The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 30, 2008.

The committee on Ways and Means, to whom was referred the message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5115), reports, in part, that the accompanying bill (House, No. 5132) ought to pass.

For the committee,

ROBERT A. DeLEO.
AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2009 TO PROVIDE
FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR
CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, the deferred operation of this act would tend to defeat
its purposes, which are forthwith to make supplemental appropri-
tions for fiscal year 2009 and to make certain changes in law, each
of which is immediately necessary to carry out those appropri-
tions or to accomplish other important public purposes, therefore
it is hereby declared to be an emergency law, necessary for the
immediate preservation of the public convenience.

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

SECTION 1. Section 22C of chapter 32 of the General Laws, as
appearing in the 2006 Official Edition, is hereby amended by
striking out, in line 29, the words “as of June thirtieth, two thou-
sand and 23” and inserting in place thereof the following
words:— on June 30, 2025

SECTION 2. Section 19 of chapter 32B of the General Laws,
as amended by section 4 of chapter 67 of the acts of 2007, is
hereby further amended by striking out, in the second sentence of
paragraph (e), the words “October 1” and inserting in place
thereof the following words:— December 1

SECTION 3. Item 0411-1002 of section 2 of chapter 182 of the
acts of 2008 is hereby amended by striking out the figure
“$3,000,000” and inserting in place thereof the following
figure:— $500,000.

SECTION 4. Notwithstanding any general or special law to the
contrary, the secretary of administration and finance may autho-
rize the transfer of funds from any item of appropriation for fiscal
year 2009 for any executive branch agency to any other item of
appropriation for that agency or within its executive office. No
transfer authorized by this section shall exceed 5 per cent of the
amount appropriated for an item. The transfer may be made only
with the written approval of the heads of the sending and
receiving agencies and of the secretary of the executive office of
each agency involved in the transfer; provided further, that the
secretary of administration and finance shall notify the house and
senate committees on ways means 15 days prior to a transfer pur-
suant to this section.

SECTION 5. Notwithstanding any general or special law to the
contrary, the department of highways and department of conserva-
tion and recreation may, for the purposes of accommodating
timing discrepancies between the available appropriation in items
6030-7201, 6010-0002 and 2820-2000 of section 2 of chapter 182
of the acts of 2008 and expenditures associated with snow and ice
control, including the purchase of materials and equipment and
the payment of third party vendors, incur liabilities and expenses
and the state comptroller may certify for payment invoices in
excess of the appropriation in an amount not to exceed
$50,000,000, but any such payment that would result in a defi-
ciency shall be pre-approved by the secretary of administration
and finance, in consultation with the secretary of transportation
and public works and the state comptroller.

SECTION 6. (a) Notwithstanding any general or special law to
the contrary, the comptroller may, on or before June 30, 2009,
transfer up to $200,000,000 to the General Fund from the Com-
monwealth Stabilization Fund.
(b) The comptroller, in consultation with the secretary of
administration and finance, may take the overall cash flow needs
of the commonwealth into consideration in determining the timing
of any transfer of funds. 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.

SECTION 7. (a) Notwithstanding any general or special law to
the contrary, the appropriations for fiscal year 2009 under
section 2 of chapter 182 of the acts of 2008 shall be reduced as follows: (1) the judiciary shall be reduced by $22,104,009; (2) the
office of the governor shall be reduced by $1,173,129; (3) the
office of the secretary of state shall be reduced by $2,000,000;
(4) the office of the treasurer and receiver-general shall be
reduced by $388,000; (5) the office of the state auditor shall be
reduced by $1,050,493; and (6) the office of the attorney general
shall be reduced by $500,000.

(b) Notwithstanding any general or special law to the contrary,
the appropriations for fiscal year 2009 under section 2 of
chapter 182 of the acts of 2008 shall be reduced as follows: (1) the
Suffolk district attorney’s office shall be reduced by $424,441;
(2) the northern district attorney’s office shall be reduced by
$370,160; (3) the eastern district attorney’s office shall be reduced
by $232,478; (4) the middle district attorney’s office shall be
reduced by $242,480; (5) the Hampden district attorney’s office
shall be reduced by $217,217; (6) the northwestern district attor-
ney’s office shall be reduced by $137,632; (7) the Norfolk district
attorney’s office shall be reduced by $224,825; (8) the Plymouth
district attorney’s office shall be reduced by $196,661; (9) the
Bristol district attorney’s office shall be reduced by $201,385;
(10) the Cape and Islands district attorney’s office shall be
reduced by $101,642; (11) the Berkshire district attorney’s office
shall be reduced by $97,477; and (12) the district attorneys’ asso-
ciation shall be reduced by $584,436.

(c) Notwithstanding any general or special law to the contrary,
each department or office with an appropriation that has been
reduced under this section shall provide a detailed listing of each
reduction by line item to the comptroller of the commonwealth no
later then December 1, 2008. The comptroller shall reduce the
allotment for the line item amounts identified by each department
or office and shall transfer the proceeds of said reductions to the
planned savings category in the Massachusetts management
accounting and reporting system.

SECTION 8. Notwithstanding any general or special law to the
contrary, the comptroller shall transfer the following amounts to
the General Fund after notice from the secretary of administration
and finance that sufficient funds are available: (a) $10,000,000
SECTION 9. Notwithstanding any general or special law to the contrary, the commissioner of revenue may establish a tax amnesty program during which all penalties that could be assessed by the commissioner for the failure of the taxpayer: (i) to timely file any proper return for any tax types and for any tax periods; (ii) to file proper returns which report the full amount of the taxpayer’s liability for any tax types and for any tax periods; (iii) to timely pay any tax liability; or (iv) to pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect, if the taxpayer, prior to the expiration of the amnesty period, voluntarily files proper returns for all tax types for all periods for which the taxpayer has or had a filing obligation and pays, or at the commissioner’s discretion provides security for, the full amount of tax shown on the taxpayer’s returns or upon the commissioner’s assessments, together with all interest due thereon. The amnesty program shall be established for a period of 2 consecutive months within fiscal year 2009 to be determined by the commissioner, such period to expire not later than June 30, 2009.

The commissioner’s authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, is or has been the subject of a tax related criminal investigation or prosecution. The amnesty program shall not apply to a tax liability of any tax type for a period commencing on or after January 1, 2007 and shall not authorize the waiver of any interest or amount
treated as interest. The commissioner may offer amnesty to those taxpayers who have either any unpaid self-assessed liability or who have been assessed a tax liability, whether before or after their filing of a return, which assessed liability remains unpaid.

To the extent that a taxpayer wishing to participate in the amnesty program has postponed the payment of an assessment of tax, interest and penalty under the authority of subsection (e) of section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said subsection (e) to further delay the payment of the tax and interest portions of the assessment. The tax and interest portions of the assessment shall be payable in full from the date of the commissioner’s notice of assessment. Upon payment by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all penalties associated with that assessment. Thereafter, the taxpayer and the commissioner shall proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect to the assessment.

Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

The commissioner shall maintain records of the amnesty provided under this section, including but not limited to: (i) the number of taxpayers provided amnesty; (ii) the types of tax liability for which such amnesty is provided, and for each such type of liability, (a) the amount of tax liability collected by the commissioner, and (b) the amount of penalties foregone by virtue of such amnesty; and, (iii) the total outstanding tax liability due to the commonwealth, for the period through December 31, 2006, after the collections of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the House of Representatives and the Senate, the joint committee on revenue, the House and Senate committees on ways and means, the minority leader of the House and the minority leader of the Senate, not later than September 1, 2009; provided, that such report shall not contain information sufficient to identify any indi-
SECTION 10. Section 2 of this act shall expire on December 31, 2011.

SECTION 11. Section 4 of this act shall expire on June 30, 2009.