue to any suitable  
 590 person of full age, a license to act as a special insurance broker to negotiate, continue or renew contracts  
 591 of insurance against any of the hazards specified in any of the clauses of section 47 excepting the  
 592 fifteenth clause thereof, and except accident and health, workers' compensation, compulsory motor  
 593 vehicle liability and life insurance on property or interests in this commonwealth with an unauthorized  
 594 company upon the following conditions: (i) The applicant for the license shall file with the commissioner a  
 595 written application as prescribed by section 162L which shall be executed on oath by the applicant and  
 596 kept on file by the commissioner. If the commissioner is satisfied that the applicant is trustworthy and  
 597 competent, he shall issue the license, subject to suspension or revocation at the pleasure of the  
 598 commissioner, which shall expire 1 year from its date, unless sooner suspended or revoked as aforesaid.  
 599 (ii) The license may, in the discretion of the commissioner, be renewed for each succeeding year, upon  
 600 the payment of the fee prescribed by section 14, without requiring anew the detailed information specified  
 601 by section 162L. (iii) Whenever the person named in such license shall procure any insurance in such  
 602 unauthorized company for an insured whose home state is the commonwealth, he shall in every case  
 603 execute, and within 20 days thereafter, file with the commissioner an affidavit stating that the full amount  
 604 of insurance required to protect the subject property or interest of said insured is not procurable, after a  
 605 diligent effort has been made to do so, from among companies admitted to transact insurance in the  
 606 commonwealth against the hazard or hazards involved, and that the amount of insurance procured in  
 607 such unauthorized company is only the excess over the amount so procurable from such admitted  
 608 companies. Said affidavit shall have force and effect for 1 year only from the date thereof or expiration of  
 609 the policy, whichever comes later. (iv) The affidavit shall not be required in connection with a transaction  
 610 with an exempt commercial risk or policyholder as defined in section 224, if the commercial risk or  
 611 policyholder acknowledges in writing its understanding, that: (1) the company from which insurance is  
 612 procured is not admitted to transact insurance in the commonwealth; and (2) in the event of the  
 613 insolvency of the company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under  
 614 chapter 175D.

615 (c) Any insurance policy procured under this section shall contain the following disclosure notice to the  
 616 policyholder: This policy is insured by a company which is not admitted to transact insurance in the  
 617 commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of  
 618 such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter  
 619 175D. The commissioner may, by regulation, amend the foregoing disclosure notice. Each licensed  
 620 special insurance broker shall maintain a copy of the acknowledgement for inspection by the  
 621 commissioner with respect to all policies of insurance so procured by the licensee for exempt commercial  
 622 risks or policyholders. Such licensed person shall not be required to file such affidavit if 1 relative to the  
 623 same property or interests has been filed within the preceding 12 months by any broker licensed under  
 624 this section, nor to offer any portion of such insurance to any company not possessed of net cash assets  
 625 of at least \$200,000, nor to one which has within the preceding 12 months been in an impaired condition,  
 626 nor shall such licensed person procure any such insurance on said property or interests from any  
 627 unauthorized company unless (a) such company is possessed of net cash assets of at least \$300,000  
 628 computed on the basis fixed by sections 10 to 12, inclusive, and on the form prescribed by section 25,  
 629 and has satisfied the commissioner that its officers and directors are of good repute and competent to  
 630 manage an insurance company and that the management of the company is carrying out its insurance  
 631 contracts in good faith and has filed with the commissioner an examination report of the affairs of the  
 632 company completed within the previous 3 years and made by the proper supervisory official of its home  
 633 state, and has made a deposit of not less than \$400,000 with the state treasurer or with the proper board  
 634 or officer of some other state of the United States in accordance with the terms and conditions hereinafter  
 635 specified; (b) such company has filed a financial statement on a form satisfactory to the commissioner  
 636 and conforms to and maintains the financial requirements specified in subparagraph (i) of paragraph (D)  
 637 of subsection (1) of section 20A; or (c) such company is an eligible alien unauthorized insurer, as defined  
 638 in section 168A. Such deposit shall be made in exclusive trust for the benefit and security of all its  
 639 policyholders in the United States including obligees of bonds executed by such company as surety, and



when made with the state treasurer may be made in the securities and subject to the limitations specified in sections 63 and 66, or in cash or in such other securities as the commissioner may approve; provided, however, that bonds need not be accepted by the state treasurer unless in registered form and of denominations satisfactory to him, and shall not be returned to the company until it has ceased to transact business in the commonwealth nor until the commissioner is satisfied that the company is under no obligation to such policyholders or obligees in the United States for whose benefit such deposit was made, nor until he has given his written consent to such return; provided, further, that the commissioner may, in any case, authorize in writing the return to the company of any excess of any deposit made under this section over the amount required thereby, if he is satisfied that such return shall not be prejudicial to the interests of such policyholders or obligees.

(d) Each person so licensed shall keep a separate account of the business done under the license, a certified copy of which account he shall forthwith file with the commissioner, showing the exact amount of such insurance placed for each person whose home state is the commonwealth, the gross premium charged thereon, the companies in which the same is placed, the date of the policies and the term thereof, and also a report in the same detail of all such policies cancelled, with the gross return premiums thereon, and shall annually, in January, file with the state treasurer a sworn statement of the gross premiums charged for insurance procured or placed and the gross return premiums on such insurance cancelled under such license during the year ending on December 31 last preceding. At the time of filing such statement each person licensed as a special insurance broker shall pay to the commonwealth a fee, less such return premiums so reported, as follows:

(1) Where the insurance covers properties, risks or exposures located or to be performed in the commonwealth and not in any other state, an amount equal to 4 percent of such gross premiums.

(2) Where the insurance covers properties, risks or exposures located or to be performed both in and outside of the commonwealth, (i) an amount equal to 4 per cent of such gross premiums allocated to the commonwealth, plus (ii) an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of the commonwealth.

(3) To the extent that other states where portions of the insured properties, risks or exposures are located have failed to enter into a compact or reciprocal allocation procedure with the commonwealth, the net premium tax collected shall be retained by the commonwealth.

(e) Notwithstanding subsections (b) and (c) above, the commissioner may enter into a cooperative agreement, reciprocal agreement or compact with another state or states in order to: facilitate the collection, allocation and disbursement of insurance premium fees and taxes attributable to the placement of unauthorized insurance; provide for uniform methods of allocation and reporting among unauthorized insurance risk classifications; and share information among states related to unauthorized insurance premium fees and taxes. The commissioner may also enter into other cooperative agreements with surplus lines stamping offices and other similar entities located in other states related to the capturing and processing of insurance premium and tax data. The commissioner is authorized to participate in any clearinghouse established pursuant to any such agreement or agreements for the purpose of collecting and disbursing to reciprocal states any funds collected pursuant to clause (3) of subsection (c) applicable to properties, risks or exposures located or to be performed outside of the commonwealth.

(f) A person licensed under this section who negotiates, continues or renews any such contracts of insurance in any unauthorized foreign company, and who neglects to make and file the affidavit and statements required by this section, or who wilfully makes a false affidavit or statement, or who negotiates, continues or renews any such contracts of insurance after the revocation or during the suspension of his license, shall forfeit his license if not previously revoked and be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine and imprisonment.

688 Nothing in this section shall be deemed to amend or modify any of the provisions of, or any of the  
689 exemptions specified in, section 160.

690 A license to act as a special insurance broker may, upon the payment of the fees prescribed by section  
691 14, be issued to any association, as defined in section 1 of chapter 182, for the purpose of acting as a  
692 special insurance broker, subject to the conditions specified in section 172A.

693 The commissioner may, upon the payment of the fees prescribed by section 14, issue to a partnership, a  
694 license to act as a special insurance broker subject to the conditions specified in section 173.

695 A license to act as a special insurance broker may, upon the payment of the fees prescribed by section  
696 14, be issued to any corporation, subject to the conditions specified in section 174.

697 (g) The commissioner may promulgate regulations as necessary to implement this section.

698 **SECTION 60.** Chapter 211D of the General Laws, as so appearing, is hereby amended by striking out  
699 sections 1 to 2A, inclusive, and inserting the following 4 sections:-

700 Section 1. There shall be a committee for public counsel services, hereinafter referred to as the  
701 committee, to plan, oversee, and coordinate the delivery of criminal and certain noncriminal legal services  
702 by all salaried public counsel, bar advocate and other assigned counsel programs and private attorneys  
703 serving on a per case basis. The committee shall consist of 15 persons, 2 of whom shall be appointed by  
704 the governor, 2 of whom shall be appointed by the president of the senate, 2 of whom shall be appointed  
705 by the speaker of the house of representatives and 9 of whom shall be appointed by the justices of the  
706 supreme judicial court. Said court shall request and give appropriate consideration to nominees for the 9  
707 positions from the Massachusetts Bar Association, county bar associations, the Boston Bar Association  
708 and other appropriate bar groups including, but not limited to, the Massachusetts Black Lawyers'  
709 Association, Women's Bar Association and the Massachusetts Association of Women Lawyers. Each  
710 member of the committee shall be appointed for a term of 3 years and shall serve until a successor in  
711 office has been appointed and qualified. A vacancy on the committee shall be filled by the person or  
712 justices who made the initial appointment to the unexpired term. Members of the committee may be  
713 removed for cause by the justices of the supreme judicial court. While serving on the committee, no  
714 member shall be assigned or appointed to represent indigent defendants before any court of the  
715 commonwealth. No member of the committee shall receive any compensation for the member's services,  
716 but each member shall be reimbursed for actual expenses incurred in attending the committee meetings.

