## HOUSE . . . . . . . . . . . . No.

## The Commonwealth of Massachusetts



## OFFICE OF THE GOVERNOR COMMONWEALTH OF MASSACHUSETTS 24 BEACON STREET · BOSTON, MA 02133

KARYN POLITO LIEUTENANT GOVERNOR

May 18, 2018

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled "An Act Making Appropriations for Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects."

This bill consists of \$54.9 million in supplemental appropriations to fund ratified collective bargaining agreements, and to make available funds for the implementation of recently enacted Criminal Justice Reform legislation, chapter 69 of the acts of 2018.

The spending items recommended in this bill include:

- \$32.6 million to fund certain implementation costs in FY18 and FY19 of the Criminal Justice Reform Act, chapter 69 of the acts of 2018, including newly mandated programs in prisons and jails, new protocols for testing and tracking Sexual Assault Evidence Kits, expanded oversight of forensic laboratories, new responsibilities at the Department of Criminal Justice Information Services, the Parole Board, the trial courts, and district attorneys' offices. These recommendations replace my April 13 request for a reserve for immediate costs in connection with the Criminal Justice Reform Act;
- \$5.2 million and \$10.8 million respectively for critically needed new State Police and Department of Correction officer classes; and

• \$6.3 million to fund a ratified collective bargaining agreement recently executed with the National Association of Government Employees, the New England Police Benevolent Association, and unions representing sheriff departments; and

The bill also includes proposed statutory changes that are in reaction to the federal Tax Cuts and Jobs Act of 2017 ("TCJA"). These changes clarify the impact of "deemed repatriation," which under federal law places a one-time tax on pre-2018 foreign profits in tax year 2017, for state tax purposes. The bill further clarifies how two new categories of federal taxable income created by TCJA, Global Intangible Low Taxed Income ("GILTI") and Foreign Derived Intangible Income ("FDII"), are treated for state tax purposes.

Further, the Department of Revenue would be authorized to create a registration program for remote seller vendors who have had less than \$500,000 in sales in the previous twelve months, but who nevertheless have a physical presence in the state by virtue of their inventory being held within Massachusetts.

Sufficient revenues are estimated to be available to finance these appropriations. Because implementation of legislative changes necessitates funding, I urge you to enact this legislation promptly.

Respectfully submitted,

Charles D. Baker, *Governor* 

HOUSE . . . . . . . . . . . . . No.

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In the One Hundred and Ninetieth General Court (2017-2018)

An Act making appropriations for the fiscal year 2018 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 purpose, which are forthwith to make supplemental appropriations for fiscal year 2018 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations 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:

1 SECTION 1. To provide for supplementing certain items in the general appropriation 2 act and other appropriation acts for fiscal year 2018, the sums set forth in section 2 are hereby 3 appropriated from the General Fund unless specifically designated otherwise in this act or in 4 those appropriation acts, for the several purposes and subject to the conditions specified in this 5 act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2018. These sums shall be in addition to any amounts 6 7 previously appropriated and made available for the purposes of those items. These sums shall be 8 made available until June 30, 2019.

9 SECTION 2.

10 JUDICIARY

11		Trial Court	
12	0339-1001	Commissioner of Probation	\$1,124,333
13	0339-1003	Community Corrections Administration	\$1,800,000
14	EXEC	CUTIVE OFFICE FOR ADMINISTRATION AND FINA	NCE
15		Reserves	
16	1599-4448	Collective Bargaining Contract Costs	\$6,300,000
17		EXECUTIVE OFFICE OF PUBLIC SAFETY	
18		Office of the Secretary of Public Safety and Security	
19	8000-0600	Executive Office of Public Safety	\$2,367,500
20		Municipal Police Training Committee	
21	8200-0200	Municipal Police Training Committee	\$40,000
22		Department of Criminal Justice Information Services	
23	8000-0110	Criminal Justice Information Services	\$1,287,500
24		Department of State Police	
25	8100-0515	New State Police Class.	\$5,249,163
26	8100-1004	State Police Crime Laboratory	\$6,003,750
27		Department of Correction	

28	8900-0001 Department of Correction Facility\$10,730,172
29	Parole Board
30	8950-0001 Parole Board Administration\$1,300,000
31	SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to
32	provide for an alteration of purpose for current appropriations, and to meet certain requirements
33	of law, the sums set forth in this section are hereby appropriated from the General Fund unless
34	specifically designated otherwise in this section, for the several purposes and subject to the
35	conditions specified in this section, and subject to the laws regulating the disbursement of public
36	funds for the fiscal year ending June 30, 2018. These sums shall be made available until June
37	30, 2019.
38	DISTRICT ATTORNEYS
39	District Attorneys' Association
40	0340-9110 For expenses associated with the implementation of Chapter 69 of the Acts of
41	2018; provided, that the Massachusetts District Attorneys' Association shall transfer funds to
42	district attorneys' offices; provided further, that the association shall develop a methodology for
43	distribution of the funds
44	SHERIFFS
45	Massachusetts Sheriffs' Association
46	8910-9110 For expenses associated with the implementation of Chapter 69 of the Acts of
47	2018; provided, that the Massachusetts Sheriffs' Association shall transfer funds to sheriffs'

