

JOURNAL OF THE HOUSE.

Thursday, May 2, 2002.

Met according to adjournment, at ten o'clock A.M.

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, we take a moment to pray to You for more conscious realization of Your presence here and personal concern for our total well-being, both physical and spiritual. We proclaim our belief and trust in You, Our Creator and Ultimate Destiny. As we address today's difficult and complex (perhaps unpopular) legislative issues, in Your kindness help us to select those viable options which now and in the future will serve the best interests of the people, our society and the Commonwealth. Guided and strengthened by Your assistance in carrying out our responsibilities, inspire us to remain faithful to principles and values which are just and right, ethical and fair, traditional and time tested. On this and every day may we enjoy and benefit from Your gift of peace and tranquility of mind and spirit even in the face of stressful situations.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Recesses.

At seven minutes after ten o'clock A.M., the Speaker declared a recess until a quarter before eleven o'clock; and at twenty minutes before twelve o'clock noon the House was called to order with the Speaker in the Chair.

The House thereupon took a further recess, on motion of Mr. Marini of Hanson, until half past twelve o'clock noon; and at that time the House was called to order with the Speaker in the Chair.

Statement of Representative Gobi of Spencer.

A statement of Representative Gobi of Spencer was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not able to be present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

Resolutions.

Resolutions (filed with the Clerk by Mr. Rogers of Norwood) forecasting the amount of tax revenue for fiscal year 2003 (House, No. 5053) were referred, under Rule 85, to the committee

on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Rogers of Norwood, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Linsky of Natick) congratulating Stephen A. Ham on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Linsky of Natick) congratulating Anthony J. Parillo on receiving the Eagle Award of the Boy Scouts of America; and

Resolutions (filed by Mr. Linsky of Natick) congratulating Scott E. Sperling on receiving the Eagle Award of the Boy Scouts of America;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Bosley of North Adams, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communications.

A communication from the Commissioner of Banks (under Section 6A of Chapter 171 of the General Laws) submitting a summary of proposed regulations for the implementation of federal credit union parity (House, No. 5052) was referred to the committee on Banks and Banking. Sent to the Senate for concurrence.

Communications

From the Massachusetts Turnpike Authority (under the provisions of Section 12(i) of Chapter 81A of the General Laws) submitting copies of agreements between said authority and the Massachusetts Highway Department relative to the Metropolitan Highway System;

From Wonderland Greyhound Park, Inc. (under Paragraph 7 of Section 2 of Chapter 128C of the General Laws) submitting copies of contracts for the simulcasting of dog races; and

From the Division of Professional Licensure (under the provisions of Section 469 of Chapter 159 of the Acts of 2000) submitting an updated version of the report of the special commission on complementary and alternative medical practitioners (for the text of the report being replaced, see House Docket number 5086);

Severally were placed on file.

Papers from the Senate.

A Bill providing for the 2002 special election in the city of Woburn (Senate, No. 2317) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mrs. Donovan of Woburn, the bill was read a second and (having been reported by the committee on Bills in the Third Reading to be correctly drawn) a third time forthwith; and it was passed to be engrossed, in concurrence, its title having been changed by said committee to read: "An Act providing for a special election in the city of Woburn."

A report of the committee on Health Care, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 670) of Susan C. Fargo, John A. Lepper, Charles E. Shannon, Kevin W. Fitzgerald and other members of the General Court for legislation relative to the disclosure of vital statistics, and recommending that the same be referred to the Senate committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, insomuch as relates to the discharge of the committee.

Emergency Measure.

The engrossed Bill including employees of the Central Massachusetts Regional Planning Commission in the group insurance plan (see Senate, No. 2131, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 25 to 0. Sent to the Senate for concurrence.

Orders of the Day.

The House Bill relative to the enhancement of revenues in the Commonwealth (House, No. 5050) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance.

[\[See Yea and Nay No. 288 in Supplement.\]](#)

Therefore a quorum was present.

Mr. Travis of Rehoboth then moved that the bill be amended by adding at the end thereof the following section:—

“SECTION 4.

Section 1. TITLE

Section 1 through Section 10 shall be known as and referred to as the ‘Simplified Sales and Use Tax Administration Act’.

Section 2. DEFINITIONS

As used in this Act:

- a. ‘Agreement’ means the Streamlined Sales and Use Tax Agreement.
- b. ‘Certified Automated System’ means software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.
- c. ‘Certified Service Provider’ means an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller’s sales tax functions.
- d. ‘Person’ means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.
- e. ‘Sales Tax’ means the tax levied under M.G.L. c. 64H.
- f. ‘Seller’ means any person making sales, leases, or rentals of personal property or services.
- g. ‘State’ means any state of the United States and the District of Columbia.
- h. ‘Use Tax’ means the tax levied under M.G.L. c. 64I.

Section 3. LEGISLATIVE FINDING (OPTIONAL)

The Commonwealth of Massachusetts finds that a simplified sales and use tax system will reduce and over time eliminate the burden and cost for all vendors to collect this state’s sales and use tax. The Commonwealth of Massachusetts further finds that this state should participate in multi-state discussions to review and/or amend the terms of the Agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and all types of commerce.

Section 4. AUTHORITY TO PARTICIPATE IN MULTI-STATE NEGOTIATIONS

For the purpose of reviewing and/or amending the Agreement embodying the simplification requirements as contained in Section 7 of this Act, the State shall enter into multi-state discussions. For purposes of such discussions, the State shall be represented by no more than four delegates (Language appointing delegates is left to each state to determine).

Section 5. AUTHORITY TO ENTER AGREEMENT

The Massachusetts Department of Revenue is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the Agreement, the Massachusetts Department of Revenue is authorized to act jointly with other states that are members of the Agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multi-state sellers.