717 The provisions of chapter 268A shall apply to all members, officers and employees of the committee,  
718 except that the committee may enter into a contract pursuant to the provisions of sections 3 or 6 although  
719 a member of the committee may have an interest or involvement in any such matter; provided, however,  
720 that such interest and involvement is disclosed in advance to the other members of the committee and  
721 recorded in the minutes of the committee and filed with the state ethics commission; and provided,  
722 further, that no member having an interest or involvement in any contract under section 3 may participate  
723 in any particular matter, as defined in section 1 of chapter 268A, relating to such contract.

724 Section 2. The committee for public counsel shall establish a definition of "indigency" for the purposes of  
725 this chapter and uniform standards and procedures for the determination by the courts of the  
726 commonwealth that (1) a person is indigent and is unable to obtain counsel or (2) said indigent person  
727 has the ability to pay a reduced fee for the appointment of counsel. Said definition and standards, and  
728 any amendments thereto, shall be subject to the approval of the supreme judicial court and shall be used  
729 by the courts of the commonwealth in determining assignment of cases to the committee pursuant to  
730 section 5. In the formulation of said definition, standards and procedures, the committee shall incorporate  
731 the reporting system operated by the commissioner of transitional assistance for the purpose of verifying  
732 financial eligibility of participants in state or federally funded programs.



733 Section 2A. (a) There shall be an indigency verification officer at each court. The commissioner of  
734 probation shall ensure that a probation officer is staffed at each court to oversee indigency verification.  
735 The responsibility for indigency verification may be assigned to the chief probation officer assigned to the  
736 court or another probation officer as the commissioner deems necessary to effectuate the provisions of  
737 this section.

738 (b) Notwithstanding any general or special law to the contrary, a person claiming indigency under the  
739 provisions of section 2 shall execute a waiver authorizing the court's probation officer responsible for  
740 indigency verification to obtain the person's wage and tax information from the department of revenue, the  
741 department of transitional assistance and any other information from the registry of motor vehicles that  
742 the court may find useful in verifying the person's claim of indigency. The waiver shall authorize the  
743 indigency verification officer to conduct any further re-assessment required by this section.

744 (c) It shall be the responsibility of the indigency verification officer assigned to each court to ensure that a  
745 person claiming to be indigent meets the definition of indigency under section 2. A person seeking the  
746 appointment of counsel shall be interviewed by the indigency verification officer before the appointment of  
747 counsel. The officer conducting the interview shall explain to the person seeking appointment of counsel  
748 (1) the definition of indigency, (2) the process used to verify his information with other state agencies, and  
749 (3) the consequences of misrepresenting his financial information in applying for the appointment of  
750 counsel. The officer conducting the interview shall prepare an initial written indigency intake report that  
751 shall record the results of the interview and the officer's recommendation on whether or not the person  
752 seeking appointment of counsel is indigent. The person seeking appointment of counsel and the officer  
753 conducting the interview shall sign the indigency intake report. In signing the report, the person seeking  
754 appointment of counsel shall certify under the pains and penalties of perjury that the information  
755 contained therein is true and that they have not concealed any information relevant to their financial  
756 status. All statements contained in the report shall be deemed material statements. The initial report shall  
757 be presented to a judge who may adopt or reject the recommendations in the report, either in whole or in  
758 part.

759 (d) Any appointment of counsel by the court is at all times subject to verification of indigency by the  
760 indigency verification officer assigned to each court. Not later than 3 business days after the appointment  
761 of counsel, the indigency verification officer shall complete a final report of the financial circumstances of  
762 the person for whom counsel was appointed to ensure that such person continues to meet the definition  
763 of indigency. In preparing the final report, the indigency verification officer shall access wage and tax  
764 information in the possession of the department of revenue and the department of transitional assistance  
765 and such other information relevant to the verification of indigency in the possession of the registry of  
766 motor vehicles. Said departments shall provide such information to the indigency verification officer or the  
767 chief probation officer upon request. Upon completion of the final report, the indigency verification officer  
768 shall prepare a written report of the officer's findings. The indigency verification officer shall sign the  
769 report, certifying that the person for whom counsel was appointed either continues to meet or no longer  
770 meets the definition of indigency. The report shall be filed with the case papers and shall be presented to  
771 the judge presiding at the person's next court appearance. If, upon receipt of the report, a judge finds that  
772 the person for whom counsel was appointed no longer meets the definition of indigency, the judge shall  
773 revoke the appointment of counsel and allow such person a reasonable continuance to obtain new  
774 counsel; provided further that if the judge determines that the revocation would have a materially adverse  
775 effect on the interests of the person for whom counsel was appointed, the judge shall permit the retention  
776 of counsel and shall require the person for whom counsel was appointed to pay a fee for counsel and  
777 court costs at the same rate of compensation as the counsel fees established in section 11. Not later than  
778 6 months after the appointment of counsel, and every 6 months thereafter, the indigency verification  
779 officer shall conduct a further re-assessment of the financial circumstances of the person for whom  
780 counsel was appointed to ensure that the person continues to meet the definition of indigency and shall  
781 prepare, sign and file a written report certifying that the person either continues to meet, or no longer  
782 meets, the definition of indigency.

783 (e) If a criminal defendant is charged with a second or further offense while continuing to be represented  
784 by court-appointed counsel for a previously charged offense, the court, in its discretion, shall determine

whether any further determination of indigency, other than the bi-annual re-assessments required by the defendant's representation for the first offense, need be undertaken. Upon completion of a re-assessment, the indigency verification officer shall prepare a written report of the officer's findings. The indigency verification officer shall sign the report, certifying that the defendant either continues to meet or does not continue to meet the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the defendant's next court appearance. If, upon receipt of the report, a judge finds that the defendant no longer meets the definition of indigency, the judge shall revoke the appointment of counsel and allow the defendant a reasonable continuance to obtain new counsel.

(f) If the court finds that a person has materially misrepresented or omitted information concerning the person's property or assets for purposes of determining indigency, and that such person does not meet the definition of indigency, the court shall immediately terminate any assignment or appointment of counsel made under chapter 211D and shall assess costs of not less than \$1000 against such person.

(g) A person provided counsel under this chapter shall be assessed a counsel fee of not less than \$150, which the indigency verification officer may waive only upon a determination in the officer's final report that the person is unable to pay the fee within 180 days. If, upon the bi-annual re-assessment of the person's indigency, the indigency verification officer concludes that the person is able to pay the counsel fee of which the person obtained a waiver, the waiver shall be invalid and the officer shall re-impose the counsel fee. Payment of any reduced fee by an indigent person for the appointment of counsel or any fees collected pursuant to paragraph (d) of this section shall be made to the probation department of the appointing court and shall be forwarded to the state treasurer who shall deposit such in the general fund.

(h) The court may authorize a person for whom counsel was appointed to perform community service in lieu of payment of the counsel fee. A person seeking to work off his counsel fee in community service shall perform 5 hours of community service for each \$50 he owes in legal counsel fees. Notwithstanding any general or special law, rule or regulation to the contrary, a court proceeding shall not be terminated and the person shall not be discharged if he owes any portion of the legal counsel fee imposed by this section. The clerk shall not release any bail posted on such court proceeding until the legal counsel fee is satisfied in accordance with this chapter.

(i) The clerk of the court shall, within 60 days of appointment after counsel, report to the department of revenue, the department of transitional assistance and the registry of motor vehicles the amount of any legal counsel fee owed by the person for whom counsel was appointed under this chapter. The department of revenue shall intercept the fee from tax refunds due to persons who have not paid it. The department of transitional assistance shall be authorized to deduct said fee in weekly or monthly increments from persons who have not paid said fee.

The registrar of motor vehicles shall place a lien in the amount of any portion of the legal counsel fee owed by the person for whom counsel was appointed upon the title of any motor vehicle owned in whole or in part by him. If the person for whom counsel was appointed does not own a motor vehicle the registry of motor vehicles shall not issue or renew such person's driver's license or motor vehicle registration for any vehicle subsequently purchased by such person. The registry of motor vehicles shall not release the lien or issue or renew the license or motor vehicle registration until it receives notification from the clerk of the court that the fee has been collected or worked off in community service.

(j) The office of the commissioner of probation shall submit quarterly reports to the house and senate committees on ways and means detailing the effectiveness of the procedures implemented pursuant to this section to verify an individual's claim of indigency. The report shall include, but not limited to, the number of individuals determined to be indigent, number of individuals determined not to be indigent, number of individuals found to have concealed or otherwise misrepresented information relevant to his financial status, number of individuals found to no longer qualify for appointment of counsel upon any re-assessment of indigency required by this section, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case, recommendations to improve the procedures for verifying eligibility for counsel and other pertinent information to ascertain the

834 effectiveness of verification procedures. The information within such report shall be delineated by court  
835 division.

