

**AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-TWO TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**

Item

**EXECUTIVE.**

0411-1050 For the costs of litigation incurred by the office of the governor or his designee, including the cost of private counsel, resulting from lawsuits which challenge the legality of budgetary or benefit reductions enacted in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one in state programs for medical care; provided that, notwithstanding the provisions of section three of chapter twelve of the General Laws or of any other general or special law to the contrary, the responsibility for the representation of the commonwealth in such cases shall be the responsibility of the governor, or his designee \$750,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Group Insurance Commission.*

1108-5200 For the commonwealth's share of the group insurance premium and plan costs to be administered by the group insurance commission; provided, that not more than four hundred thousand dollars shall be obligated for the evaluation and audit of said premium and plan costs, provided further, that not more than four hundred and fifty thousand dollars shall be obligated for the development and evaluation of alternatives which may include preferred provider organizations, point of service health maintenance organizations, cafeteria plans, or other such arrangements as will best and most efficiently extend managed care services to all state employees and retirees; provided further, that not more than two hundred thousand dollars shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, mail

order prescription drug plans and long-term disability plans; provided further, that not more than one hundred and fifty thousand dollars shall be obligated for claims utilization analysis; provided further, that the budget bureau shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from several state or other funds, and amounts received in payment of all such charges of such transfer shall be credited to the General Fund; and the group insurance commission shall obtain reimbursement for premium and administrative expenses from other non-state funded agencies and authorities; provided further, that notwithstanding the provisions of section twenty-six of chapter twenty-nine of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July first of each year for a policy or policies of group insurance as authorized by chapter thirty-two A of the General Laws; provided further, that the commonwealth's share of the group insurance premium as provided in section eight of said chapter thirty-two A and for the purposes of section fourteen of said chapter thirty-two A shall be ninety percent of the total monthly premiums and rates as established by the commission; provided further, that employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay at least ten percent of the total monthly premium and rates as established by the commission effective July first, nineteen hundred and ninety-one; provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided further, that the commission shall notify the house and senate committees on ways and means by April fifteenth of each year, of the commonwealth's actual cost of its share of group insurance premiums of the next fiscal year; and provided further, that for the purpose of accommodating the delayed receipt of revenues to be retained in item 1108-5300, an amount not to exceed two million dollars may be transferred from item 1108-5200 to item 1108-5300, provided that all excess revenues, if any, shall be returned to item 1108-5200, from retained revenues otherwise authorized to be credited to item 1108-5300, no later than June thirtieth, nineteen hundred and ninety-two

\$64,186,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Hazardous Waste Facility Site Safety Council.*

2050-0300 For a technical assistance grant as authorized in chapter twenty-one D of the General Laws, to the towns of Athol, Erving, New Salem, Royalston, Warwick and Wendell; provided, that the awarding of such a grant shall meet with the prior approval of the secretary of the executive office of environmental affairs

\$18,571

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.***Department of Public Welfare.*

- 4406-2000 For a program of general relief; provided, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that a thirty-five dollar per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; and provided further, that no funds from this account shall be expended for homeless shelters, for advance rent or security deposits, for rent or utility arrearage payments, for furniture storage, or for moving expenses \$18,900,000
- 4406-5000 For a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any general or special law to the contrary, said programs shall provide the benefits of care rendered by physicians, community health centers, and of prescription drugs only; provided further, that said program may contract with competitively selected hospitals and community based agencies for the purpose of providing coordinated health care services to certain general relief recipients; provided further, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother \$3,200,000

**EXECUTIVE OFFICE OF EDUCATIONAL AFFAIRS.***Office of the Secretary.*

- 7005-0001 For the office of the secretary of education, including not less than four positions and one hundred and forty-seven thousand dollars for a compliance unit; provided that not more than fourteen positions, including the compliance unit, shall be funded from the amount appropriated herein \$777,000
- SECTION 2A.** For the purpose of making available in the fiscal year nineteen hundred and ninety-two certain balances of appropriation which would otherwise revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balance of the maintenance appropriation listed below, is hereby reappropriated for the fiscal year nineteen hundred and ninety-two.  
1599-3600

**SECTION 3.** Item 7066-0000 in section 2 of chapter 138 of the acts of 1991 is hereby amended by striking out, in line 2, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 4.** Said chapter 138 is hereby further amended by striking out section 294 and inserting in place thereof the following section:-

*Section 294.* It is hereby declared and affirmed that the reserved interests of the public in the land along the coastline of the commonwealth require a public on-foot free right-of-passage along the shore of the coastline between the mean high water line and the extreme low water line subject to the restrictions and limitations as contained in this section and said right

is hereby secured.

