

ACTS, 1989. - Chaps. 69, 70.

**Chapter 69. AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by William A. Norris as he is an attorney in the commonwealth, in the city of Northampton, on October twenty-eighth, nineteen hundred and eighty-nine, between Mikal M. Weiss of the city of Northampton and Welli Yeh of the city of Northampton, and the state secretary shall issue to said William A. Norris in his capacity aforesaid a certificate of such authorization.

Approved May 16, 1989.

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**Chapter 70. AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THOSE IN THE COMMONWEALTH'S CARE AND CUSTODY AND FOR CERTAIN OTHER EMERGENCIES.**

Be it enacted, etc., as follows:

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

**SECTION 2.**

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**JUDICIARY.**

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Trial Court.

Notwithstanding any provision of law to the contrary, amounts appropriated in chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight to any item of appropriation within the trial court may be transferred to other items of appropriation within the trial court at the discretion of the chief administrative justice; provided that said chief administrative justice receive approval from the house and senate committees on ways and means of any such transfers.

**DISTRICT ATTORNEYS.**

0340-0900 Bristol, including not more than sixty positions \$50,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Public Employee Retirement System.

1108-6200 For the purposes of workers' compensation paid to public employees, including previous fiscal years \$2,000,000

Highway Fund	35.0%
General Fund	65.0%

1599-3651 For a reserve to meet the cost of certain salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Nursing Association (Unit 7); provided, however that payment from said reserve shall be limited to direct care and custody positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year nineteen hundred and eighty-nine such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose; provided further,

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that said secretary is hereby authorized to allocate the costadjustments and benefits to the several state or other funds to which said items of appropriation are charged; provided further that no transfers shall be made without prior notification of the house and senate committees on ways and means; only provided further, that the provisions of section thirteen of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty eight shall not apply to this appropriation \$20,060,000

**EXECUTIVE OFFICE OF HUMAN SERVICES.**

Soldiers' Home in Massachusetts.

4180-0100 For the maintenance of the home, including not more than five hundred and seventy positions \$238,739

Soldiers' Home in Holyoke.

4190-0100 For the maintenance of the home, including not more than three hundred and eighty-five positions \$182,568

**DEPARTMENT OF YOUTH SERVICES.**

4202-0021 For the purchase of service for certain residential care programs, including certain secure programs, in accordance with the provisions of chapter twenty-eight A of the General Laws, and for certain nonresidential care programs from a list of vendors approved by and on file with the central office of the department; provided, that, notwithstanding the provisions of section twenty-three of chapter twenty-nine of the General Laws, no monies shall be advanced to the department from this account without the prior approval of the comptroller \$798,000

**DEPARTMENT OF CORRECTION.**

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4349-0001 For the administration and operation of the commonwealth's correctional facilities; provided, however, that the commissioner is hereby authorized to enter into agreement with the sheriff of Hampden county for the operation of a correctional alcohol treatment facility in Hampden county and for a day reporting center; provided further, that the commissioner is hereby authorized to make quarterly advances to the treasurer of Hampden county pursuant to said agreements; provided further, that said treasurer shall deposit said advances into a fund to be expended solely for the purpose of said fund agreements; provided however, that any interest earned by said fund shall be deposited to said fund and that any unexpended balance including interest remaining in said fund as of June thirtieth, nineteen hundred and eighty-nine shall be returned to the commonwealth; provided further, that all persons employed by said sheriff pursuant to said agreements shall be considered county employees; provided further, that funds advanced to the county treasurer pursuant to this agreement may be spent for any services or items of supply or equipment which the sheriff requires to carry out the purpose of operating a correctional alcohol treatment facility or a day reporting center, such expenditures may include but are not limited to salaries, travel, uniform allowance, purchase and maintenance of equipment and selecting contractual and professional services; provided further, that no permission will be required for the sheriff to transfer funds among codes or subcodes at the county level; provided further, that not less than ten thousand dollars shall be obligated for the "kids corner", so-called, at Massachusetts correctional institution, Concord; and provided further, that no funds shall be expended from this item for programs outside correctional institutions for those persons serving a life sentence for murder in the first degree, with the exception of medical or family emergencies or other extraordinary

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circumstances as approved by the commissioner, including not more than four thousand three hundred and five positions \$2,820,515

DEPARTMENT OF PUBLIC WELFARE.