836 Section 2B. Notwithstanding any other provision of law, a criminal defendant charged with a  
837 misdemeanor or a violation of a municipal ordinance or bylaw, on motion of the commonwealth, the  
838 defendant, or on the court's own motion, shall not be appointed counsel if the judge, at arraignment,  
839 informs such defendant on the record that, if the defendant is convicted of such offense, his sentence  
840 shall not include any period of incarceration. For good cause, that judge or another judge of the same  
841 court may later revoke such determination on the record and appoint counsel, and on the request such  
842 counsel shall be entitled to a continuance to conduct any necessary discovery and to prepare adequately  
843 for trial. Any such determination or revocation by a judge shall be endorsed upon the docket of the case.

844 **SECTION 61.** Section 5 of said chapter 211D, as so appearing, is hereby amended by striking out, in  
845 lines 10 and 11, the word "probation" and inserting in place thereof, in each instance, the following  
846 words:- indigency verification.

847 **SECTION 62.** Said chapter 211D is hereby further amended by striking out section 6, as so appearing,  
848 and inserting in place thereof the following section:-

849 Section 6. (a) In carrying out its duties as prescribed in section 5, the committee shall establish a public  
850 defender division which shall utilize committee staff attorneys. This division shall include a unit to be  
851 known as the Roxbury defenders unit, which shall represent clients as assigned pursuant to this chapter  
852 in the Roxbury division of the district court department and shall also include a unit to be known as the  
853 youth advocacy project. The public defender division shall be assigned to represent indigent defendants  
854 in all criminal cases; provided, however, that the division shall not be assigned to: (i) represent more than  
855 1 defendant in any matter before any court on the same case or arising out of the same incident; (ii)  
856 represent a defendant in any case in which there is a conflict of interest with any of its clients; or (iii)  
857 represent any child alleged to be delinquent, except in such cases which may result in exposure to adult  
858 incarceration or commitment to the department of youth services until the age of 21, and except in cases  
859 charging delinquency by conduct which would be punishable by imprisonment in the state prison if  
860 committed by an adult and except in the Boston and Bristol county divisions of the juvenile court  
861 department or in the Roxbury division of the district court department. Private counsel who have been  
862 certified to accept assignments in such cases shall also be eligible to provide representation to persons  
863 thus charged.

864 (b) The committee shall also supervise and maintain a system for the appointment of private counsel and  
865 establish a private counsel division which shall include a children and family law program and a mental  
866 health unit. The committee shall enter into contractual agreements with any state, county or local bar  
867 association or voluntary charitable group, corporation or association, including bar advocate groups, for  
868 the purpose of providing such counsel. The committee may also contract with such other organized  
869 groups of attorneys as may be formed to afford representation to indigent defendants and may appoint  
870 and compensate private attorneys, on a case-by-case basis, as counsel for indigents entitled to  
871 representation. Neither individuals nor members nor participants in any group, corporation or association  
872 with whom the committee may contract under this paragraph shall be considered to be or have any rights  
873 as state employees.

874 (i) The private counsel division shall be assigned for all persons accused of crimes entitled to counsel  
875 who, through their inability to pay for counsel, shall have counsel appointed to them, but who, pursuant to  
876 the provisions of subparagraph (a) of this section are not to be represented by the public counsel division.

877 (ii) The private counsel division shall also be assigned to represent persons in such other proceedings as  
878 the chief counsel shall determine to be necessary.

879 **SECTION 63.** Said chapter 211D is hereby further amended by striking out section 6A, as so appearing,  
880 and inserting in place thereof the following section:-

Section 6A. In carrying out its duties as prescribed in sections 5 and 6, the committee shall establish a children and family law program which shall, upon the court's appointment, provide representation to indigent persons in children and family law cases. Nothing herein shall be construed to limit the system as established in sections 5 and 6 of this chapter, whereby the court appoints certified private counsel to represent children and parents in children and family law cases.

**SECTION 64.** Said chapter 211D is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. (a) The rates of compensation payable to all counsel, who are appointed or assigned to represent indigents within the private counsel division of the committee in accordance with the provisions of paragraph (b) of section 6, shall, subject to appropriation, be as follows: for homicide cases the rate of compensation shall be \$100 per hour; for superior court non-homicide cases, including sexually dangerous person cases, the rate of compensation shall be \$60; for district court cases and children in need of services cases the rate of compensation shall be \$50 per hour; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases the rate of compensation shall be \$50 per hour. These rates of compensation shall be reviewed periodically at public hearings held by the committee at appropriate locations throughout the state, and notice shall be given to all state, county and local bar associations and other interested groups, of such hearings by letter and publication in advance of such hearings. This periodic review shall take place not less than once every 3 years.

(b) The committee shall set an annual cap on billable hours not in excess of 1500 hours. Counsel appointed or assigned to represent indigents within the private counsel division shall not be paid for any time billed in excess of the annual limit of billable hours. It shall be the responsibility of private counsel to manage their billable hours.

(c) Any counsel who is appointed or assigned to represent indigents within the private counsel division, except any counsel appointed or assigned to represent indigents within the private counsel division in a homicide case, shall be prohibited from accepting any new appointment or assignment to represent indigents after that counsel has billed 1200 billable hours during any fiscal year.

**SECTION 65.** Said chapter 211D is hereby further amended by striking out section 12, as amended by section 88 of chapter 27 of the acts of 2009, and inserting in place thereof the following section:-

Section 12. (a) The committee shall establish policies and procedures to provide fair compensation to private counsel and vendors, which shall include a remedy for an attorney aggrieved by the amount of payment. The committee shall also establish an audit and oversight department to monitor billing and private attorney and vendor compensation. All private attorney invoices shall be processed for payment within 30 days of receipt by the chief counsel, excluding any bills held for review or audit. Bills shall be submitted to the committee within 60 days of the conclusion of a case or, if the case is pending at the end of the fiscal year, within 30 days after the end of such fiscal year. The amount of payment for invoices received by the chief counsel more than 60 days but less than 90 days after the final disposition of the case or more than 30 days but less than 60 days after the end of the fiscal year shall be reduced by 10 per cent. Bills submitted after such date need not be processed for payment within 30 days. For all bills not submitted to the committee within 90 days after the conclusion of a case or, if the case is pending at the end of the fiscal year, within 60 days after the end of the fiscal year, those bills so submitted after such date shall not be processed for payment; provided, however, that the chief counsel may authorize the payment of such bills either in whole or in part upon a determination that the delay was due to extraordinary circumstances beyond the control of the attorney.

(b) Bills shall be submitted to the committee for services provided under sections 27A to 27G, inclusive, of chapter 261 within 60 days of the last date of service or, if the case is pending at the end of the fiscal year, within 30 days after the end of such fiscal year. The amount of payment for invoices received by the chief counsel more than 60 days but less than 90 days after the last date of service or more than 30 days but less than 60 days after the end of the fiscal year shall be reduced by 10 per cent. For all bills not submitted to the committee within 90 days after the last date of service or, if the case is pending at the

930 end of the fiscal year, within 60 days after the end of the fiscal year, those bills so submitted after such  
931 date shall not be processed for payment; provided, however, that the chief counsel may authorize the  
932 payment of such bills either in whole or in part upon a determination that the delay was due to  
933 extraordinary circumstances beyond the control of the vendor.

934 (c) The committee may further prescribe such policies and procedures for payment as it deems  
935 appropriate; provided, however, that the committee may impose interest and penalties, where  
936 appropriate, upon overpayment of the private attorney and vendor bills recovered from vendors and  
937 private attorneys.

938 **SECTION 66.** Section 34E of chapter 221 of the General Laws, as appearing in the 2008 Official Edition,  
939 is hereby amended by striking out the last paragraph and inserting in place thereof the following  
940 paragraph:-

941 The committee shall be eligible for federal funds and may accept any and all gifts, donation, grants,  
942 contributions, appropriations, which may be received from any source, public or private; to be held,  
943 used, or expended, for any or all purposes and duties of the committee, in accordance with the terms and  
944 conditions of any such grant. The committee may enter into contracts to provide or receive services with  
945 any federal or state entity, with any group or individual, whether for profit or non profit or with any  
946 voluntary or charitable group, association or organization including any bar association or foundation.  
947 Any such donations, funds, contributions, or grants shall be deposited in the Mental Health Legal  
948 Advisors Committee Trust.