Said public on-foot free right-of-passage shall not be exercised: later than one-half hour after sunset nor earlier than sunrise; where the commissioner of the department of environmental management for the purpose of protecting marine fisheries and wildlife or for controlling erosion, designates and posts natural areas of critical ecological significance as areas in which on either a regular or seasonal basis as circumstances in each situation require that the public not exercise the public on-foot free right-of-passage; where there exists a structure, enclosure or other improvements made or allowed pursuant to any law or any license, permit or other authority issued or granted under the General Laws; or where there exist agricultural fences for purposes of enclosing livestock, provided that such area is clearly and conspicuously posted. The exercise of the public on-foot free right-of-passage in violation of the limitations and restrictions of this paragraph shall be punishable by a fine of not less than twenty nor more than fifty dollars.

In any action concerning the exclusion of the public on-foot free right-of-passage, the burden of proof shall be upon the person who seeks to exclude or limit the exercise of said public rights. Whenever it is found that a person seeks to exclude the public on-foot free right-of-passage by unlawfully posting said area, then such person shall be punished by a fine of not less than twenty nor more than fifty dollars.

Any interference with, or any acts making unsafe, the public on-foot free right-of-passage including, but not limited to, the use of force or maintenance of any fence or other obstruction not specifically authorized under the General Laws or a license, permit or other authority issued or granted under the General Laws, is hereby declared to be unlawful. This section may be enforced under section eleven D of chapter twelve of the General Laws or, in an action brought in district court by a person directly affected by a violation of this section, for such monetary and equitable relief as the court deems to be necessary and proper.

Any person who in exercising the public on-foot free right-of-passage deposits or causes to be deposited in the water or on the shore garbage, paper, refuse, bottles, cans, rubbish or trash of any kind or nature shall be punished by a fine of not less than twenty nor more than fifty dollars.

Except as to injuries proximately caused by a violation of this section, the exercise by the public of the public on-foot free right-of-passage shall be considered a permitted use to which the limited liability provisions of section seventeen C of chapter twenty-one of the General Laws shall apply.

It shall be the responsibility of the department of environmental management to implement the provisions of this section. The public on-foot free right-of-passage secured by the provisions of this section shall not become effective with respect to any particular parcel of private property until such time as the commissioner of the department of environmental management has filed an order of taking describing said property in the manner provided for by section three of chapter seventy-nine of the General Laws. Said commissioner shall also comply with all other provisions of said chapter seventy-nine as they apply to a public taking of an interest in private land. With respect to public land, the public on-foot free right-of-passage shall take effect on the effective date of this section and said commissioner need only comply with the notice provisions of chapter seventy-nine. The provisions of this section shall survive the expiration of the fiscal year.

**SECTION 5.** Said chapter 138 is hereby further amended by striking out section 221 and inserting in place thereof the

following section:-

*Section 221.* The secretary of administration and finance is hereby authorized and directed to establish the following fees for services.

Soldiers' Homes in Chelsea and Holyoke.

Hospital Care - Patients

monthly maximum charge of \$465

\$15 per day

The first \$1,000 of a married patient's monthly income shall be exempt and spousal income shall not be used in payment of these charges.

The first \$200 of an unmarried patient's monthly income shall be exempt.

Dormitory - Care Residents

monthly maximum charge of \$155

\$5 per day

The first \$200 of a resident's monthly income shall be exempt.