The Massachusetts Department of Revenue is further authorized to take other actions reasonably required to implement the provisions set forth in this Act or to otherwise substantially reduce the administrative burdens associated with sales and use tax compliance. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states of goods and services in furtherance of the cooperative agreement.

The Massachusetts Department of Revenue or the Massachusetts Department of Revenue's designee is authorized to represent this state before the other states that are signatories to the Agreement.

Section 6. RELATIONSHIP TO STATE LAW

No provision of the Agreement authorized by this Act in whole or part invalidates or amends any provision of the law of this state. Adoption of the Agreement by this State does not amend or modify any law of this State. Implementation of any condition of the Agreement in this state, whether adopted before, at, or after membership of this state in the Agreement, must be by the action of this state.

Section 7. AGREEMENT REQUIREMENTS

The Massachusetts Department of Revenue shall not enter into the Streamline Sales and Use Tax Agreement unless the agreement requires each state to abide by the following requirements:

- a. Simplified State Rate. The agreement must set restrictions to limit over time the number of state rates.
- b. Uniform Standards. The Agreement must establish uniform standards for the following:
 1. The sourcing of transactions to taxing jurisdictions.

2. The administration of exempt sales.

3. Sales and use tax returns and remittances.

c. Central Registration. The Agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

d. No Nexus Attribution. The Agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

e. Local Sales and Use Taxes. The Agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

1. Restricting variances between the state and local tax bases.

2. Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

3. Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.

4. Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

f. Monetary Allowances. The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The Agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed July 1, 2002.

g. State Compliance. The Agreement must require each state to certify compliance with the terms of the Agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the Agreement while a member.

h. Consumer Privacy. The Agreement must require each state to adopt a uniform policy for Certified Service Providers that protects the privacy of consumers and maintains the confidentiality of tax information.

i. Advisory Councils. The Agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the Agreement.

Section 8. COOPERATING SOVEREIGNS

The Agreement authorized by this Act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the

member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.”.

After remarks the amendment was adopted.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 5. Notwithstanding any general or special law to the contrary, regulations adopted by the commissioner of revenue shall implement and be consistent with the following:—

- a.) All state personal income tax forms shall contain a check-off box allowing taxpayers to elect, at the option of the taxpayer, the following: ‘I elect to pay 5.85 percent income tax on Part A taxable income and Part B taxable income’;
- b.) All state personal income tax schedules and instructions booklets shall contain a table providing the tax at various incomes calculated at the voluntary rate of tax of 5.85 percent;
- c.) The department of revenue shall maintain a record of the number of taxpayers who choose to elect the rate of tax of 5.85 percent; and
- d.) The department of revenue shall maintain a record of the amount of revenue collected from taxpayers who have elected to pay the rate of tax of 5.85 percent.”.

The amendment was adopted.

The same members then moved that the bill be amended by adding at the end thereof the following seven sections:

“SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of revenue is hereby authorized to establish a tax amnesty program during which all penalties that could be assessed by the commissioner for the failure of the taxpayer to:

- (1) to timely file any proper return for any tax types and for any tax periods,
- (2) to file proper returns which report the full amount of the taxpayer’s liability for any tax types and for any tax periods,
- (3) to timely pay any tax liability, or
- (4) 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 the commonwealth. The amnesty program shall be established for a period within

fiscal year 2003 of two consecutive months to be determined by the Commissioner.

The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who, prior to the start date of the amnesty program selected by the commissioner, is or has been the subject of any tax-related criminal investigation or prosecution. The amnesty program shall not apply to any tax liability of any tax type for any period commencing on or after January 1, 2001, and shall not authorize the waiver of any interest or amount treated as interest. The commissioner is authorized to offer the 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 commonwealth.

To the extent that any taxpayer wishing to participate in the amnesty program has postponed the payment of an assessment of tax, interest and penalty under the authority of the provisions of subsection (e) of section 32 of chapter 62C, the taxpayer shall waive in writing all rights under subsection (e) to further delay the payment of the tax and interest portions of the assessment. The tax and interest portions of such 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.

The amnesty shall not apply to those penalties that 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.

SECTION 7. For the purposes of discovering and identifying persons who are delinquent either in the filing of any tax return or the payment of any tax due and payable to the commonwealth and of obtaining those delinquent returns and collecting those delinquent taxes for any prior fiscal year, the commissioner of the department of revenue is hereby authorized to expend the monies appropriated in this act for the purpose of maximizing the tax revenues paid to the commonwealth. The commissioner shall report annually to the joint committee on taxation and the house and senate committees on ways and means the amounts expended under the program and tax revenues collected.

SECTION 8.

1201-0101 The department of revenue is hereby authorized to expend for the costs of the programs authorized by sections 1 and 2 of this act an amount not to exceed \$6,054,988 from the revenues collected under the programs; provided, notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in

the state accounting system 6,054,988

SECTION 9. For the purpose of making available in fiscal year 2003, the balance of

appropriation 1201-0101, which otherwise would revert on June 30, 2002, the unexpended balance of the appropriation, not to exceed \$6,054,988, is hereby re-appropriated for the purposes of and subject to the conditions stated in the corresponding item in section 3 of this act. The sums re-appropriated herein shall be in addition to any amounts available for these purposes.

SECTION 10. The commissioner of the department of revenue may adopt rules and regulations as the commissioner deems necessary to implement the provisions of this act.

SECTION 11. The provisions of section 3A of this act shall be effective for the fiscal year beginning on July 1, 2002.

SECTION 12. Except as otherwise provided, the provisions of this act shall become effective on passage.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Marini; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 289 in Supplement.\]](#)

Therefore the amendment was adopted.