949 **SECTION 67.** Chapter 221 of the General Laws is hereby amended by striking out section 88, as so  
950 appearing, and inserting in place thereof the following section:

951 Section 88. Upon request of the presiding justice or any party, the stenographer shall furnish a transcript  
952 of his notes, or any part thereof, taken at a trial or hearing, for which he shall be paid by the party  
953 requesting it at the rate of \$3 per page for the original and \$1 per page for each additional copy ordered  
954 at the same time. If requested by any party, the stenographer shall furnish an electronic reproduction at  
955 an amount not to exceed \$5 for each electronic reproduction requested. All electronic reproductions shall  
956 be in an open source format as specified by the office of transcription services. Additional paper copies, if  
957 so requested by an indigent person or counsel for an indigent person, shall be paid at 10 cents per page.  
958 In the event that daily copy is ordered by the presiding justice or any party, the rate shall be \$4 and 50  
959 cents per page for the original copy and \$1 and 50 cents per page for each additional copy; provided that,  
960 if requested by any party, the stenographer shall furnish an electronic reproduction at an amount not to  
961 exceed \$5 for each electronic reproduction. Additional paper copies, if so requested by an indigent  
962 person or counsel for an indigent person, shall be paid at 10 cents per page. If transcript is ordered by the  
963 presiding justice or, in a criminal case, by the district attorney, payment therefor at the same rate shall be  
964 made by the administrative office of the trial court upon a voucher approved by the presiding justice and,  
965 in a criminal case, the charges of transcripts furnished to said justice and to the district attorney shall be  
966 taxed like other expenses. If the presiding justice orders that a statement given to the police be  
967 transcribed, all parties shall receive a copy, and payment therefor shall be at the same rate and made by  
968 the administrative office of the trial court upon a voucher approved by the presiding justice.

**SECTION 68.** Subsection (h) of section 1 of chapter 703 of the acts of 1963, as most recently amended by section 78 of chapter 189 of the acts of 2010, is hereby amended by striking out paragraph (h) and inserting in place thereof the following paragraph:-

(h) "State college", any public institution of higher education listed in section 5 of chapter 15A of the General Laws, except the University of Massachusetts and its campuses.

**SECTION 69.** Section 44 of chapter 85 of the acts of 1994, as most recently amended by sections 1 and 2 of chapter 164 of the acts of 2009, is hereby further amended by inserting after the words "Horseneck Beach State Reservation" the following words:- , Officer's Quarters at Fort Revere in the town of Hull, Gatekeeper's House at Maudslay State Park, Gates House at Wachusett Mountain State Reservation, Blue Farmhouse and garage and associated barns 3, 4 and 5 at 215 Cold Spring Road and Red Farmhouse and shed at 220 Cold Spring Road at Spectacle Pond in the town of Sandisfield, the McKay House at Willowdale State Forest, 57 Dedham Street, Hyde Park district of the city of Boston, Speedway Administration Building, Brighton district of the city of Boston, the Police Substation on Furnace Brook Parkway in the city of Quincy, the Compressor Building at Quincy Quarries in the Blue Hills Reservation, any of the Peddocks Cottages on Peddocks Island in the Boston Harbor Islands National Park Area, 3 Wompatuck Cottages in Wompatuck State Park, Stress House 1 at Neponset River Reservation, and notwithstanding any general or special law to the contrary, the Schooner Ernestina and a portion of the New Bedford State Pier to provide sufficient berthing space.

**SECTION 70.** Sections 3A, 20A and 25 of chapter 175 of the acts of 1998 are hereby repealed.

**SECTION 71.** Section 43 of chapter 206 of the acts of 1998 is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The department of environmental protection shall perform a targeted audit of a significant number of sites at which an activity and use limitation has been implemented in order to ensure that response actions not overseen or conducted by the department are performed in compliance with chapter 21E and regulations adopted under that chapter. In determining this number, the department shall take into account the need for audits to ensure a high level of compliance with this said chapter 21E and the Massachusetts Contingency Plan and the need to target audit resources in the most efficient and effective manner.

**SECTION 72.** Subsection (2) of section 95 of chapter 173 of the acts of 2008 is hereby amended by striking out, in line 2, the figure "2012", inserted by section 115 of chapter 131 of the acts of 2010, and inserting in place thereof the following figure:- 2013.

**SECTION 73.** Section 23 of chapter 5 of the acts of 2009 is hereby amended by striking out the figure "2011", inserted by section 115 of chapter 131 of the acts of 2010, and inserting in place thereof the following figure:- 2012.

**SECTION 74.** The first sentence of section 152 of chapter 25 of the acts of 2009 is hereby amended by striking out the figure "2011" and inserting in place thereof the following figure:- 2013.

**SECTION 75.** Section 195 of chapter 131 of the acts of 2010 is hereby amended by striking out the figure "2011" and inserting in place thereof the following figure:- 2012.

**SECTION 76.** Section 124 of chapter 359 of the acts of 2010 is hereby amended by striking out the words "and June 30, 2011" and inserting in place thereof the following words:- , June 30, 2011 and June 30, 2012.

**SECTION 77.** Notwithstanding any general or special law to the contrary, the term of the sitting members of the committee for public counsel services shall expire 60 days after the effective date of this act. The governor, the senate president, the speaker of the house of representatives and the justices of the supreme judicial court shall make their appointments to the committee within said 60 days. Nothing in this section shall preclude the reappointment of a sitting member of the committee.

1015 **SECTION 78.** Notwithstanding the provisions of section 41C of chapter 7 and any general or special law  
1016 to the contrary, in the interest of providing immediate and cost-effective office space, the committee for  
1017 public counsel services established under chapter 211D of the General Laws may lease buildings and  
1018 land owned by a county, city or town, or public and private entity to provide suitable quarters and space  
1019 for committee personnel and necessary related activities such as parking. The chief counsel shall be  
1020 responsible for negotiating leases between the committee and other parties, subject to the approval of the  
1021 division of capital asset management and maintenance. No payments for rent shall exceed the prevailing  
1022 rent a commercial establishment would pay for comparable space in that geographic area, excluding that  
1023 portion of said prevailing rent attributable to property taxes. Every county, city, or town which receives  
1024 rental payments pursuant to this section shall submit a schedule to the committee and the division  
1025 detailing the cost of maintenance, repairs, utilities and debt service on the rented facilities.

1026 **SECTION 79.** The committee for public counsel services shall compile a report detailing the committee's  
1027 proposal to have the public defender division handle 20 per cent of indigent person cases assigned to the  
1028 committee by the beginning of fiscal year 2013. The report shall be submitted to the house and senate  
1029 committees on ways and means on or before September 30, 2011.

1030 **SECTION 80.** The commissioner of probation shall examine the costs and feasibility of establishing an  
1031 indigency verification system that would determine whether a person is indigent pursuant to section 2A of  
1032 chapter 211D of the General Laws the same day of a person's claim of indigency. The commissioner  
1033 shall report the costs associated with the implementation of such a system and any other  
1034 recommendations to the house and senate committees on ways and means on or before December 31,  
1035 2011.

1036 **SECTION 81.** Notwithstanding any general or special law to the contrary, the district attorneys of the  
1037 counties of the commonwealth shall endeavor to allow for a 3 day period of time between the date of a  
1038 criminal event and the date of the arraignment subsequent to the event in order to consider whether to  
1039 utilize the provisions of section 70C of chapter 277 of the General Laws in district court cases where the  
1040 defendant is not in custody and the charges do not involve violence.

1041 The district attorney of each county of the commonwealth and the committee for public counsel services  
1042 shall file an annual report on the number of times each made a motion under said section 70C of chapter  
1043 277 to the house and senate committees on ways and means. The committee for public counsel services  
1044 shall indicate whether such motions were filed by counsel under the public defender division or by  
1045 counsel under the private defender division.

1046 **SECTION 82.** Notwithstanding any general or special law to the contrary, nursing facility and resident  
1047 care facility rates effective July 1, 2011 under section 7 of chapter 118G of the General Laws may be  
1048 developed using the costs of calendar year 2005.

1049 **SECTION 83.** Notwithstanding any general or special law to the contrary, in hospital fiscal year 2012,  
1050 the office of the inspector general may continue to expend funds from the Health Safety Net Trust Fund,  
1051 established by section 36 of chapter 118G of the General Laws, for costs associated with maintaining a  
1052 pool audit unit within the office. The unit shall continue to oversee and examine the practices in all  
1053 hospitals including, but not limited to, the care of the uninsured and the resulting free charges. The  
1054 inspector general shall submit a report to the house and senate committees on ways and means on the  
1055 results of the audits and any other completed analyses not later than March 1, 2012. For the purposes of  
1056 these audits, allowable free care services shall be defined pursuant to said chapter 118G and any  
1057 regulations adopted thereunder.

1058 **SECTION 84.** Notwithstanding any general or special law to the contrary, upon receiving a written request  
1059 from the secretary of administration and finance, the comptroller shall transfer to the General Fund the  
1060 unexpended balance of a fund, trust fund or other separate account, in existence on April 1, 2010,  
1061 whether established administratively or by law, including a separate account established under section 6

of chapter 6A of the General Laws or section 4F of chapter 7 of the General Laws; provided, however, that the secretary and comptroller shall report to the house and senate committees on ways and means 45 days prior to any such transfer. The request shall certify that the secretary, in consultation with the comptroller, has determined this balance not to be necessary for the purposes for which it was made available.

**SECTION 85.** Notwithstanding section 1 of chapter 29D of the General Laws or any other general or special law to the contrary, all payments received by the commonwealth in fiscal year 2012 pursuant to the master settlement agreement in Commonwealth of Massachusetts v. Philip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378, shall be deposited in the General Fund. Notwithstanding section 3 of said chapter 29D to the contrary, the comptroller shall transfer 100 per cent of the earnings generated in fiscal year 2011 from the Health Care Security Trust, as certified under subsection (f) of said section 3 of said chapter 29D, to the General Fund.