4403-2000 For a program of aid to families with dependent children; provided, that the standard shall be increased five and one-half percent as of July first, nineteen hundred and eighty-eight and rounded to the next whole dollar; provided further, that the need standard shall be raised to the new payment standard; provided further, that to recognize the special needs of recipients who must obtain private housing in the tight Massachusetts housing market, a forty dollar per month rent allowance shall be paid to all households not residing in public housing or subsidized housing, subject to federal reimbursement; provided further, that a nonrecurring clothing allowance in the amount of one hundred and fifty dollars be provided to each child eligible under this program on September first, nineteen hundred and eighty-eight; provided further, that such allowance is federally reimbursable; provided further, that such clothing allowance shall not be counted as income for determination of eligibility or amount of benefits under the food stamp program; provided further, that such clothing allowance shall be included in the standard of need for the month of September, nineteen hundred and eighty-eight; provided further, that a program of assistance including medical assistance be provided to families otherwise eligible for aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse; provided further, that

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child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of eighty million dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that certain families which will suffer a reduction in benefits due to their loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for this loss; provided further, that no funds from this item shall be expended by the department for the transportation services for the employment and training program or voucher day care program; and provided further, that funds from this item expended for emergency shelter costs shall be subject to federal reimbursement

\$7,414,000

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants to recipients residing in rest homes, as provided in section seven A of chapter one hundred and eighteen A of the General Laws, may be paid from this item

\$4,226,000

4406-2000 For a program of general relief, including a program of emergency assistance; provided, that the payment standard shall be increased five and one-half percent as of July first, nineteen hundred and eighty-eight; provided further, that a nonrecurring clothing allowance in the amount of one hundred and fifteen dollars be provided to each recipient of the program eligible on September first, nineteen hundred and eighty-eight; provided further, that no changes in the eligibility criteria for benefits under this program shall be implemented without the prior written approval of the house and senate committees on ways and means; provided further, that to recognize the special needs of recipients who must

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obtain private housing in the tight Massachusetts housing market, a forty dollar per month rent allowance shall be paid to all households not residing in public housing or subsidized housing; provided further, that no funds from this account shall be expended for homeless shelters without the prior approval of the house and senate committees on ways and means \$10,020,000

4406-3000 For assistance to organizations which provide food, shelter and limited related services to the homeless and indigent; provided, that of the amount appropriated herein, not less than eight million dollars shall be obligated for a contract with the Pine Street Inn, Inc. located in the city of Boston; provided, that the department, with the approval of the secretary of human services, may allocate funds to other agencies for the purposes of this program; provided further, that funds for housing assistance for no less than two thousand households provided in item 3722-9007 shall be available to the department of public welfare to be allocated through an interagency agreement with the executive office of communities and development to recipients of aid to families with dependent children who are receiving emergency assistance and are temporarily housed in hotels, motels or shelters notwithstanding provisions to the contrary in section forty-three of chapter one hundred and twenty-one B of the General Laws; provided further, that not less than seven hundred and thirty-four thousand dollars be obligated for a comprehensive multi-service day program for the homeless \$550,000

**DEPARTMENT OF SOCIAL SERVICES.**

4800-0020 For the delivery of permanency services to children in the care of the department, including the provision of adoption, guardianship and subsidies; provided, that the department shall make an assessment of all the children in its care longer than twelve months

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for the appropriateness of adoption; provided further, that the department shall maintain a central registry and tracking system to monitor the progress of such children in the adoption process; and provided further, that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care, including not more than twenty-nine positions \$1,099,000

4800-0200 For regional direct services; provided, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund; provided further, that not less than four million dollars shall be obligated for purchased social services in region I; provided further, that not less than three million eight hundred thousand dollars shall be obligated for purchased social services in region II; provided further, that not less than four million eight hundred and twenty thousand dollars shall be obligated for purchased social services in region III; provided further, that not less than two million seven hundred and seventy-two thousand dollars shall be obligated for purchased social services in region IV; provided further, that not less than six million dollars shall be obligated for purchased social services in region V; provided further, that not less than five million four hundred and fifty thousand dollars shall be obligated for purchased social services in region VI; provided further, that the department shall report quarterly to the commissioner of administration and finance and the house and senate committees on ways and means on expenditures for purchased services by type of program including number and type of clients served, number of open referral services and number of voluntary placements, including not more than one thousand seven hundred and sixty-eight positions \$7,224,979

DEPARTMENT OF MENTAL HEALTH.



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5095-0000 For the maintenance of the state hospitals, the Gaebler Children's Center, and the treatment center at the Massachusetts Correctional Institute at Bridgewater, including not more than five thousand and fourteen positions \$4,000,000

**DEPARTMENT OF MENTAL RETARDATION.**

5911-0025 For transportation services for mentally retarded persons attending educational, habilitational or day care services or facilities of the department, said persons being no longer eligible for such services under the provisions of chapter seven hundred and sixty-six of the acts of nineteen hundred and seventy-two, notwithstanding the provisions of any general or special law to the contrary, including not more than twelve positions \$1,530,850

5983-0100 For the operation of facilities for the mentally retarded, including not more than ten thousand six hundred and one positions \$2,100,000

**DEPARTMENT OF EDUCATION.**

Board of Education and Commissioner's Office.