Mr. Walsh of Boston then moved that the bill be amended by striking out sections 2 and 3 and inserting in place thereof the following twenty-eight sections:

“SECTION 2. Section 1 of chapter 62 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (m) and inserting in place thereof the following subsection:—

(m) The term ‘capital asset’ shall have the meaning as given in section 1221 of the Code and shall be limited to assets which are sold, exchanged or otherwise disposed of by a person while he is subject to taxation under this chapter on any Part A taxable income; provided, further, that property used in a trade or business within the meaning of section 1231(b) of the Code and property held in connection with a trade or business or transaction entered into for profit within the meaning of section 1231(a)(3)(A)(ii)(II) of the Code shall be treated as if such property were a ‘capital asset’ within the meaning of section 1221 of the Code.

The term ‘capital gain income’ shall mean gain from the sale or exchange of a capital asset. The terms short term capital gain, short term capital loss, long term capital gain, long term capital loss, net short term capital gain, net short term capital loss, net long term capital gain, net long term capital loss shall have the meanings provided in section 1222 of the Internal Revenue Code of the United States, as amended and in effect for the taxable year. In determining the amount of gain or loss on any sale, exchange or other disposition of property, the provisions of section 6F shall be taken into account, and in determining the amount of long-term capital loss or short-term capital loss for any year, the provisions of paragraph (2) of subsection (c) of section 2 shall be taken into account; and provided, further, that losses from the sale or exchange of capital assets shall not include any item the deduction of which is, or but for some other section would

be, prohibited by section 165(c), section 262, or section 267 of the Code.

SECTION 3. Section 2 of said chapter 62, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) Massachusetts gross income shall be divided into two classes:

(1) Part A gross income shall be the total interest, dividends and capital gain net income included in Massachusetts gross income, other than:—

(A) Interest and dividends from savings deposits, including term and time deposits having a principal amount of less than \$100,000, savings accounts, share or share savings accounts in any savings or cooperative bank, trust company or credit union incorporated in or chartered by the commonwealth; in any national bank, federal savings and loan association, federal savings bank or federal credit union located in the commonwealth; in any banking company or Morris Plan company subject to chapter 172A; in any savings or loan association or banking partnership under the supervision of the commissioner of banks.

(B) Interest from loans made in the course of business by persons subject to the provisions of sections 70-85, inclusive, of chapter 140.

(2) Part B gross income shall be the remainder of the Massachusetts gross income.

SECTION 3A. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Part A adjusted gross income shall be the Part A gross income less the following deductions:

(1) Any excess of the deductions allowable under paragraph (d) below over the Part B gross income; but the amount deductible under this paragraph shall not exceed the amount of Part A gross income which is effectively connected with the active conduct of a trade or business of the taxpayer.

(2) The excess, if any, of the net short-term capital loss for the year over the net long-term capital gain for the year, but not more than \$1000, shall be applied against any interest and dividends included in Part A gross income. If the amount of such excess is less than \$1000, then the excess, if any, of the net long-term capital loss for the year over the net short-term capital gain for the year shall be applied against the balance of such interest and dividends; provided, however, that the aggregate amount of the deduction under this paragraph shall not be more than \$1000. The excess of the net short-term capital loss over the net long-term capital gain, reduced by the amount allowed under this paragraph which is attributable to such excess, shall be a short-term capital loss in the succeeding taxable year. The excess of the net long-term capital loss over the net short-term capital gain, reduced by the amount allowed under this paragraph which is attributable to such excess, shall be a long-term capital loss in succeeding taxable year.

SECTION 3B. Section 2 of said chapter 62, as most recently amended by sections 27 and 28 of chapter 313 of the acts of 2000, is hereby further amended by striking out subsection (e) and

inserting in place thereof the following subsection:—

(e) The Part A taxable income shall be the Part A adjusted gross income less the deductions and exemptions allowable under Part A of section 3.

SECTION 3C. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (f) and inserting in place thereof the following subsection:—

(f) The Part B taxable income shall be the Part B adjusted gross income less the deductions and exemptions allowable under Part B of section 3.

SECTION 3D. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g) Massachusetts adjusted gross income shall be the sum of Part A adjusted gross income and Part B adjusted gross income.

SECTION 3E. Subsection (h) of section 2 of said chapter 62, as so appearing, is hereby repealed.

SECTION 3F. Subsection (i) of section 2 of said chapter 62, as so appearing, is hereby repealed.

SECTION 3G. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as most recently amended by chapter 136 of the acts of 2001, is hereby further amended by striking out subparagraph (13).

SECTION 3H. Section 3 of said chapter 62 is hereby amended by striking out, in line 150, as appearing in the 2000 Official Edition, the figure ‘\$4,400’, and inserting in place thereof the following figure:— \$2,200.

SECTION 3I. Said section 3 of said chapter 62 is hereby further amended by striking out, in line 158, as so appearing, the figure ‘\$6,800’, and inserting in place thereof the following figure:— \$3,400.

SECTION 3J. Said section 3 of said chapter 62 is hereby further amended by striking out, in line 165, as so appearing, the figure ‘\$8,800’, and inserting in place thereof the following figure:— \$4,400.

SECTION 3K. Subsection C of section 3 of said chapter 62, as so appearing, is hereby repealed.

SECTION 3L. Section 4 of said chapter 62, as most recently amended by section 1 of chapter 343 of the acts of 2000, is hereby amended by striking section 4 and inserting in place thereof the following new section:—

Residents shall be taxed on their taxable income, non-residents shall be taxed, to the extent specified in section 5A on their taxable income, and corporate trusts shall be taxed to the extent specified in section 8 on their taxable income, as follows:

(a) Part A and Part B taxable income shall be taxed at the rate of 5.75 percent for tax years beginning on or after January 1, 2002.

For taxable years beginning on or after January 1, 2003, Part A and Part B taxable income shall be taxed at the lesser of (i) the rate of 5.75 percent minus .1 percent for each 2.5 percent of cumulative inflation-adjusted growth in baseline taxes, but not less than the rate in effect for the prior year minus .1 percent, provided that the inflation-adjusted change in baseline taxes for each consecutive three month period in the preceding six months over the corresponding period 12 months prior is greater than zero, or (ii) the rate in effect for the prior year.