**SECTION 86.** Notwithstanding section 1 of chapter 29D of the General Laws or any other general or special law to the contrary, 10 per cent of all payments received by the commonwealth in fiscal year 2013 under the master settlement agreement in Commonwealth of Massachusetts v. Philip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378, shall be deposited in the State Retiree Benefits Trust Fund, and the balance of funds received in fiscal year 2013 shall be deposited in the General Fund. The amount of these payments to be deposited in the State Retiree Benefits Trust Fund shall be increased by 10 percentage points in fiscal year 2014 and in each subsequent fiscal year until the amount to be deposited reaches 100 per cent of the payments.

**SECTION 87.** Notwithstanding any general or special law to the contrary, the nursing home assessment established by subsection (b) of section 25 of chapter 118G of the General Laws shall be sufficient in the aggregate to generate \$220,000,000 in fiscal year 2012.

**SECTION 88.** Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to subdivision (1) of section 22C of chapter 32 of the General Laws shall be made available for the commonwealth's Pension Liability Fund established by section 22 of said chapter 32. The amounts transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant to said section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, for the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32 and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town, county and district shall verify these costs, subject to the rules adopted by the state treasurer. The state treasurer may make payments upon a transfer of funds to reimburse certain municipalities for pensions to retired teachers, including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and also including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to clause (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this section shall be made only pursuant to distribution of monies from the fund, and any distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the secretary of the executive office for administration and finance with the house and senate committees on ways and means and the joint committee on public service in advance of this distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. The state board of retirement may expend an amount for the purposes of the board of higher education's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund, established by



1111 subdivision (8) of section 22 of said chapter 32, for the purpose of reducing the unfunded pension liability  
1112 of the commonwealth.

1113 **SECTION 89.** (a) Notwithstanding any general or special law to the contrary, the Department of  
1114 Transportation may incur liabilities and make expenditures in fiscal year 2012 in excess of funds available  
1115 to the department for snow and ice removal; provided, that such expenditures are approved by the  
1116 secretary of transportation in consultation with the secretary of administration and finance; provided,  
1117 further, that no expenses shall be made in excess of funds available until \$50,000,000 has been  
1118 expended for snow and ice removal in fiscal year 2012; provided, further, that the negative balance of  
1119 funds available for snow and ice removal shall not exceed \$30,000,000 at any time; provided, further, that  
1120 the state comptroller may certify for payment invoices in excess of funds available to the department; and  
1121 provided, further, that any such payment that would result in a deficiency shall be pre-approved by the  
1122 secretary of transportation in consultation with the secretary of administration and finance.

1123 (b) The department shall, on or before May 1, 2012, report to the executive office for administration and  
1124 finance and the house and senate committees on ways and means the total amounts budgeted and  
1125 expended for snow and ice removal; provided that the department shall seek appropriations, as required,  
1126 to cure deficiencies resulting from the removal of snow and ice for the fiscal year ending June 30, 2012.

1127 **SECTION 90.** The commissioner of transitional assistance, in consultation with the commissioner of  
1128 revenue, shall examine the feasibility of implementing an electronic monitoring system to prevent the  
1129 purchase of alcohol, tobacco products, firearms and lottery tickets through the use of electronic benefit  
1130 transfer cards. The cost and feasibility of implementing such system shall be reported to the house and  
1131 senate committees on ways and means.

1132 **SECTION 91.** Notwithstanding any general or special law to the contrary, changes made to health  
1133 insurance benefits pursuant to sections 21 and 22 of chapter 32B of the General Laws shall not be  
1134 inconsistent with any collective bargaining agreement in effect as of July 1, 2011. If specific dollar  
1135 amount limits on co-payments, deductibles or other specified plan design features are included in the  
1136 body of a collective bargaining agreement that is in effect on the date of enactment of sections 21 and 22  
1137 of said chapter 32B, changes to those specific dollar amount limits for subscribers covered by that  
1138 collective bargaining agreement shall not be authorized until the initial term stated in that agreement has  
1139 ended.

1140 **SECTION 92.** The inspector general is authorized and directed to expend funds from the Health Safety  
1141 Net Trust Fund, established in section 36 of chapter 118G of the General Laws, to conduct a study and  
1142 review of the Massachusetts Medicaid program. The study shall include, but not be limited to, a review of  
1143 the program's eligibility requirements, utilization, claims administration and compliance with federal  
1144 mandates. The inspector general shall report any preliminary findings to the secretary of health and  
1145 human services and the house and senate committees on ways and means on or before July 1, 2011,  
1146 and issue a final report on or before September 1, 2011.

1147 **SECTION 93.** (a) Notwithstanding any general or special law to the contrary, the comptroller shall, on or  
1148 before June 30, 2012, transfer \$200,000,000 to the General Fund from the Commonwealth Stabilization  
1149 Fund; provided, however, the comptroller shall instead transfer a lesser amount if the secretary of  
1150 administration and finance so requests in writing. The comptroller, in consultation with the secretary of  
1151 administration and finance, may take the overall cash flow needs of the commonwealth into consideration  
1152 in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to  
1153 the secretary of administration and finance and to the house and senate committees on ways and means.

1154 (b) Notwithstanding clause (a) of section 5C of chapter 29 of the General Laws or any general or special  
1155 law to the contrary, during fiscal year 2012 the comptroller shall not transfer 0.5 per cent of the total  
1156 revenue from taxes in the preceding fiscal year to the Commonwealth Stabilization Fund, as required by  
1157 said clause (a). However, upon written certification by the secretary of administration and finance that  
1158 there are sufficient funds to make some or all of the transfer required under said clause (a), the

comptroller shall so transfer the amount certified. The comptroller in consultation with the secretary may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds under this subsection. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

(c) Notwithstanding any general or special law to the contrary, the comptroller shall, on or before June 30, 2012, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2012 to the General Fund.

**SECTION 94.** Notwithstanding section 35J of chapter 10 of the General Laws or any general or special law to the contrary, the formula for application of funds provided in said section 35J shall not apply in fiscal year 2012.

**SECTION 95.** (a) Notwithstanding any general or special law to the contrary, the department of environmental protection shall transfer \$3,000,000 of funds previously appropriated or loans repaid as a result of item 1231-1020 of section 2 of chapter 151 of the acts of 1996, as amended by section 54 of chapter 365 of the acts of 1996, to the General Fund on account of fiscal year 2012.

(b) Notwithstanding any general or special law to the contrary, the Massachusetts Housing Finance Agency shall, on or before June 30, 2012, transfer not more than \$5.4 million of loan repayment proceeds received under section 27 of chapter 23B of the General Laws to the comptroller to be credited to the General Fund on account of fiscal year 2012.

**SECTION 96.** (a) Notwithstanding section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, in this section called the division, on behalf of and in consultation with the department of conservation and recreation, in this section called the department, may, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws and using a competitive proposal process that the commissioner of the division considers necessary or appropriate, lease and enter into other agreements, for terms not to exceed 20 years, to or with 1 or more offerors who participate in that process, for 1 or more skating rinks, so as to provide for the continued use, operation, maintenance, repair and improvement of the following state-owned buildings and facilities together with the land and appurtenances associated with those buildings and facilities, comprising the following ice skating rinks and facilities of the department: Bajko Memorial Rink, Hyde Park District, Boston; Connell Memorial Rink, Weymouth; Devine Memorial Rink, Dorchester District, Boston; Emmons Horrigan O'Neill Memorial Rink, Charlestown District, Boston; Flynn Memorial Rink, Medford; LoConte Memorial Rink, Medford; Murphy Memorial Rink, South Boston District, Boston; Reilly Memorial Rink, Brighton District, Boston; Shea Memorial Rink, Quincy; Steriti Memorial Rink, Boston; Veterans Memorial Rink, Somerville; and, Ulin Memorial Rink, Milton.

There shall be an option for a 1 time renewal of the lease or extension for operations and maintenance services not exceeding an additional 5 years. This renewal or extension shall be at the discretion of the division in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the commonwealth. All leases must contain a provision that requires the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the commonwealth against all personal injury or property damage within the rink and on the associated land during the term of the lease.

These leases and other agreements shall be on terms acceptable to the commissioner of the division after consultation with the commissioner of the department, and, notwithstanding any general or special law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any such leases or other arrangements requiring capital improvements to be made to any buildings or surface areas shall include a description of the required capital improvements and, at minimum, performance specifications. The division, in consultation with the department, shall structure each lease or other agreement to minimize disturbance of the current rights of any tenants who may currently use any part of the rink or adjoining facilities, whether under a written lease or other arrangement. All consideration received from the leases or other agreements shall be payable to the

1208 department for deposit in the General Fund. The lessees of these properties shall bear all costs deemed  
1209 necessary or appropriate by the commissioner of the division for the transaction, including without  
1210 limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

1211 (b) The division, in consultation with and on behalf of the department, shall solicit proposals through a  
1212 request for proposals, which shall, at a minimum, require each responsive bidder or offeror to provide the  
1213 following: (1) a comprehensive list of all rinks, operated by that bidder in the last 4 years, (2) other  
1214 facilities management or experience, (3) other skating or hockey management experience, and (4)  
1215 required financial audits.