7028-0302 For the educational expenses of certain school age children with special needs attending schools under the provisions of section ten of chapter seventy-one B of the General Laws, for the educational expenses of school age children with special needs attending day or residential programs who have no father or mother or guardian living in the commonwealth, and for expenses relating to the provision of special education to certain children transferred from the department of public welfare to the department of education; provided, that said children transferred from the department of public welfare to the department of education were placed by the department of public welfare in a private special education program as of September first, nineteen hundred and seventy-four, have continued to attend such program at the

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expense of the department of public welfare up to the date of said transfer, and continue to need such special education program; provided further, that notwithstanding the provisions of any general or special law to the contrary, all increases in the rate paid to an institution or school for services provided in a prior fiscal year may be funded with monies appropriated herein; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation \$1,250,000

7061-0012 For non-educational costs of residential school programs for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter seventy-one B of the General Laws; provided, that subject to rules and regulations promulgated by the commissioner of education, each city and town shall verify to the commonwealth the cost thereof and upon approval of the commissioner the treasurer shall be authorized to make such payments directly to the service provider for services provided on or after July first, nineteen hundred and eighty-eight; provided, that the commonwealth shall not pay more than sixty percent of the cost of any such residential placement; provided further, that the department of education shall receive notification from the rate setting commission on the fiscal impact of a programmatic audit of a residential school prior to completion of such an audit report \$5,666,666

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Department of Employment and Training.

9081-7000 For the payment of reemployment assistance benefits and health insurance benefits as provided by sections seventy-one F and seventy-one G of chapter one hundred and fifty-one A of the General Laws \$175,000

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SECTION 3.

RETAINED REVENUE.

Notwithstanding the provisions of any general or special law to the contrary, the following named departments, commissions, and agencies are hereby authorized to retain certain revenues in amounts not to exceed those specified herein, derived from fees, services or sales of materials as provided herein and to expend such revenues in amounts specified, for the purposes and under the conditions provided without further appropriation but subject to approval by the state comptroller; provided, that unless otherwise provided, said revenues shall not be expended for the compensation of employees; and provided further, that any revenues received by the following named departments, commissions, and agencies in excess of the amounts authorized to be retained herein shall be credited to the General Fund.

Notwithstanding any general or special law to the contrary, any state agency or office that is authorized in any section of this act or in chapter three hundred and seventy-five of the acts of nineteen hundred and eighty-one, chapter two hundred of the acts of nineteen hundred and eighty-five, section seventeen of chapter twenty-five of the General Laws, or section forty-seven of chapter ninety-four C of the General Laws, to expend certain revenues without further appropriation shall file within thirty days after the end of each quarter with the house and senate committees on ways and means and the commissioner of administration and finance a report detailing the sources and amounts of all such revenues and the purposes and amounts of all expenditures therefrom.

Division of Public Employee Retirement Administration.

1108-6200 The division of public employee retirement administration may expend an amount not to exceed twelve million dollars of revenue accrued from charges to agencies authorized in section thirty-one of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight for hospital, physician, benefits and other costs as provided by section thirty-one \$7,000,000

**SECTION 4.** The secretary of the executive office for administration and finance is hereby directed to submit a report identifying the amount by which revenues for the fiscal year nineteen hundred and eighty-nine will be insufficient to meet the commonwealth's obligations, and a report specifically addressing the anticipated cash flow problems for said fiscal year.

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Said secretary is hereby further directed to submit the following plans: (a) a specific plan for resolving the fiscal year nineteen hundred and eighty-nine deficit by recommending specific measures to bring revenues and expenditures into balance; and (b) a contingency plan for cash flow management for the balance of the fiscal year nineteen hundred and eighty-nine to ensure that there is a sufficient cash flow to meet the commonwealth's liabilities outstanding at the close of said fiscal year.

Said reports and plans shall be filed with the house and senate committees on ways and means within twenty-one days of the effective date of this act.

**SECTION 4A.** The secretary of the executive office of administration and finance, in conjunction with the commissioner of revenue and the state comptroller, is hereby directed to prepare and release to the public and the general court a monthly financial report. Said report shall include, but not be limited to, a balance sheet outlining the expenditures by department and a summary by source of all tax and nontax revenue collected by the commonwealth for the given month. Said report shall include year to date expenditure and revenue comparisons, as well as, a comparison of revenue collections and expenditures to those of the previous year. Said report shall include a narrative outlining any account in which expenditure rates are exceeding the appropriation level and an explanation for such overspending. Said report shall be completed and released no later than ten working days from the end of each month.