48	offices; and provided further, that the association shall develop a methodology for distribution of
49	the funds
50	EXECUTIVE OFFICE OF PUBLIC SAFETY
51	Department of Correction
52	For the expenses of hiring, equipping and training department of
53	correction recruits\$10,763,455
54	SECTION 3. Section 1 of chapter 62 of the General Laws, as appearing in the 2016
55	Official Edition, is hereby amended by striking out in line 9 the figure, "530," and inserting in
56	place thereof the following figures:- 529A, 530, 951, 951A.
57	SECTION 4. Subsection (e) of said section 1 of said chapter 62, as so appearing, is
58	hereby amended by adding the following sentence:- Amounts included in federal gross income
59	pursuant to sections 951 and 951A of the Code shall be treated as dividends under this chapter.
60	SECTION 5. Section 1 of chapter 63 of the General Laws, as so appearing, is hereby
61	amended by inserting in line 184, after the word "section.", the following new sentence:- For
62	purposes of this definition, amounts included in federal gross income pursuant to sections 951
63	and 951A of the Code shall be treated as dividends received.
64	SECTION 6. Said section 1 of said chapter 63, as so appearing, is hereby further
65	amended by striking out, in line 199, the word "; or".
66	SECTION 7. Said section 1 of said chapter 63, as so appearing, is hereby further
67	amended by inserting after the number "2009," in line 203, the following word:-; or.

68 SECTION 8. Said section 1 of said chapter 63, as so appearing, is hereby further 69 amended by adding to the definition of "Net Income" the following clause:-70 (g) the deductions allowed by sections 245A, 250, and 965(c) of the Code. 71 SECTION 9. Section 2A of said chapter 63, as so appearing, is hereby amended by 72 adding the following new subsection:-73 (h) For purposes of this section, dividends that are deemed to be received from an entity, 74 including amounts included in federal gross income pursuant to sections 951 or 951A of the 75 Code, are not considered to be receipts. 76 SECTION 10. Section 30 of said chapter 63, as so appearing, is hereby amended by 77 inserting in line 54, after the word "thirty-eight.", the following new sentence:- For purposes of 78 this section and subsection (a) of section 38, the term "dividend" shall include but not be limited 79 to amounts included in federal gross income pursuant to sections 951 and 951A of the Code. 80 SECTION 11. Part 4 of said section 30 of said chapter 63, as so appearing, is hereby 81 further amended by adding the following clause:-82 (viii) the deductions allowed by sections 245A, 250, and 965(c) of the Code. 83 SECTION 12. Section 32B of said chapter 63, as so appearing, is hereby amended by 84 inserting in line 176, after the word "chapter," the following words:-, taking into account 85 subsection (h) of section 2A,.

provisions shall apply to the determination of taxable income under chapter 62.

SECTION 13. Notwithstanding any general or special law to the contrary, the following

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- (a) Amounts included in federal gross income by reason of section 965(a) of the Internal Revenue Code, as amended and in effect for the taxable year, shall also be taken into account in the same taxable year in the determination of Massachusetts gross income under chapter 62 of the General Laws.
- 92 (b) Income taken into account pursuant to clause (a) shall be treated as Part A dividend income.

- (c) The deduction under subsection 965(c) of the Internal Revenue Code shall not apply for Massachusetts purposes, provided that a taxpayer shall be entitled to a deduction from Part A gross income equal to 60 percent of the amount included in Part A income pursuant to subsections (a) and (b).
- (d) Any tax liability under said chapter 62 attributable to income taken into account under subsections (a) and(b) shall be due without regard to any election made pursuant to subsection 965(i) of the Internal Revenue Code.
- (e) This section shall apply to all taxable years in which income is taken into account for federal income tax purposes by reason of section 965(a) of the Internal Revenue Code, as amended and in effect, including but not limited to the taxable year beginning on January 1, 2017.
- (f) The commissioner of revenue may issue regulations or other guidance with regard to the interpretation and administration of this section. Such regulations or guidance may require the reporting of income amounts to taxpayers or the department of revenue to ensure compliance with the provisions of the section.

SECTION 14. (a) Notwithstanding any general or special law to the contrary, the commissioner of revenue is authorized to initiate a program of registration and prospective sales and use tax collection from vendors not previously registered whose sales to Massachusetts customers are less than \$500,000 in the prior twelve month period, as determined by the commissioner. Under such program, the commissioner may designate a period ending on or before June 30, 2019, during which vendors that register for collection of sales and use tax under chapters 64H and 64I of the General Laws and that commence filing and payment over of such taxes in good faith will not be held liable for collection or payment of tax under such chapters, or associated interest or penalties, for periods prior to registration.

(b) The program shall not apply to:

- (i) any vendor that had physical presence in the Commonwealth in the 36 calendar months immediately preceding the effective date of this Act; provided that any vendor not otherwise ineligible under subsection (b) who had such presence only through (a) tangible property maintained in the Commonwealth during such prior months by unrelated third party fulfillment providers, or (b) contacts with the commonwealth during such prior months related to remote internet sales made to Massachusetts customers, may participate in the program;
- (ii) any vendor whose total retail sales to Massachusetts customers through all sales channels in the prior twelve month period, whether or not otherwise taxable under said chapter 64H or 64I, reached or exceeded \$500,000;
- (iii) any vendor that was previously registered for sales and use tax collection in Massachusetts;

130 (iv) any vendor that has collected sales or use taxes from Massachusetts customers 131 and has not paid such amounts over to the commissioner; or

- (v) any case where the commissioner determines that the vendor has engaged in fraud or willful avoidance of tax.
- (c) Except as specified in this section, the commissioner is authorized to determine the scope of the prospective registration program and all associated administrative requirements for eligibility. The commissioner may authorize prospective registration and filing for personal income tax and corporate excise for qualifying vendors in the sales and use tax program, provided that any such personal income tax or corporate excise liability derives solely from the sales to which the sales and use tax registration program applies.
- (d) Nothing in this section shall remove the obligation of a purchaser of tangible personal property or services taxable under chapter 64I to pay over such taxes to the commissioner in any taxable period.
- (e) Any taxpayer who delivers or discloses a false or fraudulent application, document, return or other statement to the department of revenue in connection with application under this section shall not be eligible for the program and shall be subject to the greater of: (i) the applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed \$10,000 which shall be calculated and assessed according to rules determined by the commissioner and may be subject to de minimis or other exceptions that the commissioner may consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and become part of the tax due.

151	SECTION 15. The salary adjustments and other economic benefits authorized by the
152	following collective bargaining agreements shall be effective for the purposes of section 7 of
153	chapter 150E of the General Laws:
154	(1) Between the Commonwealth of Massachusetts and the National Association of
155	Government Employees, Units 1, 3, and 6; and
156	(2) Between the Commonwealth of Massachusetts and the New England Police
157	Benevolent Association, Unit 4a; and
158	(3) Between the Sheriff of Barnstable County and the National Association of
159	Government Employees, Local 220; and
160	(4) Between the Sheriff of Barnstable County and the Barnstable County Correctional
161	Officers Union; and
162	(5) Between the Sheriff of Barnstable County and the National Correctional Employees
163	Union, Local 122; and
164	(6) Between the Sheriff of Barnstable County and the American Federation of State,
165	County and Municipal Employees, Local 1462; and
166	(7) Between the Sheriff of Barnstable County and the International Brotherhood of
167	Correctional Officers, Local 217; and
168	(8) Between the Sheriff of Berkshire County and the Berkshire County Sheriff's Office
169	Employee Association; and

170	(9) Between the Sheriff of Franklin County and the National Correctional Employees
171	Union, Local 106; and
172	(10) Between the Sheriff of Plymouth County and Association of County Employees; and
173	(11) Between the Sheriff of Plymouth County and the National Correctional Employees
174	Union, Local 301; and
175	(12) Between the Sheriff of Plymouth County and the National Correctional Employees
176	Union, Local 104; and
177	(13) Between the Sheriff of Plymouth County and the Massachusetts Correction Officers
178	Federated Union Bureau of Criminal Investigation; and
179	(14) Between the Sheriff of Suffolk County and the American Federation of State,
180	County and Municipal Employees, Local 419; and
181	(15) Between the Sheriff of Suffolk County and the American Federation of State,
182	County and Municipal Employees, Local 3967; and
183	(16) Between the Sheriff of Worcester County and the National Association of
184	Government Employees, Local R1-255.
185	SECTION 16. Sections 3 and 4 of this Act shall apply to taxable years beginning on or
186	after January 1, 2017.
187	SECTION 17. Sections 5 through 12, inclusive, of this Act shall apply to the last taxable
188	year of a taxpayer commencing before January 1, 2018, and to the taxpayer's subsequent taxable
189	years.