1216 (c) The request for proposals shall include contractual provisions that provide that any benefits to the  
1217 commonwealth and the costs of improvements and repairs made to the properties provided by the  
1218 tenants or the recipients of the properties shall be taken into account as part of the consideration for such  
1219 leases or other agreements; and shall also include, at a minimum, the following contractual terms and  
1220 conditions to be incorporated into the contract: (1) a residential discount program, (2) reservation policies,  
1221 (3) proposed reasonable rates that shall ensure continued public access, (4) policies to encourage use of  
1222 the rink by persons of all races and nationalities, (5) safety and security plans, (6) seasonal opening and  
1223 closing dates, (7) hours of operation, and (8) in order to maintain stable and productive labor relations  
1224 and to avoid interruption of the operation of the rinks and to preserve the safety and environmental  
1225 conditions of those rinks, that all employees currently working on the operation and maintenance of the  
1226 rinks, pools or wading and spray pools be offered employment by any party entering into a contract  
1227 pursuant to this section. The request for proposals shall also include a contractual provision governing ice  
1228 time allocation guidelines to the effect that ice time at rinks under the jurisdiction of the division of urban  
1229 parks and recreation shall be allocated to user groups in the following order of priority: general public  
1230 skating; non-profit youth groups; school hockey; youth groups other than non-profit youth groups; and  
1231 adult organizations or informal groups. Ice time may be allocated at the discretion of the operator,  
1232 provided that general public skating shall be booked at a minimum of 12 hours per week, with a range of  
1233 times and days which reasonably allow for public skaters of all ages to participate in some public skating  
1234 sessions. Every effort shall be made to balance the ice allocation needs of long-established youth  
1235 organizations and newly formed youth organizations in a manner that provides equal opportunity and  
1236 equal access for youths of each gender.

1237 Upon the execution of any agreements authorized by this section, the department shall reassign or  
1238 relocate those employees who do not accept employment with the lessee, to comparable positions within  
1239 the department subject to applicable collective bargaining agreements.

1240 The inspector general shall review and approve any request for proposals issued by the division before  
1241 issuance.

1242 (d) Before the division, in consultation with the department, issues any request for proposals under this  
1243 section, the division shall hold open a prequalification period of at least 1 month for municipalities or a  
1244 partnership of municipalities which share geographic boundaries as long as the subject rink or rinks is or  
1245 are located within the geographic area of the municipalities comprising the partnership, that desire to bid  
1246 on rinks that are listed in this section and are located within the municipality. Any municipality or  
1247 partnership of municipalities that desires to lease a rink under this section may submit materials for  
1248 prequalification. This prequalification may include, but need not be limited to, the municipality's or  
1249 partnership's ability to finance the capital improvements determined by the division to be necessary at  
1250 each rink listed in this section and to manage, operate and maintain the properties. The division, in  
1251 consultation with the department, shall determine whether a municipality or partnership is prequalified  
1252 within 15 days after the end of the prequalification period. If a municipality or partnership is determined to  
1253 be prequalified, that municipality or partnership shall be awarded the lease for that rink under the terms  
1254 and conditions established in subsection (a) and the first paragraph of subsection (b). If a municipality or  
1255 partnership is determined to be prequalified, the municipality or partnership shall pay nominal  
1256 consideration for a lease subject to the required capital improvements, performance specifications and  
1257 other prequalification requirements and terms of the division and submitted proposal. The length of the  
1258 lease shall be determined between the division and the city or town; but any existing municipal operator

1259 of a rink selected by a prior open and competitive procurement shall be deemed to be prequalified under  
1260 this section.

1261 The failure of any municipality to apply for prequalification under this subsection shall not prohibit that  
1262 municipality from bidding under this section.

1263 (e) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or  
1264 award of contracts, to the procurement of services, or to the construction and design of improvements  
1265 shall not apply to any selected offeror that is awarded a contract under this section, except as provided in  
1266 this section.

1267 (f) Notwithstanding sections 40E to 40I, inclusive, and section 54 of chapter 7 of the General Laws, the  
1268 division, on behalf of and in consultation with the department, and using a competitive proposal process  
1269 that the commissioner of the division considers necessary or appropriate, may lease and enter into other  
1270 agreements, for terms not to exceed 20 years, to or with 1 or more offerors who participate in that  
1271 process, for 1 or more swimming pools or wading or spray pools, so as to provide for the continued use,  
1272 operation, maintenance, repair and improvement of the following state-owned buildings and facilities  
1273 together with the land and appurtenances associated with those buildings and facilities, comprising the  
1274 following swimming or wading or spray pools of the department: Artesani Playground Wading Pool,  
1275 Brighton; Reilly Memorial Swimming Pool, Brighton; Vietnam Veterans Memorial Swimming Pool,  
1276 Chelsea; Neponset Landing II Spray Deck, Dorchester; Neponset Landing II Spray Deck, Hyde Park;  
1277 Olsen Swimming and Wading Pool, Hyde Park; Johnson Playground Spray Deck, Jamaica Plain; Stony  
1278 Brook Spray Deck, Jamaica Plain; Ryan Wading Pool, Mattapan; Cass Memorial Swimming Pool,  
1279 Roxbury; Mission Hill Spray Deck, Roxbury; Lee Memorial Wading Pool, West End; McCrehan Memorial  
1280 Swimming and Wading Pool, Cambridge; Veterans Memorial Swimming and Wading Pool (Magazine  
1281 Beach), Cambridge; Gerald J. Mason Memorial Swimming Pool, Agawam; Sara Jane Sherman Memorial  
1282 Swimming Pool, Chicopee; Philip Weihl Memorial Swimming Pool, Clinton; Allied Veterans Memorial  
1283 Swimming and Wading Pool, Everett; Veteran's Memorial Swimming Pool, Fall River; Gustave Johnson  
1284 Memorial Swimming Pool, Fitchburg; Freetown State Forest Wading Pool, Freetown/Assonet; Geisler  
1285 Memorial Swimming Pool, Lawrence; Lt. Colonel Edward J. Higgins Swimming Pool, Lawrence;  
1286 Leominster State Swimming Pool, Leominster; Raymond Lord Memorial Swimming Pool, Lowell;  
1287 Thompson Memorial Pool, Ludlow; Holland Memorial Swimming and Wading Pool, Malden; Lloyd  
1288 Memorial Swimming Pool, Melrose; Senator P. Eugene Casey Memorial Swimming Pool, Milford; Dilboy  
1289 Memorial Swimming and Wading Pool, Somerville; Latta Brothers Memorial Swimming and Wading Pool,  
1290 Somerville; Andrew J. Petro Swimming Pool, Southbridge; John H. Thomas Memorial Swimming Pool,  
1291 Springfield; Hall Memorial Swimming and Wading Pool, Stoneham; Bradley Palmer Wading Pool,  
1292 Topsfield; Dealtry Memorial Swimming and Wading Pool, Watertown; Bennett Field Swimming Pool,  
1293 Worcester; Dennis F. Shine Memorial Swimming Pool, Worcester; Connell Memorial Swimming Pool,  
1294 Weymouth; and Connors Memorial Pool, Waltham.

1295 There shall be an option for a 1 time renewal of the lease or extension for operations and maintenance  
1296 services not exceeding an additional 5 years. This renewal or extension shall be at the discretion of the  
1297 division in accordance with the original contract terms and conditions or contract terms and conditions  
1298 more favorable to the commonwealth. All leases shall contain a provision that requires the lessee to carry  
1299 comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the  
1300 commonwealth against all personal injury or property damage within swimming pools or wading or spray  
1301 pools and on the associated land during the term of the lease.

1302 These leases and other agreements shall be on terms acceptable to the commissioner of the division  
1303 after consultation with the commissioner of the department, and, notwithstanding any general or special  
1304 law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the  
1305 properties. Any such leases or other arrangements requiring capital improvements to be made to any  
1306 buildings or surface areas shall include a description of the required capital improvements and, at  
1307 minimum, performance specifications. The division, in consultation with the department, shall structure  
1308 each lease or other agreement to minimize disturbance of the current rights of any tenants who may  
1309 currently use any part of the swimming pools or wading or spray pools or adjoining facilities, whether

1310 under a written lease or other arrangement. All consideration received from the leases or other  
1311 agreements shall be payable to the department for deposit in the General Fund. The lessees of these  
1312 properties shall bear all costs considered necessary or appropriate by the commissioner of the division for  
1313 the transaction, including without limitation, all costs for legal work, survey, title and the preparation of  
1314 plans and specifications.

1315 (g) The division, in consultation with and on behalf of the department, shall solicit proposals through a  
1316 request for proposals, which shall at a minimum require each responsive bidder or offeror to provide the  
1317 following: (1) a comprehensive list of all swimming pools or wading or spray pools operated by that bidder  
1318 in the last 4 years, (2) other facilities management or experience, (3) other swimming, facility  
1319 maintenance and water recreation management experience, and (4) required financial audits.