For purposes of determining the rate of tax for a taxable year beginning on or after January 1, 2003 as provided by the preceding paragraph, cumulative inflation-adjusted growth in baseline taxes shall be the difference between the baseline tax index for the prior fiscal year, as estimated by the commissioner of revenue, and one hundred percent, if said difference is positive, and zero otherwise.

The baseline tax index for a fiscal year shall equal the product of: (i) 100 percent, plus the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of state tax revenues that would have been credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal bureau of labor statistics, from the index so reported twelve months prior; and (ii) the baseline tax index for said preceding fiscal year, provided that said index for fiscal year 2002 shall equal 100 percent.

The commissioner shall on or before August 30 of each year prepare and submit to the secretary of administration and finance, to the house and senate committees on ways and means, and to the joint committee on taxation his estimates of the amount of baseline state tax revenues, the baseline tax index, and the cumulative inflation-adjusted growth in baseline taxes for the preceding fiscal year and, on or before the 15th of each month shall prepare and so submit his estimate of the inflation-adjusted change in baseline taxes for the preceding consecutive three-month period.

Part A and Part B taxable income shall be taxed at a rate of no less than 5 percent.

SECTION 3M. Subsection (a) of section 5 of said chapter 62, as so appearing, is hereby amended by striking out, in line 2, the words 'income, Part B taxable income and Part C taxable income' and inserting in place thereof the following words:— income and the Part B taxable income.

SECTION 3N. Subsection (a) of section 5A of said chapter 62, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words 'income, the Part B taxable income and the Part C taxable income' and inserting in place thereof the following words:— income and the Part B taxable income.

SECTION 3O. Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words 'Part A, Part B or Part C income' and

inserting in place thereof the following words:— Part A or Part B income.

SECTION 3P. Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 15, the words ‘Part A, Part B or Part C income’ and inserting in place thereof the following words:— Part A or Part B income.

SECTION 3Q. Subsection (k) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 415 and 416, the words ‘Part A adjusted gross income, Part B adjusted gross income and Part C adjusted gross income’ and inserting in place thereof the following words:— Part A adjusted gross income and Part B adjusted gross income.

SECTION 3R. Subsection (k) of section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in lines 415 and 416, the words ‘Part A adjusted gross income, Part B adjusted gross income and Part C adjusted gross income’ and inserting in place thereof the following words:— Part A adjusted gross income and Part B adjusted gross income.

SECTION 3S. Subsection (k) of section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in lines 422-424, the words ‘net losses in any class of Part C adjusted gross income as defined in subsection (e) of section 2, capital gains deducted’ and inserting in place thereof the following words:— deductions made.

SECTION 3T. Subsection (a) of section 8 of said chapter 62, as so appearing, is hereby amended by striking out, in line 11, the words ‘three A, three B or three C’ and inserting in place thereof the following words:— three A or three B.

SECTION 3U. Subsection (b) of section 8 of said chapter 62, as so appearing, is hereby amended by striking out, in line 32, the words ‘and Part C gross income’.

SECTION 3V. Subsection (g) of section 10 of said chapter 62, as so appearing, is hereby amended by striking out, in line 81, the words ‘Part A income, Part B income or Part C income’ and inserting in place thereof the following words:— Part A income or Part B income.

SECTION 3W. Subsection (c) of section 17 of said chapter 62, as so appearing, is hereby amended by striking out clause (1), appearing in lines 36 through 39, and inserting in place thereof the following:—

(1) the offset against interest and dividends and the carryover on account of net capital loss provided in paragraph 2 of subsection (c) of section 2;

SECTION 3X. Section 6 of said chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Every licensee who is required to file a return under section sixteen of chapter sixty-two C shall, at the time of filing such return, pay to the commissioner an excise equal to thirty-eight mills plus any amount by which the federal excise tax on cigarettes less than eight mills for each cigarette so sold during the calendar month covered by the return; provided, however, that cigarettes with respect to which the excise under this section has once been imposed and has not

been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. Each unclassified acquirer shall, at the time of filing a return required by section sixteen of chapter sixty-two C, pay to the commissioner an excise equal to thirty-eight mills plus any amount by which the federal excise tax on cigarettes is less than eight mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes, with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section. The commissioner may, in his discretion, require reports from any common carrier who transports cigarettes to any point or points within the commonwealth and from any other person who, under contract, so transports cigarettes, and from any bonded warehouseman or bailee who has in his possession any cigarettes, such reports to contain such information concerning shipments of cigarettes as the commissioner shall determine. All such carriers, bailees, warehousemen and other persons shall permit the examination by the commissioner or his duly authorized agent of any records relating to the shipment of cigarettes into or from, or the receipt thereof within, the commonwealth.

SECTION 3Y. Sections 2 to 26, inclusive shall apply to taxable years beginning on or after January 1, 2002.

SECTION 3Z. Sections 1 and 27 shall apply to taxable years beginning on or after July 1, 2002.”.

Pending the question on adoption of the amendment, Mr. Casey of Winchester and other members of the House moved that the amendment offered by Mr. Walsh of Boston be amended by striking out proposed sections 2 to 3Z, inclusive, and inserting in place thereof the following twenty-seven sections:

“SECTION 2. Section 1 of chapter 62 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (m) and inserting in place thereof the following subsection:—

(m) The term ‘capital asset’ shall have the meaning as given in section 1221 of the Code and shall be limited to assets which are sold, exchanged or otherwise disposed of by a person while he is subject to taxation under this chapter on any Part A taxable income; provided, further, that property used in a trade or business within the meaning of section 1231(b) of the Code and property held in connection with a trade or business or transaction entered into for profit within the meaning of section 1231(a)(3)(A)(ii)(II) of the Code shall be treated as if such property were a ‘capital asset’ within the meaning of section 1221 of the Code.