**SECTION 6.** Chapter 63 of the General Laws is hereby amended by striking out section 38M, inserted by section 130 of chapter 138 of the acts of 1991, and inserting in place thereof the following section:-

Section 38M. (a) A domestic or foreign corporation shall be allowed a credit against its excise due under this chapter equal to the sum of ten percent of the excess, if any, of the qualified research expenses for the taxable year, over the base amount; and fifteen percent of the basic research payments determined under subsection (e)(1)(A) of section forty-one of the Federal Internal Revenue Code. The terms, "qualified research expenses", "base amount", "qualified organization base period amount", "basic research", and any other terms affecting the calculation of said credit shall, unless the context otherwise requires, have the same meanings as under said section forty-one of said Code as amended and in effect on August twelfth, nineteen hundred and ninety-one but shall only apply to expenditures for research conducted in the commonwealth. In determining the amount of the credit allowable under this section, the commissioner of revenue may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by subsection (f)(1)(A) of section forty-one of said Code, and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by subsection (f)(1)(B) of section forty-one of said Code.

(b) For purposes of section thirty, the deduction from gross income that may be taken with respect to any expenditures qualifying for a credit under said section forty-one of said Code as amended and in effect on August twelfth, nineteen hundred and ninety-one shall be based upon its cost less the credit allowable hereunder; provided, however, that subsection (c) of section two hundred and eighty C of said Code shall not apply.

(c) The credit allowed hereunder for any taxable year shall not reduce the excise to less than the amount due under subsection (b) of section thirty-two, subsection (b) of section thirty-nine, or section sixty-seven and under any act in addition thereto.

(d) The credit allowed under this section is limited to one hundred percent of a corporation's first twenty-five thousand dollars of excise, as determined before the allowance of any credits, plus seventy-five percent of the corporation's excise, as so determined in excess of twenty-five thousand dollars. The commissioner of revenue shall promulgate regulations similar

to those authorized under section 38(c)(2)(B) of the Internal Revenue Code for purposes of apportioning the twenty-five thousand dollars amount among members of a controlled group. Nothing in this section shall alter the provisions of section thirty-two C, as it affects other credits under this chapter.

(e) In the case of corporations filing a combined return of income under section thirty-two B, a credit generated by an individual member corporation under the provisions of this section shall first be applied against the excise attributable to that company under section thirty-two or thirty-nine, subject to the limitations of paragraphs (c) and (d). A member corporation with an excess research and development credit may apply its excess credit against the excise of another group member, to the extent that such other member corporation can use additional credits under the limitations of said paragraphs (c) and (d). Unused, unexpired credits generated by a member corporation shall be carried over from year to year by the individual corporation that generated the credit. Nothing in this section shall alter the provisions of paragraph (h) of section thirty-one A.

(f) Any corporation entitled to a credit under this section for any taxable year, may carry over and apply to its excise for any one or more of the next succeeding fifteen taxable years, the portion, as reduced from year to year, of its credit which exceeds its excise for the taxable year. Any corporation may carry over and apply to its excise for any subsequent taxable year the portion of those credits, as reduced from year to year, which were not allowed by paragraph (d).

(g) The commissioner of revenue shall promulgate such regulations as are necessary to implement this section.

(h) The provisions of this section shall apply to expenditures incurred on or after January first, nineteen hundred and ninety-one; in the case of any taxable year which begins before January first, nineteen hundred and ninety-one, and ends before December thirty-first, nineteen hundred and ninety-one, the base amount and the qualified organization base period amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount and the qualified organization base period amount for such year, determined without regard to this paragraph, as the number of days in such taxable year on or after January first, nineteen hundred and ninety-one, bears to the total number of days in that taxable year.

**SECTION 7.** This act shall take effect upon its passage.

*This bill was returned on August 14, 1991 by the Governor to the House of Representatives, the branch in which said bill originated, with his objections in writing to the following item:*

<i>Item</i>	<i>Reduce by</i>	<i>Reduce to</i>	<i>Wording Stricken</i>
0411-1050	550,000	200,000	<i>"provided that, notwithstanding the provisions of section three of chapter twelve of the General Laws or of any other general or special law to the contrary, the responsibility for the representation of the Commonwealth in such cases shall be the responsibility of the governor or his designee..."</i>

*The remainder of the bill was approved by the Governor on August 14, 1991.*