1320 (h) The request for proposals shall include contractual provisions that provide that any benefits to the  
1321 commonwealth and the costs of improvements and repairs made to the properties provided by the  
1322 tenants or the recipients of the properties shall be taken into account as part of the consideration for such  
1323 leases or other agreements; and shall also include, at a minimum, the following contractual terms and  
1324 conditions to be incorporated into the contract: (1) a residential discount program, (2) reservation policies,  
1325 (3) proposed reasonable rates that shall ensure continued public access, (4) policies to encourage use of  
1326 the swimming pools and wading or spray pools by persons of all races and nationalities, (5) safety and  
1327 security plans, (6) seasonal opening and closing dates, (7) hours of operation, and (8) in order to maintain  
1328 stable and productive labor relations and to avoid interruption of the operation of the pools and to  
1329 preserve the safety and environmental conditions of those pools, that all employees currently working on  
1330 the operation and maintenance of the swimming pools or wading or spray pools be offered employment  
1331 by any party entering into a contract under this section. The request for proposals shall also include a  
1332 contractual provision as pertains to the balance the pool allocation needs of long-established youth  
1333 organizations and newly formed youth organizations in a manner that provides equal opportunity and  
1334 equal access for youths of each gender.

1335 (i) With respect to the Cass Memorial Swimming Pool, Roxbury and the Connell Memorial Swimming  
1336 Pool, Weymouth, both of which are maintained and operated in the same buildings as the associated  
1337 public skating rink, preference shall be given to any proponent that agrees and offers to operate both  
1338 public programs, and any lease for that facility shall provide that the lessee may sub-lease the operation  
1339 of the public swimming program, but the sub-lessee shall maintain the operation of the swimming pool as  
1340 a public swimming pool consistent with the request for proposals.

1341 (j) Upon the execution of any agreements authorized by this section, the department shall reassign or  
1342 relocate those employees who do not accept employment with the lessee, to comparable positions within  
1343 the department subject to applicable collective bargaining agreements.

1344 The inspector general shall review and approve any request for proposal issued by the division before  
1345 issuance.

1346 (k) Before the division, in consultation with the department, issues any request for proposals under this  
1347 section, the division shall hold open a prequalification period of at least 1 month for municipalities or a  
1348 partnership of municipalities which share geographic boundaries as long as the subject swimming pools  
1349 or wading or spray pools are located within the geographic area of the municipalities comprising the  
1350 partnership, that desire to bid on swimming pools or wading or spray pools that are listed in this section  
1351 and are located within the municipality. Any municipality or partnership of municipalities that desires to  
1352 lease a swimming pools or wading or spray pools under this section may submit materials for  
1353 prequalification. This prequalification may include, but not be limited to, the municipality's or partnership's  
1354 ability to finance the capital improvements determined by the division to be necessary at each swimming  
1355 pool or wading or spray pool listed in this section and to manage, operate and maintain the properties.  
1356 The division, in consultation with the department, shall determine whether a municipality or partnership is  
1357 prequalified within 15 days of the end of the prequalification period. If a municipality or partnership is  
1358 determined to be prequalified, that municipality or partnership shall be awarded the lease for that  
1359 swimming pool or wading or spray pool under the terms and conditions established in subsection (f) and

1360 the first paragraph of subsection (g). If a municipality or partnership is determined to be prequalified, the  
 1361 municipality or partnership shall pay nominal consideration for a lease subject to the required capital  
 1362 improvements, performance specifications and other prequalification requirements and terms of the  
 1363 division and submitted proposal. The length of the lease shall be determined between the division and the  
 1364 municipality; however, any existing municipal operator of a swimming pool or wading or spray pool  
 1365 selected by a prior open and competitive procurement shall be considered to be prequalified under this  
 1366 subsection.

1367 The failure of any municipality to apply for pre-qualification under this subsection shall not prohibit that  
 1368 municipality from bidding under this section.

1369 (l) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or  
 1370 award of contracts, to the procurement of services, or to the construction and design of improvements  
 1371 shall not apply to any selected offeror that is awarded a contract under this section, except as provided in  
 1372 this section.

1373 **SECTION 97.** Notwithstanding section 279 of chapter 149 of the acts of 2004, for the Daley Memorial  
 1374 Rink Property, this parcel of land as particularly described on a plan entitled "Lease Plan Newton Country  
 1375 Day School of the Sacred Heart, Nonantum Road, Newton, Mass.," dated November 15, 2007, and  
 1376 prepared by Harry R. Feldman, Inc., there shall be an option for renewal or extension for operations and  
 1377 maintenance services for an additional 20 years with the Boston Academy of the Sacred Heart, Inc., d/b/a  
 1378 Newton Country Day School. The division of capital asset and management, in consultation with the  
 1379 commissioner of the department of conservation and recreation, may make minor revisions to this plan for  
 1380 the parcel of land, may amend the current lease, and may sign the lease or lease extension without any  
 1381 further approval of the general court.

1382 **SECTION 98.** Notwithstanding section 53 of chapter 118E of the General Laws or any general or special  
 1383 law to the contrary, the secretary of health and human services may manage the MassHealth program  
 1384 within the appropriated levels in items 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-  
 1385 0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 and 4000-1405 by  
 1386 restructuring benefits to the extent permitted by federal law.

1387 **SECTION 99.** Notwithstanding any general or special law to the contrary, the secretary of health and  
 1388 human services may make expenditures for which federal reimbursement is unavailable for (1) the  
 1389 equivalent of MassHealth Standard benefits for children under age 21 who are in the care or custody of  
 1390 the department of youth services or the department of children and families, and (2) dental benefits  
 1391 provided to clients of the department of developmental services who are age 21 or over.

1392 **SECTION 100.** (a) Notwithstanding section 53 of chapter 118E of the General Laws, for fiscal year 2012,  
 1393 the executive office of health and human services may determine the extent to which to include within its  
 1394 covered services for adults the federally-optional dental services that were included in its state plan or  
 1395 demonstration program in effect on January 1, 2002 and the dental services that were covered for adults  
 1396 in the MassHealth basic program as of January 1, 2002.

1397 (b) Notwithstanding subsection (a) of section 6 of chapter 118H of the General Laws, for fiscal year 2012,  
 1398 medically necessary dental services covered through health insurance plans procured by the board of the  
 1399 Commonwealth Health Insurance Connector Authority for any resident with a household income that does  
 1400 not exceed 100 per cent of the federal poverty level shall include preventative procedures but shall  
 1401 exclude those categories of services that are not provided through MassHealth.

1402 **SECTION 101.** Notwithstanding any general or special law to the contrary, the executive office of health  
 1403 and human services, acting in its capacity as the single state agency under Title XIX of the Social  
 1404 Security Act and as the principal agency for all of the agencies within the executive office and other  
 1405 federally-assisted programs administered by the executive office, may enter into interdepartmental  
 1406 services agreements with the University of Massachusetts Medical School to perform activities that the  
 1407 secretary of health and human services, in consultation with the comptroller, determines appropriate and

within the scope of the proper administration of said Title XIX and other federal funding provisions to support the programs and activities of the executive office. The activities may include: (1) providing administrative services including, but not limited to, providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives; (2) providing consulting services related to quality assurance, program evaluation and development, integrity and soundness and project management; and (3) providing activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third-party liability and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts Medical School relative to federally-reimbursable services the University provides under these interdepartmental service agreements or other contracts with the executive office shall be distributed to the University and recorded distinctly in the state accounting system. The secretary may negotiate contingency fees for activities and services related to pursuing federal reimbursement or avoiding costs and the comptroller shall certify these fees and pay them upon the receipt of this revenue, reimbursement or demonstration of costs avoided. Contracts for contingency fees shall not exceed 3 years and shall not be renewed without prior review and approval by the executive office for administration and finance. The secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2012; provided, however, contingency fees paid to the University of Massachusetts Medical School under an interagency service agreement for recoveries related to the special disability workload projects shall be excluded from that \$40,000,000 limit for fiscal year 2012. The secretary of health and human services shall submit to the secretary of administration and finance and the senate and house committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the university, the amounts expended on personnel and the amount of federal reimbursement and recoupment payments that the university collected.

**SECTION 102.** Notwithstanding any general or special law to the contrary, on or before October 1, 2011 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund, established in section 36 of chapter 118G of the General Laws, in this section called the fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to hospitals and community health centers required pursuant to this act, for the purposes of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2011. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund on or before June 30, 2012, the amount of the transfer authorized by this section and any allocation of that amount as certified by the director of the health safety net office.

**SECTION 103.** (a) Notwithstanding any general or special law to the contrary, after complying with clause (a) of section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2011 as follows: (i) the comptroller shall transfer \$10,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; and (ii) the remaining balance shall be transferred from the General Fund to the Commonwealth Stabilization Fund.

(b) All transfer pursuant to this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances; provided, however, that no such transfer shall cause a deficit in any of the funds.

**SECTION 104.** Notwithstanding any general or special law to the contrary, the department of corrections shall reprocore all food, commissary and medical services. The department shall solicit new bids for such services in accordance with applicable state law and may utilize alternative procurement methods including, but not limited to, specialized vendor prequalification, cooperative procurements, competitive negotiations and brand name solicitations; provided, further, that in executing the reprocorement of such services, the department shall notify the sheriffs in each of the departments of the county sheriffs who may elect to participate in the reprocorement for such services.

1458 **SECTION 105.** (a) The University of Massachusetts Boston, through its office of dispute resolution, shall  
1459 conduct a study of the effectiveness of community mediation to broaden public access to dispute  
1460 resolution. The study shall inform state-level planning and decision-making to support and build upon  
1461 existing infrastructure and enable investment in sustainable community mediation programming within the  
1462 commonwealth in the coming years.

1463 (b) For purposes of this study, “community mediation” shall mean mediation service programs of a private  
1464 non-profit or public agency that: (a) use trained community volunteers and serve the public regardless of  
1465 ability to pay; (b) promote collaborative community relationships and public awareness; and (c) provide a  
1466 dispute resolution forum and alternative to the judicial system at any stage of a conflict. The study shall  
1467 include, but not be limited to:

1468 (i) a review of community mediation research, studies and data within Massachusetts and other states  
1469 and countries in order to identify cost savings and economic, social, health and environmental benefits  
1470 from community mediation, in some or all of the following areas: civil small claims and consumer disputes;  
1471 family, divorce, child custody and visitation disputes; permanency/open adoption cases; landlord-tenant  
1472 disputes and housing foreclosure cases; neighborhood conflicts around noise and property boundaries;  
1473 school-related disputes; minor criminal and victim-offender restorative justice cases; interpersonal  
1474 workplace disputes; and large-group disputes around public policy, environmental, and community  
1475 issues;

1476 (ii) A review and assessment of the historic and current legislative and public funding structures for  
1477 community mediation within Massachusetts;

1478 (iii) A review of successful models for public funding of community mediation in other states and  
1479 recommendations for potential applicability to Massachusetts;

1480 (iv) Preliminary design of a state-of-the-art performance-based community mediation funding framework  
1481 within Massachusetts for state appropriations, government grants and private foundation awards that  
1482 support programming where there is an identifiable public nexus;

1483 (v) Recommendations for the infrastructure and resources needed to oversee and administer such a  
1484 funding framework, and recommendations for implementation steps and timeframes; and

1485 (vi) Recommendations for the establishment of an inter-governmental and cross-sector advisory  
1486 committee to oversee implementation and administration of community mediation funding and  
1487 programming.

1488 (c) The study shall be completed and submitted to the chairs of the house and senate ways and means  
1489 committees and the secretary of administration and finance on or before January 1, 2012.



1490 **SECTION 106.** Whenever the term "division of urban parks and recreation" appears in any statute,  
1491 regulation, contract, or other document, it shall be taken to mean the division of state parks and  
1492 recreation.

1493 **SECTION 107.** (a) Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or  
1494 any other general or special law to the contrary, in order to facilitate the reuse of the properties identified  
1495 in subsection (b) and to generate non-tax revenues for the commonwealth, the commissioner of capital  
1496 asset management and maintenance, hereafter known as the commissioner, may sell, lease for terms up  
1497 to 99 years including all renewals and extensions or otherwise grant, convey or transfer to purchasers or  
1498 lessees an interest in any of those properties, or portions thereof, subject to this section and on the terms  
1499 and conditions that the commissioner considers appropriate. The commissioner shall dispose of each  
1500 property, or portions thereof, using appropriate competitive bidding processes and procedures. At least  
1501 30 days before the date on which bids, proposals or other offers to purchase or lease a property, or any  
1502 portion thereof, are due, the commissioner shall place a notice in the central register published by the  
1503 state secretary under section 20A of chapter 9 of the General Laws stating the availability of the property,  
1504 the nature of the competitive bidding process and other information that he considers relevant, including  
1505 the time, place and manner for the submission of bids and proposals and the opening of the bids or  
1506 proposals.

1507 (b) This section shall apply to the following properties:

1508 (1) Those certain parcels of land located in the town of Belchertown at 47 State street, or portions thereof,  
1509 containing approximately 5.4 acres, together with any buildings or structures thereon, known as the John  
1510 Patrick center.

1511 (2) That certain parcel of land located in the city of New Bedford at 593 Kempton street, together with any  
1512 buildings and structures thereon, formerly known as the Bristol county jail, described in book 2659, page  
1513 15 recorded with the Bristol county registry of deeds, and further shown on New Bedford assessors map  
1514 57, lot 201.

1515 (3) That certain parcel of land located in the city of New Bedford at 5 Sycamore street, together with any  
1516 buildings and structures thereon, formerly known as the New Bedford armory.

1517 (4) Those certain parcels of land located in the city of Northampton behind the property used as a  
1518 department of mental health center for children and families at 78 Pomeroy terrace, or portions thereof,  
1519 containing approximately 6 acres, together with any buildings and structures thereon, used as a  
1520 department of mental health center for children and families.

1521 (5) Those certain parcels of land located in the town of Oak Bluffs between the northeasterly side of  
1522 Eastville avenue and the southeasterly side of Temahigan avenue, or portions thereof, containing  
1523 approximately 1.7 acres, together with any buildings and structures thereon, used as a mental health  
1524 center, described in book 303, page 516 recorded with the Dukes county registry of deeds and shown on  
1525 the Oak Bluffs assessors map 4, lot 151.

1526 (6) Those certain parcel of lands located in the city of Taunton on Stanley avenue or portions thereof,  
1527 containing approximately .32 acres, together with any buildings and structures thereon.

1528 (c) The exact boundaries of the parcels described in subsection (b) shall be determined by the  
1529 commissioner of capital asset management and maintenance after completion of a survey.

1530 (d) Notwithstanding any general or special law to the contrary, the grantee or lessee of any property  
1531 identified in subsection (b) shall be responsible for all costs and expenses including, but not limited to,  
1532 costs associated with any engineering, surveys, appraisals and deed preparation related to the  
1533 conveyances and transfers authorized in this section as such costs may be determined by the  
1534 commissioner of capital asset management and maintenance.

- 1535 (e) The commissioner may retain or grant rights of way or easements for access, egress, utilities and  
1536 drainage across any of the parcels and across other commonwealth property contiguous to any of the  
1537 parcels, and the commonwealth may accept from a developer such rights of way or easements in  
1538 roadways or across any of the parcels to be conveyed or transferred for access, egress, drainage and  
1539 utilities as the commissioner considers necessary and appropriate to carry out this section.
- 1540 (f) No agreement for the sale, lease, transfer or other disposition of the properties listed in subsection (b),  
1541 and no deed executed by or on behalf of the commonwealth, shall be valid unless the agreement or deed  
1542 contains the following certification, signed by the commissioner:—
- 1543 “The undersigned certifies under penalties of perjury that I have fully complied with Section \_\_\_\_ of  
1544 Chapter \_\_\_\_ of the Acts of \_\_\_\_ in connection with the property described in this document.”
- 1545 (g) Each parcel shall be conveyed or leased without warranties or representations by the commonwealth.  
1546 Notwithstanding any general or special law to the contrary, the proceeds of all conveyances and transfers  
1547 under this section shall be deposited in the General Fund.
- 1548 (h) Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws, or any other general  
1549 or special law to the contrary, the commissioner of capital asset management and maintenance may  
1550 transfer care, custody and control of a portion of the state-owned land described in subsection (b)(8) from  
1551 the department of mental health to the department of state police.
- 1552 (i) Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general  
1553 or special law to the contrary, the commissioner of capital asset management and maintenance may sell,  
1554 lease for a term up to 99 years, including all renewals and extensions, or otherwise grant, convey or  
1555 transfer to the town of Belchertown, for nominal consideration, a parcel of land containing approximately  
1556 2.2 acres located adjacent to the John Patrick center at 47 State street. The exact boundaries of the  
1557 parcel shall be determined by the commissioner of capital asset management and maintenance after  
1558 completion of a survey. The parcel shall be used by the town of Belchertown for recreational activities and  
1559 facilities.
- 1560 (1) If for any reason the parcel described in subsection (i) ceases to be used solely for the purposes  
1561 described in subsection (i), the commissioner of capital asset management and maintenance may, after  
1562 giving notice and an opportunity to the town of Belchertown, cause title to the parcel to revert to the  
1563 commonwealth.
- 1564 (2) The town of Belchertown shall be responsible for all costs and expenses including, but not limited to,  
1565 costs associated with any engineering, surveys, appraisals and deed preparation related to the  
1566 conveyance authorized in this section as such costs may be determined by the commissioner of capital  
1567 asset management and maintenance.
- 1568 (3) The commissioner may retain or grant rights of way or easements for access, egress, utilities and  
1569 drainage across the parcel and across other commonwealth property contiguous to the parcel, and the  
1570 commonwealth may accept from the town such rights of way or easements in roadways or across the  
1571 parcel to be conveyed or transferred for access, egress, drainage and utilities as the commissioner  
1572 considers necessary and appropriate to carry out this section.
- 1573 (4) The parcel shall be conveyed without warranties or representations by the commonwealth.  
1574 Notwithstanding any general or special law to the contrary, the proceeds of all conveyances and transfers  
1575 under this section shall be deposited in the General Fund.
- 1576 **SECTION 108.** Section 4 shall take effect on May 4, 2012.
- 1577 **SECTION 109.** Section 78 is hereby repealed.
- 1578 **SECTION 110.** Section 109 shall take effect on July 1, 2012.

1579    **SECTION 111.** Except as otherwise specified, this act shall take effect on July 1, 2011.