The term ‘capital gain income’ shall mean gain from the sale or exchange of a capital asset. The terms short term capital gain, short term capital loss, long term capital gain, long term capital loss, net short term capital gain, net short term capital loss, net long term capital gain, net long term capital loss shall have the meanings provided in section 1222 of the Internal Revenue Code of the United States, as amended and in effect for the taxable year. In determining the amount of gain or loss on any sale, exchange or other disposition of property, the provisions of section 6F shall be taken into account, and in determining the amount of long-term capital loss or short-term capital loss for any year, the provisions of paragraph (2) of subsection (c) of section 2 shall be taken into account; provided, further, that losses from the sale or exchange of capital assets

shall not include any item the deduction of which is, or but for some other section would be, prohibited by section 165(c), section 262, or section 267 of the Code.

SECTION 3. Section 2 of said chapter 62, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) Massachusetts gross income shall be divided into two classes:

(1) Part A gross income shall be the total interest, dividends and capital gain net income included in Massachusetts gross income, other than:—

(A) Interest and dividends from savings deposits, including term and time deposits having a principal amount of less than \$100,000, savings accounts, share or share savings accounts in any savings or cooperative bank, trust company or credit union incorporated in or chartered by the commonwealth; in any national bank, federal savings and loan association, federal savings bank or federal credit union located in the commonwealth; in any banking company or Morris Plan company subject to chapter 172A; in any savings or loan association or banking partnership under the supervision of the commissioner of banks.

(B) Interest from loans made in the course of business by persons subject to the provisions of sections 70 to 85, inclusive, of chapter 140.

(2) Part B gross income shall be the remainder of the Massachusetts gross income.

SECTION 3A. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Part A adjusted gross income shall be the Part A gross income less the following deductions:

(1) Any excess of the deductions allowable under paragraph (d) below over the Part B gross income; but the amount deductible under this paragraph shall not exceed the amount of Part A gross income which is effectively connected with the active conduct of a trade or business of the taxpayer.

(2) The excess, if any, of the net short-term capital loss for the year over the net long-term capital gain for the year, but not more than \$2000, shall be applied against any interest and dividends included in Part A gross income. If the amount of such excess is less than \$2000, then the excess, if any, of the net long-term capital loss for the year over the net short-term capital gain for the year shall be applied against the balance of such interest and dividends; provided, however, that the aggregate amount of the deduction under this paragraph shall not be more than \$2000. The excess of the net short-term capital loss over the net long-term capital gain, reduced by the amount allowed under this paragraph which is attributable to such excess, shall be a short-term capital loss in the succeeding taxable year. The excess of the net long-term capital loss over the net short-term capital gain, reduced by the amount allowed under this paragraph which is attributable to such excess, shall be a long-term capital loss in succeeding taxable year.

SECTION 3B. Section 2 of said chapter 62, as most recently amended by sections 27 and 28 of chapter 313 of the acts of 2000, is hereby further amended by striking out subsection (e) and

inserting in place thereof the following subsection:—

(e) The Part A taxable income shall be the Part A adjusted gross income less the deductions and exemptions allowable under Part A of section 3.

SECTION 3C. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (f) and inserting in place thereof the following subsection:—

(f) The Part B taxable income shall be the Part B adjusted gross income less the deductions and exemptions allowable under Part B of section 3.

SECTION 3D. Section 2 of said chapter 62, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:—

(g) Massachusetts adjusted gross income shall be the sum of Part A adjusted gross income and Part B adjusted gross income.

SECTION 3E. Section 2 of said chapter 62, as so appearing, is hereby amended by striking out subsection (h).

SECTION 3F. Section 2 of said chapter 62, as so appearing, is hereby amended by striking out subsection (i).

SECTION 3G. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as most recently amended by chapter 136 of the acts of 2001, is hereby amended by striking out subparagraph (13) and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2002, no such deduction shall be allowed in any taxable year prior to the taxable year immediately following the taxable year for which the personal exemption amounts in effect pursuant to the provisions of subparagraphs (1), (1A) and (2) of paragraph (b) are the same as those amounts that were in effect for the taxable year beginning on January 1, 2001; and provided, further, that, notwithstanding the provisions of said section 170, no deduction shall be allowed hereunder for contributions of household goods or used clothing, as those items are recognized under said section 170. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 3H. Subparagraph (1) of paragraph (b) of Part B of section 3 of said chapter 62, as so appearing, is hereby amended by striking out, in line 150, clause (A) and inserting in place thereof the following:—

(A) a personal exemption of \$3,300 for tax years beginning on or after January 1, 2002.

For taxable years subsequent to tax years in which the tax rate on Part A and Part B taxable income rate in section 4 is equal to 5 percent, the personal exemption shall be the (i) the

exemption in the previous year plus \$275 if the inflation-adjusted growth in baseline taxes exceeds 2.5 percent, provided that the inflation-adjusted change in baseline taxes for each consecutive three month period in the preceding six months over the corresponding period 12 months prior is greater than zero, or (ii) the personal exemption in effect for the prior year.

For purposes of determining the rate of tax for a taxable year beginning on or after January 1, 2004 as provided by the preceding paragraph, the inflation-adjusted change in baseline taxes for a fiscal year shall equal the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of state tax revenues that would have been credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, as estimated by the commissioner of revenue, minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal bureau of labor statistics, from the index so reported twelve months prior.

The commissioner shall on or before August 30 of each year prepare and submit to the secretary of administration and finance, to the house and senate committees on ways and means, and to the joint committee on taxation his estimates of the amount of baseline state tax revenues, and the inflation-adjusted growth in baseline taxes for the preceding fiscal year and, on or before the 15th of each month shall prepare and so submit his estimate of the inflation-adjusted change in baseline taxes for the preceding consecutive three-month period.

The personal exemption shall not exceed \$4,400.

SECTION 3I. Subparagraph (1A) of said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out, in line 158, clause (A) and inserting in place thereof the following:—

(A) a personal exemption of \$5,100 for tax years beginning on or after January 1, 2002.

For taxable years subsequent to tax years in which the tax rate on Part A and Part B taxable income rate in section 4 is equal to 5 percent, the personal exemption shall be the (i) the exemption in the previous year plus \$425 if the inflation-adjusted growth in baseline taxes exceeds 2.5 percent, provided that the inflation-adjusted change in baseline taxes for each consecutive three month period in the preceding six months over the corresponding period 12 months prior is greater than zero, or (ii) the personal exemption in effect for the prior year.

For purposes of determining the rate of tax for a taxable year beginning on or after January 1, 2004 as provided by the preceding paragraph, the inflation-adjusted change in baseline taxes for a fiscal year shall equal the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of state tax revenues that would have been credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, as estimated by the commissioner of revenue, minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal bureau of labor statistics, from the index so reported twelve months prior.

The commissioner shall on or before August 30 of each year prepare and submit to the secretary

of administration and finance, to the house and senate committees on ways and means, and to the joint committee on taxation his estimates of the amount of baseline state tax revenues, and the inflation-adjusted growth in baseline taxes for the preceding fiscal year and, on or before the 15th of each month shall prepare and so submit his estimate of the inflation-adjusted change in baseline taxes for the preceding consecutive three-month period.

The personal exemption shall not exceed \$6,800.

SECTION 3J. Subparagraph (2) of said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out, in line 165, clause (A) and inserting in place thereof the following:—

(A) a personal exemption of \$6,600 for tax years beginning on or after January 1, 2002.

For taxable years subsequent to tax years in which the tax rate on Part A and Part B taxable income rate in section 4 is equal to 5 percent, the personal exemption shall be the (i) the exemption in the previous year plus \$550 if the inflation-adjusted growth in baseline taxes exceeds 2.5 percent, provided that the inflation-adjusted change in baseline taxes for each consecutive three month period in the preceding six months over the corresponding period 12 months prior is greater than zero, or (ii) the personal exemption in effect for the prior year.

For purposes of determining the rate of tax for a taxable year beginning on or after January 1, 2004 as provided by the preceding paragraph, the inflation-adjusted change in baseline taxes for a fiscal year shall equal the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of state tax revenues that would be credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, as estimated by the commissioner of revenue, minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal bureau of labor statistics, from the index so reported twelve months prior.

The commissioner shall on or before August 30 of each year prepare and submit to the secretary of administration and finance, to the house and senate committees on ways and means, and to the joint committee on taxation his estimates of the amount of baseline state tax revenues, and the inflation-adjusted growth in baseline taxes for the preceding fiscal year and, on or before the 15th of each month shall prepare and so submit his estimate of the inflation-adjusted change in baseline taxes for the preceding consecutive three-month period.

The personal exemption shall not exceed \$8,800.

SECTION 3K. Subsection C of section 3 of said chapter 62, as so appearing, is hereby repealed.

SECTION 3L. Said chapter 62, as most recently amended by section 1 of chapter 343 of the acts of 2000, is hereby amended by striking section 4 and inserting in place thereof the following new section:—

Section 4. Residents shall be taxed on their taxable income, non-residents shall be taxed, to the extent specified in section 5A, on their taxable income and corporate trusts shall be taxed, to the

extent specified in section 8, on their taxable income, as follows:

(a) Part A and Part B taxable income shall be taxed at the rate of 5.3 percent for tax years beginning on or after January 1, 2002.

For taxable years beginning on or after January 1, 2004, Part A and Part B taxable income shall be taxed at the lesser of (i) the rate in effect for the prior taxable year minus .05 percent if the inflation-adjusted growth in baseline taxes exceeds 2.5 percent, provided that the inflation-adjusted change in baseline taxes for each consecutive three month period in the preceding six months over the corresponding period 12 months immediately prior is greater than zero, or (ii) the rate in effect for the prior year.

For purposes of determining the rate of tax for a taxable year beginning on or after January 1, 2004 as provided by the preceding paragraph, the inflation-adjusted change in baseline taxes for a fiscal year shall equal the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of state tax revenues that would have been credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, as estimated by the commissioner of revenue, minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal bureau of labor statistics, from the index so reported twelve months prior.

The commissioner shall on or before August 30 of each year prepare and submit to the secretary of administration and finance, to the house and senate committees on ways and means, and to the joint committee on taxation his estimates of the amount of baseline state tax revenues, and the inflation-adjusted growth in baseline taxes for the preceding fiscal year and, on or before the 15th of each month shall prepare and so submit his estimate of the inflation-adjusted change in baseline taxes for the preceding consecutive three-month period.

Part A and Part B taxable income shall be taxed at a rate of no less than 5 percent.

SECTION 3M. Subsection (a) of section 5 of said chapter 62, as so appearing, is hereby amended by striking out, in line 2, the words 'income, Part B taxable income and Part C taxable income' and inserting in place thereof the following words:— income and Part B taxable income.

SECTION 3N. Subsection (a) of section 5A of said chapter 62, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words 'income, the Part B taxable income and the Part C taxable income' and inserting in place thereof the following words:— income and the Part B taxable income.

SECTION 3O. Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words 'Part A, Part B or Part C income' and inserting in place thereof the following words:— Part A or Part B income.

SECTION 3P. Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 15, the words 'Part A, Part B or Part C income' and inserting in

place thereof the following words:— Part A or Part B income.

SECTION 3Q. Subsection (k) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 415 and 416, the words ‘Part A adjusted gross income, Part B adjusted gross income and Part C adjusted gross income’ and inserting in place thereof the following words:— Part A adjusted gross income and Part B adjusted gross income.

SECTION 3R. Subsection (k) of section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in lines 422-424, the words ‘net losses in any class of Part C adjusted gross income as defined in subsection (e) of section 2, capital gains deducted’ and inserting in place thereof the following words:— deductions made.

SECTION 3S. Subsection (a) of section 8 of said chapter 62, as so appearing, is hereby amended by striking out, in line 11, the words ‘three A, three B or three C’ and inserting in place thereof the following words:— 3A or 3B.

SECTION 3T. Subsection (b) of section 8 of said chapter 62, as so appearing, is hereby amended by striking out, in line 32, the words ‘and Part C gross income’.

SECTION 3U. Subsection (g) of section 10 of said chapter 62, as so appearing, is hereby amended by striking out, in line 81, the words ‘Part A income, Part B income or Part C income’ and inserting in place thereof the following words:— Part A income or Part B income.

SECTION 3V. Subsection (c) of section 17 of said chapter 62, as so appearing, is hereby amended by striking out clause (1), appearing in lines 36 through 39, and inserting in place thereof the following:—

(1) the offset against interest and dividends and the carryover on account of net capital loss provided in paragraph 2 of subsection (c) of section 2;

SECTION W. Section 6 of said chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Every licensee who is required to file a return under section sixteen of chapter sixty-two C shall, at the time of filing such return, pay to the commissioner an excise equal to fifty-one and one-half mills plus any amount by which the federal excise tax on cigarettes is less than eight mills for each cigarette so sold during the calendar month covered by the return; provided, however, that cigarettes with respect to which the excise under this section has once been imposed and has not been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. Each unclassified acquirer shall, at the time of filing a return required by section sixteen of chapter sixty-two C, pay to the commissioner an excise equal to fifty-one and one-half mills plus any amount by which the federal excise tax on cigarettes is less than eight mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes, with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section. The commissioner may, in his discretion, require reports from any common carrier who transports cigarettes to any point or points within the commonwealth and from any other person who, under contract, so

transports cigarettes, and from any bonded warehouseman or bailee who has in his possession any cigarettes, such reports to contain such information concerning shipments of cigarettes as the commissioner shall determine. All such carriers, bailees, warehousemen and other persons shall permit the examination by the commissioner or his duly authorized agent of any records relating to the shipment of cigarettes into or from, or the receipt thereof within, the commonwealth.

SECTION 3X. Sections 2 to 25, inclusive shall apply to taxable years beginning on or after January 1, 2002.

SECTION 3Y. Sections 1 and 26 shall apply to taxable years beginning on or after July 1, 2002.”.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Larkin of Pittsfield; and on the roll call 131 members voted in the affirmative and 24 in the negative.

[\[See Yea and Nay No. 290 in Supplement.\]](#)

Therefore the further amendment was adopted (thus precluding a vote on the amendment offered by Mr. Walsh of Boston). Mr. Casey of Winchester moved that this vote be reconsidered; and the motion to reconsider was negatived.

Representatives Paulsen of Belmont and Barrios of Cambridge and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 13. Section 7B of chapter 64C of the General Laws is hereby amended by striking out in line 5 the word ‘fifteen’ and inserting in place thereof the figure:— 30.”.

After debate on the question on adoption of the amendment (Mrs. Harkins of Needham being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Fresolo of Worcester; and on the roll call 59 members voted in the affirmative and 96 in the negative.

[\[See Yea and Nay No. 291 in Supplement.\]](#)

Therefore the amendment was rejected.

Mr. Marini of Belmont and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 13. Section 32 of Chapter 63 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the word ‘Four’ in line 40 and inserting in place thereof:— Two.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 47 members voted in the affirmative and 107 in the negative.

[\[See Yea and Nay No. 292 in Supplement.\]](#)

Therefore the amendment was rejected.

Mr. Caron of Springfield then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 13. Notwithstanding any general or special law to the contrary, any excise imposed on the sale of cigarettes in the commonwealth shall not exceed 50 cents per pack.”.

Mr. DiMasi thereupon raised a point of order that the amendment offered by the gentleman from Springfield was improperly before the House for the reason that it contradicted a provision in the bill previously added by amendment that may not be further amended at this reading.

The Chair (Mrs. Harkins of Needham) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

After debate on the question on passing the bill, as amended, to be engrossed, Mrs. Provost of Sandwich moved that it be amended by adding at the end thereof the following two sections:

“SECTION 13. Paragraph (b) of section 2XX of chapter 29 of the General Laws, as appearing in the 2000 Official Edition is hereby amended by adding the following paragraph:—

Notwithstanding the provisions of any other general or special law to the contrary, the comptroller shall transfer 3 hundred million dollars from this account to the general fund for fiscal year 2003.

SECTION 14. Section 2H of chapter 29, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding any other general or special law to the contrary, the sum of 2 hundred million dollars shall be transferred from this fund to the general fund for fiscal year 2003.”.

Mr. DiMasi thereupon raised a point of order that the amendment offered by the lady from Sandwich was improperly before the House for the reason that it went beyond the scope of the pending bill, as defined in the order previously adopted by the House (see House order, No. 5048).

The Chair (Mrs. Harkins of Needham) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Scaccia of Boston then moved that the bill be amended by adding at the end thereof the following six sections:—

Mr. Scaccia of Boston moved that the bill be amended by adding at the end thereof the following six sections:—

“SECTION 12. Chapter 64H of the General Laws, as appearing in the 2000 Official Edition, is

hereby amended by striking out section 2 and inserting in place thereof the following section:—

Section 2. An excise is hereby imposed upon sales at retail in the commonwealth, by any vendor, of tangible personal property or of services performed in the commonwealth at the rate of six per cent of the gross receipts of the vendor from all such sales of such property or services, except as otherwise provided in this chapter. The excise shall be paid by the vendor to the commissioner at the time provided for filing the return required by section 16 of chapter 62C.

SECTION 13. Said chapter 64H, as so appearing, is hereby amended by striking out section 4 and inserting in place thereof the following section:—

Section 4. For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the following formula shall be in force and effect as follows:—

Amount of Amount of Sale Tax

\$0.01 to \$0.07 inclusive No tax

\$0.08 to \$0.24 inclusive 1 cent

Amount of Amount of Sale Tax

\$0.25 to \$0.41 inclusive 2 cents

\$0.42 to \$0.57 inclusive 3 cents

\$0.58 to \$0.74 inclusive 4 cents

\$0.75 to \$0.90 inclusive 5 cents

\$0.91 to \$1.07 inclusive 6 cents

In addition to a tax of six cents on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the above formula.

SECTION 14. Section 30A of said chapter 64H, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following subsections:—

(a) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used within the commonwealth, the non-resident contractor shall deposit with the commissioner a sum equivalent to six per cent of the total amount to be paid under the contract, or shall furnish the commissioner with a guarantee bond satisfactory to the commissioner in a sum equivalent to six per cent of such total amount, to secure payment of the tax payable relative to tangible personal property consumed or used pursuant to or in the carrying out of the contract and shall obtain a

certificate in duplicate from the commissioner that the requirements of this subsection have been met.

(b) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the commissioner as required in subsection (a) shall deduct six per cent of all amounts payable to the non-resident contractor and pay it over to the commissioner on behalf of or as agent for the non-resident contractor, or shall furnish the commissioner with a guarantee bond satisfactory to the commissioner in a sum equivalent to six per cent of such total amount, to secure payment of the tax payable relative to tangible personal property consumed or used pursuant to or in the carrying out of the contract.

SECTION 15. Section 2 of chapter 64I of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 2 and inserting in place thereof the following section:—

Section 2. Except as otherwise provided in this chapter an excise is hereby imposed upon the storage, use or other consumption in the commonwealth of tangible personal property or services purchased from any vendor for storage, use or other consumption within the commonwealth at the rate of six per cent of the sales price of the property or services. The excise shall be paid by the taxpayer to the commissioner at the time provided for filing the returns required by section 16 of chapter 62C.

SECTION 16. Said chapter 64I, as so appearing, is hereby amended by striking out section 5 and inserting in place thereof the following section:—

For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be paid to the commonwealth or to be reimbursed to the vendor by the purchaser, the following formula shall be in force and effect as follows:—

Amount of Amount of Sale Tax

\$0.01 to \$0.07 inclusive No tax

\$0.08 to \$0.24 inclusive 1 cent

\$0.25 to \$0.41 inclusive 2 cents

\$0.42 to \$0.57 inclusive 3 cents

\$0.58 to \$0.74 inclusive 4 cents

\$0.75 to \$0.90 inclusive 5 cents

\$0.91 to \$1.07 inclusive 6 cents

In addition to a tax of six cents on each full dollar, a tax shall be collected on each part of a

dollar in excess of a full dollar in accordance with the above formula.

SECTION 17. Section 31A of said chapter 64I, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following subsections:—

(a) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used within the commonwealth, the non-resident contractor shall deposit with the commissioner a sum equivalent to six per cent of the total amount to be paid under the contract, or shall furnish the commissioner with a guarantee bond satisfactory to the commissioner in a sum equivalent to six per cent of such total amount, to secure payment of the tax payable relative to tangible personal property consumed or used pursuant to or in the carrying out of the contract and shall obtain a certificate in duplicate from the commissioner that the requirements of this subsection have been met.

(b) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the commissioner as required in subsection (a) shall deduct six per cent of all amounts payable to the non-resident contractor and pay it over to the commissioner on behalf of or as agent for the non-resident contractor, or shall furnish the commissioner with a guarantee bond satisfactory to the commissioner in a sum equivalent to six per cent of such total amount, to secure payment of the tax payable relative to tangible personal property consumed or used pursuant to or in the carrying out of the contract.”.

After debate on the question on adoption of the amendment (the Speaker having returned to the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Hargraves of Groton; and on the roll call 14 members voted in the affirmative and 140 in the negative.

[\[See Ye and Nay No. 293 in Supplement.\]](#)

Therefore the amendment was rejected.

Mr. Scaccia of Boston then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 13. Section 1 of chapter 64A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 70, the figure ‘21’ and inserting in place thereof the following figure:— 31.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 3 members voted in the affirmative and 151 in the negative.

[\[See Ye and Nay No. 294 in Supplement.\]](#)

Therefore the amendment was rejected.

Mr. Fresolo of Worcester and other members of the House then moved that the bill be amended

by adding at the end thereof the following two sections:

“SECTION 13. Chapter 64C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 7C the following section:—

Section 7D. An excise of \$10 shall be assessed on each single package of paper cigarette wrappers (rolling papers) sold within the commonwealth.

SECTION 14. Section 12 shall apply to taxable years beginning on or after January 1, 2002.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Fresolo; and on the roll call 50 members voted in the affirmative and 103 in the negative.

[See Yea and Nay No. 295 in Supplement.]

Therefore the amendment was rejected.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Scaccia of Boston; and on the roll call 130 members voted in the affirmative and 24 in the negative.

[See Yea and Nay No. 296 in Supplement.]

Therefore the bill was passed to be engrossed.

Mr. Binienda of Worcester moved that this vote be reconsidered; and the motion to reconsider was entertained and it was negatived. The bill (House, No. 5054, printed as amended) then was sent to the Senate for concurrence.

Order.

On motion of Ms. Wolf of Cambridge,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at one o'clock P.M.

At eleven minutes before eight o'clock P.M., on motion of Ms. Wolf, the House adjourned, to meet on Monday next at one o'clock P.M., in an Informal Session.