**SECTION 5.** There is hereby established a special panel to advise the general court on the commonwealth's unfunded Medicaid liability.

Said panel shall consist of three members of the senate no more than two of whom shall be members of the same party to be appointed by the president; three members of the house of representatives no more than two of whom shall be members of the same party to be appointed by the speaker; the secretary of the executive office for administration and finance; the secretary of the executive office of human services; the chairman of the rate setting commission; the commissioner of the department of public welfare; the commissioner of the department of medical security; a representative of the hospital industry to be designated by the Massachusetts hospital association; a representative of the nursing home industry to be designated by the Massachusetts federation of nursing homes; a representative of the nursing profession to be designated by the Massachusetts nurses association; and three experts in health care financing, one to be appointed by the governor, one by the president of the senate, and one by the speaker of the house. The governor, the president and the speaker acting jointly shall appoint the chairman.

Said panel shall identify the total outstanding liability for Medicaid payments to all individuals and providers for the balance of the fiscal year nineteen hundred and eighty-nine and the projected amount of such liability for the fiscal year nineteen hundred and ninety. The liability so

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identified shall show the specific amount attributable to payments owed to acute care hospitals and the amount owed to long-term care providers. Said liability shall include short-term borrowing costs incurred by the acute care hospitals and long-term care providers as a direct result of the commonwealth's failure to meet its financial obligations under the Medicaid program.

Said panel shall make specific findings and recommendations with regard to the amount of appropriation necessary to fully fund the commonwealth's Medicaid obligations for fiscal year nineteen hundred and eighty-nine, and the amount necessary to fund fully said obligations for the fiscal year nineteen hundred and ninety.

Said panel shall report its findings and recommendations to the general court by filing with the clerk of the senate and the clerk of the house of representatives within twenty-one days of the effective date of this act.

**SECTION 6.** On or before the date twenty-one days after the effective date of this act, the advisory board on revenue resources and the state economy established under the provisions of section thirty-seven A of chapter seven of the General Laws, shall, after holding a meeting which is open to the public, submit to the house and senate committees on ways and means revised estimates of revenue available to meet appropriations and other needs in fiscal year nineteen hundred and eighty-nine and fiscal year nineteen hundred and ninety.

**SECTION 7.** A special commission consisting of five members of the house no more than two of whom shall be members of the same party, appointed by the speaker; three members of the senate no more than two of whom shall be members of the same party, appointed by the senate president; the chancellor of the board of regents; the chairman of the board of regents; a president of one of the public universities of the commonwealth, to be selected by presidents of the university of Massachusetts, the university of Lowell, and southeastern Massachusetts university; a president of one of the public state colleges in the commonwealth to be selected by the state college presidents; a president of one of the public community colleges in the commonwealth to be selected by the community college presidents, is hereby established to study the current organization of the divisions, schools, stations, colleges, branches or institutions of public higher education in the commonwealth, including the board of regents, and the office of the chancellor of the board of regents. The commission shall file its report, along with any recommendations for legislation, with the clerks of the house and senate no later than the first Wednesday in December, nineteen hundred and ninety; and provided, further, notwithstanding the provisions of any general or special law to the contrary, there shall be no consolidations, transfers or discontinuance of any of the said divisions, schools, stations, colleges, branches or institutions prior to the filing of said report, unless authorized by action of the general court.

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SECTION 8. This act shall take effect upon its passage.

Approved May 16, 1989.

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Chapter 71. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF STERLING.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Sterling may be recalled therefrom by the qualified voters of said town as herein provided.

SECTION 2. Any ten registered voters of the town may file an affidavit with the town clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. Upon certification by the board of registrars of the required signatures, the town clerk shall deliver to the first named voter on the affidavit a sufficient number of copies of petition blanks addressed to the board of selectmen demanding such recall. The blanks shall be issued containing the signature of the town clerk and the official town seal. They shall be dated and shall contain the name of the person whose recall is sought, the office from which recall is sought and the grounds of recall as stated in the affidavit. In addition, the petition shall demand the election of a successor to the said office. The affidavit and a copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk not later than five o'clock post meridiem of the twentieth day after the filing of the affidavit, with signatures, names and place of residence of the signer giving street and number, of at least twenty percent of the registered voters of the town. In the event that the twentieth day is a Saturday, Sunday or holiday, the petitions may be filed on the next business day. Within two business days of receipt, the town clerk shall submit the petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are those of registered voters of said town. The board of registrars shall complete its certification within five business days and return the petition to the town clerk.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, it shall be submitted with his certificate to the selectmen without delay. The selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within five days thereafter, the board of selectmen shall order an election to be held on a date fixed by them not less than sixty nor more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed;