

**JOURNAL OF THE HOUSE.**  
**Wednesday, June 4, 2003.**

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

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows: God, Our Creator, we pause for a few moments of prayer and reflection to recognize Your presence in our midst and to thank You for the countless spiritual and material blessings which You give us daily. Your always available help enables us to cope with the stressful demands of all kinds which we often encounter each day. In responding to the pressing current needs of people and of our communities, inspire us to make mature and reasoned (not merely emotional) decisions and choices. Grant us the humility and good sense to be open to and to learn from the legislative successes and failures of our legislative predecessors. Inspire us, in our diverse society, to join together in making our communities safe, orderly and economically prosperous. Bestow Your blessings on 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.

**Resolutions.**

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

Resolutions (filed by Mr. Atsalis of Barnstable) on the occasion of the Nam Vets Association of Cape Cod and the Islands, Inc. hosting the Vietnam tribute "Wall that Heals";

Resolutions (filed by Mr. DeLeo of Winthrop) congratulating Marie T. Turner on the occasion of her retirement from municipal service to the town of Winthrop;

Resolutions (filed by Mr. Fagan of Taunton) honoring the Reverend Dr. and Lady M. R. Lunsford for twenty years of service in the pastorate; and

Resolutions (filed by Mr. Rush of Boston) honoring Richard Gormley;

Mr. Miceli of Wilmington, 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. Peterson of Grafton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

**Order.**

On motion of Mr. Rogers of Norwood,—

Ordered, That, notwithstanding the provisions of Rule 73 all amendments concerning the general subject of municipal relief shall be considered in order during consideration of the House Bill providing relief and flexibility to municipal officials (House, No. 4002).

**Reports of Committees.**

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two

branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions: Petition (accompanied by bill) of Geoffrey D. Hall and Robert S. Hargraves relative to the definition of a “limited liability company” and a “domestic limited liability company”. To the committee on Commerce and Labor.

Petition (accompanied by bill) of James B. Leary, Paul Kujawski, Harold P. Naughton, Jr., and Brian Knuuttila that the Division of Capital Asset Management and Maintenance be directed to grant an easement on certain land in the town of Sterling to James M. Meola. To the committee on State Administration.

Under suspension of the rules, on motion of Mr. deMacedo of Plymouth, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

### **Engrossed Bill.**

The engrossed Bill relative to the compensation of certain members of the General Court (see House, No. 3743) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

### **Orders of the Day.**

Senate bills

Relative to the annual observance of Jack Kerouac Day (Senate, No. 1666); and Conforming the date for observance of public employee appreciation day in the Commonwealth with the national observance of public service recognition week (Senate, No. 1668); and

House bills

Relative to debt collection and loan servicing agencies subject to supervision by the Division of Banks (House, No. 13);

Relative to interstate criminal information systems (House, No. 1489);

Authorizing the transfer of an easement under the control of the Department of Environmental Management in the city of Lynn (House, No. 2018);

Consolidating Massachusetts Housing Finance Agency mortgage loans (House, No. 3734); and

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Fall River (House, No. 3831);

Severally were read a second time; and they were ordered to a third reading.

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The House Bill providing relief and flexibility to municipal officials (House, No. 4002) was read a second time; and it was ordered to a third reading.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time forthwith.

Pending the question on passing the bill to be engrossed (Mr. Petrolati of Ludlow being in the Chair), Mr. Turkington of Falmouth moved that it be amended by

adding at the end thereof the following section:

“SECTION 82. In addition to the sales tax imposed by the Commonwealth upon sales at retail in the Commonwealth pursuant to chapter 64H of the General Laws, there is hereby imposed an additional local sales tax upon sales at retail by vendors as defined in said chapter 64H, within the limits of the town of Nantucket. The amount of such tax shall be at the rate of one percent of the gross receipts of such vendors and shall be paid over by the vendors located within the limits of the town of Nantucket to the commissioner of the Department of Revenue at the time provided for the filing the return required by section sixteen of chapter 62C. All amounts collected by the Department of Revenue pursuant to this section shall be paid over by said department to the treasury of the town of Nantucket to be spent by such Town as may be lawfully appropriated by the Town’s legislative body. The amount of any tax paid by any Vendor to the Commissioner pursuant to this section shall be reimbursed to the Vendor in full by the purchaser thereof and the provisions of section 3 of chapter 64H shall apply to the reimbursement to Vendors. This additional local sales tax shall be collected and administered in accordance with Chapter 64H of the General Laws. All definitions set forth in section 1 of chapter 64H shall here be incorporated by reference. All exemptions from the tax imposed by section 6 of chapter 64H shall also be exempt, to the extent applicable, from the additional local sales tax imposed by the section.”. Pending the question on adoption of the amendment, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), 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 153 members were recorded as being in attendance.

[\[See Yea and Nay No. 118 in Supplement.\]](#)

Therefore a quorum was present.

After debate the amendment was rejected.

Mr. Nyman of Hanover then moved that the bill be amended by striking out section 59 (as printed); and in section 74 (as printed) by adding at the end thereof the following paragraph:—

“Subsection (c) of section 2F of chapter 90 of the General Laws, as added by section 3 of chapter 334 of the acts of 2002, is amended by adding the following:— and cities and towns for the purpose of supporting local programs as organized by a single city or town or a state-wide organization on behalf of all cities and towns.”.

The amendment was adopted.

Messrs. Straus of Mattapoisett and Scaccia of Boston then moved that the bill be amended by striking out section 8 (as printed); and the amendment was adopted.

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

“SECTION 82. Section 7 of Chapter 79A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section I.(A)2 and inserting in place thereof the following words:— 2. actual direct losses of tangible

personal property as a result of moving or discontinuing a business or farm operation, but in no event include any loss related to the costs of installation at the old location nor to exceed an amount equal to the reasonable expenses that would have been required to move such property, with no allowance for reinstallation, as determined by the relocation agency; and”.

The amendment was adopted.

Mrs. Parente of Milford then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 83. Section 38 of chapter 51 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended in line 30 by inserting after the word ‘notice’ the following: — (f) The name and address of any law enforcement or public safety personnel who so requests shall not appear on the street list and such names shall not be disclosed to any person.

SECTION 84. The first sentence of section 37 of said chapter 51, as so appearing, is hereby amended in line 8 by inserting after the figures ‘265’ the following:— or any law enforcement or public safety personnel who has requested his name and address not be listed under paragraph (e) of section 4.”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out section 14 (as printed) and inserting in place thereof the following two sections:

“SECTION 38A. Chapter 60 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking section 15 in its entirety and inserting in place thereof the following: —

Section 15. The following interest, charges and fees, and no other, when accrued, shall severally be added to the amount of the tax and collected as a part thereof:—

1. For interest, as provided by law;
2. For each written demand provided for by law, \$10;
3. For preparing advertisement of sale or taking, \$10 for each parcel of real estate included in the advertisement and the necessary legal fees for search of title;
4. For advertisement of sale or taking in newspaper, the cost thereof;
5. For posting notices of sale or taking, five dollars for each parcel or real estate included in the notice;
6. For affidavit, \$10 for each parcel of land included therein;
7. For recording affidavit, the cost thereof;
8. For preparing deed or instrument of taking, \$10;
9. For the issuance and delivery of a warrant to an officer, \$10;
10. For notice by mail or other means to the delinquent that warrant to collect has been issued, nine dollars;

The collector may, in his discretion, waive such interest, charges and fees when the total amount thereof is \$15 or less.

SECTION 38B. Said Chapter 60 is hereby further amended in Section 65 by deleting in the first sentence the words ‘six months’ and inserting in place thereof the words ‘60 days’ and by deleting in the last sentence the words:— provided, however, that such legal fees shall not exceed five hundred dollars;.”.

The amendment was adopted.

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

“SECTION 85. Chapter 60 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding after section three D the following section:—

Section Three E. Partial payments of bills for taxes, excises or municipal charges and fees, including partial payments under sections twenty-two and sixty-two of this chapter, shall be applied first to any interest due, then to collection charges, that have been added to such bills, unless the amount of such interest and charges taken together may be waived and the collector or other officer responsible for collecting such bills determines that the partial payment should first be applied to the underlying obligation.”.

The amendment was adopted.

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

“SECTION 87. (a) Section 61A of Chapter 31 of the Massachusetts General Laws as appearing in the 2000 Official Edition, is hereby amended in line 6 by inserting after the word ‘units’ the following:— except call or volunteer firefighters.

(b) Said Section 61A of said Chapter 31 is hereby further amended in line 19 by inserting after the word ‘standards’ the following:— excepting call or volunteer firefighters who must meet initial standards for the initial medical examination only.

(c) Section 61A of said Chapter 31 is hereby further amended in line 44 by inserting after the word ‘years’ the following:— except-ing call or volunteer firefighters who must meet in-service standards for the in-service examination only.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 87. Section 99D and 99K of chapter 41 of the General Laws, as appearing in the 2000 Official Edition, are hereby amended by striking the sections in their entirety.

SECTION 88. Section 99B of chapter 41, as appearing in the 2000 Official Edition, is hereby amended by adding at the beginning the following:— The provisions of sections 99B, 99C, 99E, 99F, 99G, 99H, 99I and 99J inclusive, shall apply only to cities and towns which accept the same.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out section 73 (as printed); and the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 75 (as printed) by adding at the end thereof the following sentence: “For two years after the effective date of this act only one half of the positions made vacant by the retirement of an employee receiving an additional benefit in accordance with this act may be filled and the city or town shall not authorize the payment of any regular compensation, including paid leave,

vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any so hired or appointed on or after the effective date of this act until December 2, 2004, except in the case of a hardship, as determined by the commissioner of the division of local services in the department of revenue.”.

The amendment was adopted.

Mr. O’Flaherty of Chelsea and other members of the House then moved that the bill be amended by striking out sections 38 to 42, inclusive (as printed).

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. O’Flaherty; and on the roll call 124 members voted in the affirmative and 33 in the negative.

[\[See Yeas and Nays No. 119 in Supplement.\]](#)

Therefore the amendment was adopted.

Mr. Linsky of Natick then moved that the bill be amended in section 65 (as printed), in line 26, by inserting after the word “land” the words “and water area”; and the amendment was adopted.

Mr. Bosley of North Adams then moved that the bill be amended by striking out section 66 (as printed); and the amendment was adopted.

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

“SECTION 87. Notwithstanding Chapter 32 of the General Laws or any other general or special law to the contrary, the retirement board of the Town of Athol shall credit any member who is eligible to retire under subsection (1) of section 5 of said chapter 32 or subsection (2) of section 10 of said chapter 32 shall have his retirement increased by up to 5 years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than 5.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 61 (as printed), in line 4 and also in line 11, by striking out the following: “2003 and 2004” and inserting in place thereof, in each instance, the following: “2003, 2004 and 2005”; in section 78 (as printed), in line 1, by striking out the figures “65” (changed by the committee on Bills in the Third Reading from the figures “61”); and in section 79 (as printed), in line 1, by striking out the following: “75 and 78” (changed by the committee on Bills in the Third Reading from the following: “71 and 74”) and inserting in place thereof the following: “65, 75 and 78”. The amendments were adopted.

Mr. Jones and other members of the House then moved that the bill be amended in section 77 (as printed), in line 7, by inserting after the word “Code” the following: “and pursuant to chapter 32 of the General Laws”; and the amendment was adopted.

Ms. Story of Amherst and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 87. Chapter 356 of the acts of 1992 is hereby amended by striking out the word ‘ten’ in line three and inserting in place thereof the word ‘twenty’.”.

The amendment was adopted.

Ms. Balsler of Newton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 88. Chapter 40 of the Massachusetts General Laws, as appearing in the Official Edition, is hereby amended by adding the following section:—

Section 39M. Notwithstanding any provision of any general or special law to the contrary, rates assessed or charged by cities, towns and water districts for water and sewer use may include the cost of providing water and sewer service to municipal properties, including without limitation, buildings, facilities and grounds.”.

The amendment was rejected.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 88. Section 39J of Chapter 40 of the General Laws, as appearing in the Official Edition, is hereby amended by inserting after the word ‘services.’ at the end of the first sentence the following:— ; and may include all costs relating to the provision of water and sewer service to municipal properties, including without limitation buildings, facilities and grounds.”.

The amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended by adding at the end thereof the following six sections:

“SECTION 88. Section 5 of chapter 59 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking, in line 491, the word ‘cent’ and inserting in place thereof the following:— cent; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 89. Said section 5 is hereby further amended by striking, in line 531, the word ‘unmarried’ and inserting in place thereof the following:— unmarried; provided however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 90. Said section 5 is hereby further amended by insert-ing, in line 565, after the word ‘granted’ the words:— , provided, however, that the assessors may refuse to grant an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 91. Said section 5 is hereby further amended by inserting, in line 607, after the word ‘allowed’ the words: — , provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 92. Said section 5 is hereby further amended by inserting, in line 643, after the word ‘allowed’ the words: — , provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the

exemption was first granted.

SECTION 93. Section 1 of chapter 60A, as so appearing, is hereby amended by inserting in line 124 after the word 'allowed' the words:— , provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the veteran or person did not satisfy all of the requisites of this section at the time the exemption was first granted.”.

The amendment was adopted.

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

“SECTION 94. Chapter 40 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 5B and inserting in place thereof the following section: —

Section 5B. For the purpose of creating one or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger amount as may be approved by the Emergency Finance Board established under section 47 of chapter 10. The aggregate amount in such funds at any time shall not exceed 10 percent of the equalized valuation of the city or town as defined in section one of chapter 44. Any interest shall be added to or become a part of such applicable funds.

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose or purposes of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

SECTION 95. Paragraph (g) of section 21C of chapter 59, as so appearing, is hereby amended by adding at the end thereof, after line 81, the following new paragraph:—

If a question as aforesaid shall provide for assessing taxes for the purpose of funding one or more stabilization funds established pursuant to section 5B of chapter 40, the assessors shall in each successive fiscal year assess property taxes for the same purpose in an amount equal to 102½ percent of the amount assessed in the next preceding year in which additional taxes were assessed for such purpose, but only if local appropriating authority votes by a two-thirds vote to appropriate such increased amount in such year for such purpose, provided that the voters of



the city or town, by majority vote at a referendum, may alter the purpose of the stabilization fund or authorize the assessment of such additional property taxes for another purpose. In any year in which the local appropriating authority does not vote to appropriate such amount as aforesaid, the total property tax levy for such year shall be reduced by the amount that could otherwise have been assessed, so that such additional taxes may not be assessed for any other purpose. The maximum levy limit under paragraph (f) shall not be affected by any such reduction in the levy for such year.”.

The amendment was adopted.

Ms. Spilka of Ashland and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 96. Section 21C of Chapter 59 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:

(o) The local appropriating authority of any city or town which is subject to the provisions of paragraph (b) may, by a two-thirds vote, seek voter approval to exempt the overlay account from the limits set forth in paragraph (b); provided, however, that the exemption amount of the overlay account shall equal the average amount of the previous 3 years of an overlay account established pursuant to section 25; and provided, further, that said overlay account may be increased by two and a half percent in each ensuing year without being included in total taxes assessed; provided, however, any increase in excess of two and a half percent shall be so included.

Any question submitted to the voters shall be worded as follows:

‘Shall the (city/town) of \_\_\_\_\_ be allowed to exempt the overlay account beginning July 1st, \_\_\_\_\_ from the (city’s/town’s) limit?

YES \_\_\_ NO \_\_\_ ‘

Said question shall be deemed approved if a majority of the persons voting thereon shall vote ‘yes’.”.

After debate on the question on adoption of the amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), 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 155 members were recorded as being in attendance.

[\[See Yea and Nay No. 120 in Supplement.\]](#)

Therefore a quorum was present.

After further 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. Jones; and on the roll call 92 members voted in the affirmative and 66 in the negative.

[\[See Yea and Nay No. 121 in Supplement.\]](#)

Therefore the amendment was adopted.

Mr. Larkin of Pittsfield then moved that the bill be amended by adding at the end

thereof the following section:

“SECTION 97. Notwithstanding the provisions of any general or special law to the contrary, the operational services division shall establish a price adjustment review commission which shall make recommendations about special education rate calculations and rate structures for fiscal year 2005. Said commission shall include the commissioner of social services or his designee, the commissioner of education or his designee, the secretary of administration and finance or his designee, the house and senate chairs of the joint committee on education or their designees, the chairs of the house and senate ways and means committees or their designees, a representative of the Massachusetts association of school superintendents, a representative of the Massachusetts association of special education administrators, and a representative of the Massachusetts association of chapter 766 approved private schools. Said commission shall submit its report to the legislature, along with any proposed legislation necessary to carry such recommendations into effect, no later than October 1, 2003.”.

The amendment was adopted.

The same member then moved that the bill be amended by striking out section 62 (as printed) and inserting in place thereof the following section:

“SECTION 66. Notwithstanding the provisions of any general or special law to the contrary, the division of purchased services of the department of procurement which, pursuant to section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs pursuant to chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated in fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4); and provided further, that said division shall authorize fiscal year 2004 prices for programs to charge out-of-state purchasers at the prices determined on the first Wednesday in February 2003 or pursuant to this section, whichever is greater.”.

The amendment was adopted.

Messrs. Knuuttila of Gardner and Goguen of Fitchburg then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 98. Section 20E of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 60 and 68, the words ‘thirty cents’ and inserting in place thereof, in each instance, the following words: — sixty cents.”.

The amendment was adopted.

Mr. Petruccelli of Boston and other members of the House then moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 99. Clause 16(1)(d) of section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by deleting the words:— fifty-two A.

SECTION 100. Clause Fifth of Section 18 of said Chapter 59, as so appearing, is hereby amended by adding at the end thereof the following two sentences:— Poles, underground conduits, wires and pipes of telecommunications companies laid in or erected upon public or private ways and property shall be assessed to the owners thereof in the towns where laid or erected. For purposes of this clause, telecommunications companies shall include cable television, internet service,

telephone service, data service and any other telecommunications service providers.

SECTION 101. Section 39 of said chapter 59, as so appearing, is hereby amended by striking the first sentence thereof and inserting the following:— The valuation at which the poles, wires and underground conduits, wires and pipes of all telephone and telegraph companies shall be assessed by the assessors of the respective cities and towns where such property is subject to taxation shall be determined annually by the commissioner of revenue subject to appeal to the appellate tax board, as hereinafter provided. Other taxable personal property of telephone and telegraph companies shall be valued and assessed by the assessors of the respective cities and towns where such property is subject to taxation, in the same manner as other personal property is valued and assessed under this chapter. For purposes of sections thirty-nine through forty-two, telephone and telegraph companies shall include only those telecommunications companies which own and operate two-way voice communications service over wires or cables and are subject to rate regulation by the department of telecommunications and energy. Towers and monopoles used to support machinery and equipment for wireless communications shall not be considered poles under this section and shall be considered part of the real estate subject to valuation and assessment by local assessors.”.

After debate the amendment was rejected.

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

“SECTION 99. Section 24 of Chapter 161A of the General Laws is hereby amended by adding at the end thereof the following sentences:—

Real property of the Authority shall, if leased, used, or occupied in connection with a business conducted for profit shall, for the privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of January first to the lessee, user, or occupant in the same manner and to the same extent as if such lessee, user, or occupant were the owner thereof in full. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Notwithstanding the above, such collector shall have for the collection taxes assessed under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate.

SECTION 100. The first sentence of section 17 of chapter 465 of the acts of nineteen hundred and fifty-six as most recently amended, is hereby amended by striking out the words ‘commonwealth, and no property of the Authority shall be taxed to a lessee thereof under section three A of chapter fifty-nine of the General Laws; provided, however, that anything herein to the contrary notwithstanding, lands of the Authority, except lands acquired by the commonwealth under the provisions of chapter seven hundred and five of the acts of nineteen hundred and fifty-one situated in that part of the city called South Boston and constituting part of the Commonwealth Flats, and land acquired by the Authority which were

subject to taxation on the assessment date next preceding the acquisition there,' and inserting in place thereof the words:— commonwealth; provided, however, that anything herein to the contrary notwithstanding, lands of the Authority.

SECTION 101. Section 2B of Chapter 59, as amended, is further amended by deleting after the words 'public purpose of' appearing in the second line of the third paragraph thereof, the following words: 'a public airport, port facility;' and in their place inserting the word:— the.”

After debate the amendment was rejected.

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

“SECTION 99. The seventh sentence of Section 3 of Chapter 474 of the Acts of 1946, as amended, is hereby deleted.”

The amendment was adopted.

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

“SECTION 100. Chapter 64H of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 2 the following section:—

Section 2A. Any city or town which accepts the provisions of this section shall be authorized to impose a local excise tax, as provided in this chapter, upon the sale of meals, as defined in this chapter, of 1% of the total price thereof. The local excise tax imposed under the provisions of this section shall be paid by the vendor to the commissioner at the same time and in the same manner as the excise tax due the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted the provisions of this section in proportion to the amount of such sums received from the sale of meals in each such city or town. This section shall only take effect in a city or town accepting the provisions of this section by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B, or Plan F charter; by a majority vote of the city council, in the case of a city with a Plan C, Plan D, or Plan E charter; by a majority vote of the annual town meeting or a special meeting called for purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government. The provisions of this section shall take effect on the first day of the first calendar month following such acceptance; provided, however, that such day is at least fifteen days after such acceptance; and, provided further, that if such day is less than fifteen days after such acceptance it shall take effect on the first day of the second calendar month following such acceptance. The city or town, in accepting the provisions of this section, may not revoke or reimpose the local excise tax provided for in this section more often than once in any twelve-month period.”

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. Petruccelli; and on the roll call 63 members voted in the affirmative and 95 in the negative.

[\[See Yea and Nay No. 122 in Supplement.\]](#)

Therefore the amendment was rejected.

Representatives Rogers of Norwood and Jehlen of Somerville then moved that the bill be amended by striking out section 63 (as printed) and inserting in place thereof the following section:

“SECTION 67. Notwithstanding the provisions of section 68 of chapter 71 of the General Laws or any other general or special law to the contrary, during fiscal year 2004, no school committee shall be required to furnish transportation for students, regardless of where the student resides within said committee’s jurisdiction, except as said transportation may be required by section 1I of chapter 15 to reduce or eliminate racial imbalance, or as required pursuant to chapter 71B and applicable federal law for students with disabilities. A school committee may furnish such transportation to students for a fee; provided, however, that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay such a fee. Nothing contained in this section shall be construed to limit the obligation of regional school districts to provide transportation for all school children in grades kindergarten to 12, pursuant to the provisions of section 16C of this chapter.”.

The amendment was adopted.

Representatives Gobi of Spencer and Evangelidis of Holden then moved that the bill be amended by adding at the end thereof the following section:

“LOCAL OPTION

EARLY RETIREMENT FOR PUBLIC EDUCATORS.

SECTION 100. Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary and upon the acceptance of this section, on or before July 1, 2003 by the legislative authority of a local school district, the provisions of this act providing for an early retirement incentive program shall apply to an eligible employee who: (i) shall be an employee of the school district and an active member in service of the state teacher’s retirement system on the date of the district’s acceptance of this section; (ii) shall be 55 years of age by September 1, 2003; (iii) shall have 20 years of creditable service with the state teachers’ retirement system as of September 1, 2003; (iv) shall have filed a written application with said retirement system in accordance with this act; and (v) shall be classified in Group 1, Group 2 or Group 4 in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32.

For the purposes of this act, ‘legislative authority’ shall mean the district school committee. The early retirement incentive program shall be administered by the state teachers’ retirement board and the board shall promulgate rules and regulations to implement the program.

Notwithstanding said chapter 32 to the contrary, the normal yearly amount of the retirement allowance for an eligible employee shall be based on the average annual rate of regular compensation as determined under paragraph (a) of subdivision (2) of section 5 of said chapter 32 and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of

years and full months of creditable service at the time of his retirement increased by adding up to 5 years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than 5. The legislative authority of the school district may limit the amount of additional credit for service offered and may limit the total number of employees for whom it will approve a retirement calculated under this act or the total number of employees within each group classification for whom it will approve a retirement calculated under this act; provided further, that if participation is limited, the retirement of employees with greater years of creditable service shall be approved before approval shall be given to employees with lesser years of creditable service up to 80 per cent.

The school district shall pay to the teachers' retirement system the remaining 3 year balance of any Retirement Plus commitment for any member who retires under this act. The balance shall be paid over a period of 3 years and any amounts paid by a member in excess of 2 years shall be refunded directly to the member. For any member retiring under this act who did not elect Retirement Plus the school district shall pay to the teachers' retirement system, annually for a period of 5 years, the applicable percentage contribution for the additional 5 years of service or for that number of years less than 5 that result in maximizing the member's benefit at 80 per cent. The school district will also annually reimburse the teachers' retirement system for the incremental cost for the 5 additional years of credit at the regular retirement rate or those number of years less than 5 that result in maximizing the member's retirement at 80 per cent that reimbursement amount being equal to the difference between the member's current retirement payment and what the retirement payment would be at the end of 5 years or at the 80 per cent attainment level.

Words used in this act shall have the same meaning as they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An eligible employee who retires and receives an additional benefit in accordance with this section shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

The total normal yearly amount of the retirement allowance, as determined in accordance with section 5 of said chapter 32, of an eligible employee who retires and receives an additional benefit under the early retirement incentive program in accordance with this section shall not exceed 80 per cent of the average annual rate of his regular compensation received during any period of 3 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last 3 years of creditable service preceding retirement, whichever is greater.

Notwithstanding any provision of section 5 of said chapter 32 that require a retirement date within 4 months of the filing of an application for superannuation retirement in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement not later than a date determined by the legislative authority, which shall be not later than July 1, 2003; provided, the retirement date for eligible employees shall be determined by the

legislative authority and shall be not earlier than the effective date of this act and shall be no later than September 1, 2003.

The executive director of the public employee retirement administration commission shall analyze, study and value the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the early retirement incentive program established by this section for each retirement system. The executive director shall file a report of his findings to the board, in writing, on or before December 31, 2003, together with copies thereof to the county commissioners, the regional retirement board, the mayor, the board of selectmen, the governing body of an authority, the district committee or the regional school district committee as the case may be.

In accordance with section 22D of said chapter 32, the teachers' retirement board which administers this section shall revise its retirement funding schedule to reflect the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with this section. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be an obligation of the applicable city, town, county, authority and district to fund such liability and there shall be appropriated to the applicable pension reserve fund in each such fiscal year the amount required by the funding schedule and the updates thereto.”.

The amendment was rejected.

Representatives Carron of Southbridge and Atkins of Concord then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 100. Notwithstanding Section 3D of Chapter 23A of the General Laws, the town of East Brookfield is hereby included in the South Central Massachusetts Economic Target Area and the economic assistance coordinating council shall exercise its powers and take all actions necessary or appropriate with respect to the economic target area in accordance with said Chapter 23A.”.

The amendment was adopted.

Mr. Walsh of Boston then moved that the bill be amended by striking out sections 1, 2, 3, 4, 5, 7 and 45 (as printed); and the amendments were adopted.

The same member and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 101. There is hereby established a special commission to investigate, study, and make legislative recommendations on the adequacy and efficiency of laws and regulations governing construction projects. Said commission shall consist of eleven members: one appointee of the Governor who shall serve as Chair, the Chairman of the Massachusetts Mayors' Association, the Commissioner of the Department of Capital Asset Management and Maintenance, the Inspector General, the President of the Massachusetts Building Trades Council, the President of the Massachusetts Chapter of Associated Builders and Contractors, the President of the Associated General Contractors of Massachusetts, two members of the House to be appointed by the Speaker of the House, and two members of the Senate to be appointed by the President of the Senate. Said commission shall file a report on the results of its study, along with recommendations and any legislation necessary to carry out its recommendations with the clerks of the House of

Representatives and the Senate not later than September 30, 2003.”.

After remarks the amendment was adopted; and the bill was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Mr. Scaccia of Boston, for said committees, then reported recommending that the foregoing bill ought to pass.

Under suspension of the rules, on motion of the same member, the bill was considered forthwith.

Pending the question on passing the bill, as amended, to be engrossed, Messrs. Fagan of Taunton and Kujawski of Webster moved that it be amended by adding at the end thereof the following section:

“SECTION 102. Section 19 of Chapter 25 of the General Laws, 2000 Official Edition, shall be amended by inserting after the fifth sentence, the following sentence:— Municipal Demand Side Management Programs shall include meter reading technologies for the purpose of energy efficiency, conservation and other energy management applications.”.

The amendment was adopted.

Mr. Bosley of North Adams then moved that the bill be amended in section 61 (as printed) by adding at the end thereof the following paragraph:

“Further provided that such transfers shall not be made from any appropriations from any department of a city or town which is subject to Chapter 164 of the General Laws.”.

The amendment was adopted.

Messrs. Linsky of Natick and Festa of Melrose then moved that the bill be amended in section 67 (inserted by amendment) (previously section 63, as printed) by adding at the end thereof the following: “Any fee paid by a Massachusetts taxpayer to a school committee for the purposes of providing transportation to and from a Massachusetts public school pursuant to this section or any other section shall serve as a deduction from said taxpayer’s personal income taxes due in the calendar year that said fee is paid. Said deduction shall not exceed \$500 per child for whom said transportation fee is paid.”; and the amendment was adopted.

The same member then moved that the bill be amended in section 9 (as printed) by adding at the end thereof the following: “Any fee paid by a Massachusetts taxpayer to a school committee for the purposes of providing transportation to and from a Massachusetts public school pursuant to this section or any other section shall serve as a deduction from said taxpayer’s personal income taxes due in the calendar year that said fee is paid. Said deduction shall not exceed \$500 per child for whom said transportation fee is paid.”; and the amendment was adopted.

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

“SECTION 103. For the purposes of this Act, the following words and phrases shall have the following respective meanings:

A ‘tax receivable’ shall mean the right to receive and enforce the payment of taxes assessed by a city or town accepting the provisions of this act and due on real and personal property in a city or town accepting the provisions of this act, in one or more fiscal years.

A ‘purchaser’ shall mean any private entity meeting the qualifications set forth in



section 4 of this Act with whom the city has entered into an agreement effectuating the sale of tax receivables.

The 'Commissioner' shall mean the Commissioner of the Department of Revenue. The 'Bulk Sale Law' shall mean the provisions of section 2C of chapter 60 of the Massachusetts General Laws as interpreted by the Department of Revenue in Informational Guideline Release No. 97-201.

This act shall enable a city or town accepting the provisions of this act, by approval of the legislative body within the city or town, to sell tax receivables to a purchaser by a method that shall be an alternative to the method for assignment or transfer of tax receivables set forth in the 'Bulk Sale Law' and Section 52 of Chapter 60 of the Massachusetts General Laws. To the extent the terms of this Act or any sale agreement conforming to the provisions of this Act are inconsistent with the Bulk Sale Law or Chapters 30B, 59 and 60 of the Massachusetts General Laws, the provisions of this Act and such sale agreement shall be controlling.

Notwithstanding the 'Bulk Sale Law', Chapter 60 or any other general law to the contrary, a sale of tax receivable shall be effective as of the date set forth in the respective sale agreement, which date may be any date after the date of this act. Notwithstanding the 'Bulk Sale Law' or Chapters 30B and 60 of the General Laws to the contrary, a city or town accepting the provisions of this act is also hereby authorized to enter into one or more agreements with one or more private entities meeting the qualifications of a purchaser set forth in this act to service and act as a collection agent for tax receivables retained by said city or town.

A city or town accepting the provisions of this act is hereby authorized to sell, through its collector or treasurer, any tax receivable, either individually or in bulk, through the execution of a sale agreement with a purchaser. Notwithstanding anything in the 'Bulk Sale Law' to the contrary, the city is hereby authorized to sell any combination of tax receivables individually or in bulk regardless of the class or classes of the properties from which the tax receivable arise. Cities and towns are hereby authorized to enter into one or more sale agreements with one or more purchasers.

Notwithstanding 'Bulk Sale Law', chapter 30B of the Massachusetts General Laws or any other general or special law to the contrary, a city or town accepting the provisions of this act is hereby authorized to enter into a sales agreement with a purchaser, provided such purchaser is: (i) registered with the Secretary of the Commonwealth of Massachusetts as a party able to do business in the Commonwealth of Massachusetts; (ii) a party in good standing in the Commonwealth of Massachusetts; and (iii) recognized by Standard and Poor's as a rated servicer.

A city or town accepting the provisions of this act is hereby authorized to transfer to a purchaser through a sale agreement all the rights and remedies set forth in Chapters 59 and 60 of the Massachusetts General Laws, including, but not limited to: (i) the right to enforce and receive payment of any tax receivable sold plus any interest accruing thereon and any fees and charges incurred for services related to the enforcement of the payment of that tax receivable; (ii) the right to take tax title; (iii) the right to make tax sales; and (iv) the right to institute proceedings in the Land Court to foreclose rights of redemption.

After the effective date of a sale agreement, a purchaser may make one or more applications to the Commissioner to charge specified reasonable fees and charges for services related to the enforcement of the payment of any tax receivable sold that are higher than the fees and charges that the city or town is permitted to charge for such services under Sections 15, 55, 60, 62, 65, and 68 of Chapter 60 of the General Laws. The Commissioner shall, within a reasonable period of time, review any such application and approve, in writing, such higher fees and charges that are reasonable. A purchaser may use a service agent to act on its behalf, whether or not said agent acts for compensation.

Cities and towns are hereby authorized to enter into a sale agreement that permits a purchaser to be reimbursed if a tax receivable sold (i) does not conform to the terms of the respective sale agreement, (ii) is abated or (iii) is worth less than the amount for which the tax receivable was purchased, provided however, that a sale agreement may also include limitations on the amount that may be reimbursed and the time periods during which a purchaser may be entitled to reimbursement.

Cities and towns are hereby authorized to enter into a sales agreement that provides a purchaser with the option to purchase any subsequent tax receivables that arise in connection with parcels for which tax receivables have already been sold to that purchaser.

Any city or town accepting the provisions of this act is hereby authorized to enter into a sales agreement that provides a purchaser with the right to enter into forbearance agreements and payment plans with taxpayers whose property is subject to tax receivables sold to that purchaser.”.

The amendment was adopted.

Representatives Reinstein of Revere and DeLeo of Winthrop then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 104. AUTHORIZING A LOCAL OPTION EXCISE ON ENTERTAINMENT EVENTS OR SERVICES. The General Laws are hereby amended by inserting after chapter sixty-four K the following chapter:—  
Chapter 64L.

EXCISE UPON AN ENTERTAINMENT EVENT OR SERVICE.

Section 1. As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings:

‘Entertainment charge’, any fee, payment, dues or other consideration charged for the entitlement to attend or utilize an entertainment event or service.

‘Entertainment event or service’, a performance of the following type or of a similar type or the provision of services of the following type or a similar type: motion picture theaters or drive-ins: theaters, choreographic or musical performances, professional or college sporting or athletic events.

‘Recipient’, any person collecting an entertainment charge.

‘Commissioner’, the commissioner of revenue.

‘Person’, an individual, partnership, trust or association, joint stock company, corporation, whether charitable or otherwise, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit.

‘Treasurer’, the treasurer of a city or town which accepts the provisions of this legislation.

Section 2. Notwithstanding the provisions of chapter sixty-four H or any other general or special law to the contrary, any city or town which accepts the provisions of this chapter may impose an excise on each entertainment event or service, except as otherwise provided in this chapter, in the amount of \$.50 per entertainment charge.

Section 3. Each recipient shall add to the entertainment charge and shall collect from the person entitled to attend such event or utilize such service the full amount of the excise imposed by this chapter.

Section 4. The amount of the excise collected by the recipient from the person attending such event utilizing such service under the provisions of this chapter shall be stated and charged separately from the entertainment event or service charge.

Section 5. It shall be unlawful for any advertiser to hold out or state to the public, directly or indirectly, that the excise or any part thereof will be assumed or absorbed by the recipient or that it will not be added to the price of the entertainment event or service or, if added, it or any part thereof will be refunded. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars for each offense.

Section 6. The excise shall be paid by the recipient to the commissioner at the time provided for filing the return required by section sixteen of chapter sixty-two C. Said commissioner shall quarterly pay over all excises collected under the provisions of this chapter to the city or town in which the entertainment event occurred or service was provided.

Section 7. Notwithstanding any other provision of law to the contrary, if any recipient fails to file a return on or before its due date, there shall be added to and become part of the excise, as an additional excise, a penalty as prescribed in Chapter sixty-two C, section 33, of the general laws of a percentage for each month, or fraction thereof, during which such failure continues. Notwithstanding any other provision of law to the contrary, and in addition to the penalty set forth in the previous paragraph, if any recipient fails to file a return on or before its due date, there shall be added to and become part of the excise interest at the rate prescribed in Chapter sixty-two c, section 32, of the general laws. Notwithstanding any other provision of law to the contrary, and in addition to the penalty set forth in the first paragraph of this section and the interest payment set forth in the second paragraph of this section, if any recipient fails to file a return on or before its due date, the city or town may suspend or revoke any license or permit issued to the recipient by the city or town allowing the recipient the right or privilege to operate an entertainment event or service in that city or town. Notice of suspension or revocation shall be deemed sufficient if sent by certified mail to the last known place of residence or business of said recipient. Notice of suspension or revocation shall be accompanied by a statement which provides that the recipient may obtain a hearing upon his written request. The request must be filed with the city or town before the expiration of the twenty-first day from the date of issuance of said notification of suspension or revocation. If a recipient charged with failing to file a return on or before its due date requests a hearing before the expiration of the

twenty-first day from the date of issuance of said notification of suspension or revocation, the city or town shall forthwith schedule the matter before a person referred to as a hearing officer, said hearing officer to be such person as the treasurer may designate. Written notice of the date, time and place of said hearing shall be sent by certified mail to the recipient. Said hearing shall be informal and the rules of evidence shall not apply. The hearing officer shall keep a record of the hearing and the decision of the hearing officer, which shall be in writing, shall be final subject to judicial review as provided by section fourteen of chapter thirty A of the General Laws.

Section 8. Amounts received by a city or town under this chapter shall not be considered in the determination of the amount of any distribution of state assistance to such city or town.

Section 9. The provisions of this chapter are severable and if any of its provisions shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This chapter being necessary for the welfare of the commonwealth and its inhabitants shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required or expressly authorized by statute.

Section 10. The provisions of chapter sixty-four L of the General Laws shall take effect in a city or town on the first day of the calendar month following its acceptance in the following manner: in a city having a plan D or Plan E charter by a majority vote of the city council; in any other city, by vote of its city council, approved by the mayor; and in a town, in the discretion of the selectmen, either (i) by a majority vote at an annual town meeting or at a special town meeting called for that purpose or (ii) by submission for acceptance to the registered voters in the form of the following question which shall be printed upon the official ballot to be used at election: ‘Shall the town impose an excise on entertainment events and entertainment services within the town?’.

Section 11. Section sixteen of chapter sixty-two C of the General Laws is hereby amended by inserting after subsection (k) the following new subsection: (l) Every recipient, as defined in section one of chapter sixty-four L, subject to taxation under chapter sixty-four L shall file a return with the commissioner for each calendar month. Every such return shall be filed within twenty days after the expiration of the period covered thereby.”.

After debate the amendment was rejected.

Mr. Koutoujian of Newton then moved that the bill be amended in section 70 (as printed), in line 33, by inserting after the word “subsection” the following: “; provided, however, that if the legislative authority in a town fails to act on acceptance of this section within 60 days of the passage of this act, then the executive authority in a town, may accept this section without the approval of the legislative authority. For purposes of this subsection, ‘executive authority’ shall mean the board of selectman in a town.”; and the amendment was adopted.

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

“SECTION 104. Chapter 40 of the General Laws, as appearing in the Official Edition, is hereby amended by adding the following section:—

Section 58. Any city or town may impose a lien on real property located within the city or town for any local charge or fee or any fine due as a result of a violation of any ordinance, by-law, rule or regulation that has not been paid by the due date, said lien shall be known as the municipal charges lien, provided that a separate vote at a town meeting, or by a city or town council is taken for each type of charge, fee, or fine.

A municipal charges lien authorized under this section shall take effect upon the recording of a list of unpaid municipal charges, fees, and fines by parcel of land by the name of the person assessed for the charge, fee or fine in the registry of deeds of the county or district where the land subject to the lien lies.

If a charge, fee or fine which is secured by a municipal charges lien remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of the chapter fifty-nine, the board or officer in charge of the collection of the municipal charge, fee or fine or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such charge, fee or fine to the assessors, who shall forthwith add such charge, fee or fine to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as part of such tax.

If the property to which such charge, fee or fine relates is tax exempt, such charge, fee or fine shall be committed as the tax. A lien under this section shall be discharged by filing a certificate from the tax collector that all municipal charges, fees or fines constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.”.

The amendment was adopted.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 105. If any person fails to pay the charges set forth in the municipal charge lien within a period of six months, the assessors shall notify the registrar of motor vehicles who shall place the notice on record, and upon the receipt of two or more such notices, shall not renew the license to operate a motor vehicle of the registered owner of the vehicle or the registration of said vehicle owned by such person until a notice is received from the assessors that all such matters have been disposed of in accordance with law.”.

The amendment was adopted.

Messrs. Humason of Westfield and Lantigua of Lawrence then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 106. Section 59 of Chapter 140 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 5 and 6, the following words: ‘but in no event shall any such fee be greater than one hundred dollars’ and inserting in place thereof:— but in no event shall any such fee be greater than two hundred dollars.”.

The amendment was adopted.

Mr. Kujawski of Webster then moved that the bill be amended by adding at the end

thereof the following section:

“SECTION 107. chapter 32B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out Section 9A and inserting in place thereof the following:—

Section 9A. A county, except Worcester county, by vote of the county commissioners, a city having a Plan D or a Plan E charter by majority vote of its city council, any other city by vote of its city council, approved by the mayor, a regional school district by vote of the regional district school committee and a district by vote of the district at a district meeting, may provide that it will provide one-half of the amount of the premium to be paid by a retired employee under the provisions of the first sentence of section nine. A town shall provide for such payment by vote of the town at a town meeting or if a majority of the votes cast in answer to the following question which shall be printed on the official ballot to be used at an election in said town is in the affirmative: ‘Shall the town pay one-half the premium costs payable by a retired employee for group life insurance and for group general or blanket hospital, surgical, medical, dental and other health insurance?’.”

The amendment was adopted.

Mr. Rodrigues of Westport and other members of the House then moved that the bill be amended in section 43 (as printed), in line 5, by inserting after the word “bi-weekly” the words “or semi-monthly”; and the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof a new section to establish a Massachusetts Gaming Act to provide municipal relief.

Pending the question on adoption of the amendment, Mr. Jones asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), 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.

[\[See Yea and Nay No. 123 in Supplement.\]](#)

Therefore a quorum was present.

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 Miss Reinstein of Revere; and on the roll call (Mr. O’Flaherty of Chelsea being in the Chair), 59 members voted in the affirmative and 97 in the negative.

[\[See Yea and Nay No. 124 in Supplement.\]](#)

Therefore the amendment was rejected.

Subsequently a statement of Mr. Demakis of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: During the taking of the above yeas and nays, I voted in the negative and now find that I was recorded as having voted in the affirmative due to

a malfunction in the electronic voting machine. Had said machine been in proper working order, I would have been recorded as having voted in the negative.

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

“SECTION 108. Section 56D of Chapter 164, as amended by Chapter 130 of the Acts of 2001 is hereby further amended by striking out in Sections 1 and 2 the figures ‘\$25,000’ and inserting in place thereof in each instance the figure:— \$100,000.”.

The amendment was adopted.

Ms. Malia of Boston then moved that the bill be amended in section 43 (as printed and as previously amended), in line 4, by striking out the word “The” and inserting in place thereof the words “Except as otherwise provided in a collective bargaining agreement, the”.

The amendment was adopted.

Mrs. Gomes of Harwich then moved that the bill be amended in section 67 (inserted by amendment, as amended, previously section 63, as printed) by adding at the end thereof the following: “; provided, that a school committee may choose to exempt families at other income levels as it may determine”; and the amendment was adopted.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended by adding at the end thereof the following seven sections:

“SECTION 109. Section 1I of chapter 69, as appearing in the 2000 Official Edition, is hereby amended by adding, after the sixth paragraph, the following paragraph:—

For the purposes of evaluating school districts, individual public schools, and the efficacy and equity of state and federal programs, each district shall file with the commissioner a coordinated district improvement plan, which shall include, but shall not be limited to, (a) analysis of any districtwide achievement gaps in math, language arts, reading, writing, history and/or science, relative to district and subgroup performances, including the need to accommodate special student populations throughout the district, (b) analysis of the underlying causes for the performance gaps detected, (c) an enumeration of essential student learning objects addressed by each faulty in the following school year, (d) a description of the instructional change objectives for district employees to meet student learning objections, (e) a description of the strategic initiatives guiding the district for the following school year, with particular reference to federal and state goals and requirements, (f) a description of the professional development activities that will underwrite each initiative and their connection to federal and state goals and requirements, (g) an enumeration of the activities, people responsible, and timelines for completing the strategic initiatives, (h) a description of how the school’s budget, staffing plan, and professional development resources will be utilized to support the initiatives set forth, and (i) a description of how new teachers will gain familiarity with the district, its initiatives, and goals, and how veteran teachers will mentor new teachers in meeting district-wide and school-based instructional change objectives. Said plan shall incorporate all previous plans and reports required under the provisions of education reform, including but not

limited to, the school improvement plans required by section 59C of chapter 71, the provisional educator program plan required by section 38G of chapter 71, the professional development plan required by section 38Q of chapter 71, the curriculum accommodation plan required by section 38Q½ of chapter 71, the MCAS success plan, if any, required under this section, and any other report required by general law or regulation, which, in the professional opinion of the commissioner, would be most effectively presented as part of a coordinated and unified plan for improving student achievement. On or before September 1 of each year, the commissioner shall issue a report on what said district improvement plan must include, what reports, if any, will be required by regulation, which regulatory requirements, if any, will be relaxed or eliminated through administrative action, and what statutory changes, if any, the commissioner recommends making to increase student performance and school district accountability through the most efficient and consolidated reporting methods. Said report shall be provided, along with any legislative recommendations necessary to carry said recommendations into effect, to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees.

SECTION 110. Section 1I of chapter 69, as so appearing, is hereby amended by inserting, in line 72, after the word ‘department’, the following:— , as part of the coordinated district improvement plan required by this section.

SECTION 111. Section 1I of chapter 69, as so appearing, is hereby amended by inserting, in line 87, after the word ‘department’, the following:— , as part of the coordinated district improvement plan required by this section.

SECTION 112. Section 1I of chapter 69, as so appearing, is hereby amended by inserting, in line 104, after the word ‘department’, the following:— , as part of the coordinated district improvement plan required by this section.

SECTION 113. Section 1I of chapter 69, as so appearing, is hereby amended by inserting, in line 117, after the word ‘report’, the following:— , as part of the coordinated district improvement plan required by this section.

SECTION 114. Section 1I of chapter 69, as so appearing, is hereby amended by inserting, in line 155, after the word ‘department’, the following:— , as part of the coordinated district improvement plan required by this section.

SECTION 115. Section 59C of Chapter 71 of the general laws, as appearing in the 2000 Official Edition, is hereby amended by striking the fifth paragraph and inserting in place thereof the following:—

The principal of each school, in consultation with the school council established pursuant to this section shall adopt educational goals for the schools consistent with the goals and standards including the student performance standards, adopted by the board pursuant to section one D of chapter sixty-nine, and consistent with any educational policies established for the district, shall assess the needs of the school in light of those goals, and shall formulate a school improvement plan to advance such goals, to address such needs and to improve student performance. The plan shall include, but not be limited to: (a) student achievement gaps in math, language arts, reading, writing, history and/or science, relative to school-wide and subgroup performances, (b) analysis of the underlying causes for the performance gap



detected, (c) an enumeration of student learning objectives to be addressed by the faculty in the following school year, (d) a description of the instructional change objectives for the faculty to meet said student learning objectives, (e) a description of the strategic initiatives guiding the school for the following school year, with particular reference to federal and state goals and requirements, (f) a description of the professional development activities that will underlie each initiative, (g) an enumeration of the activities, people responsible, and timelines for completing the strategic initiatives, (h) a description of how the school's budget and resources will be utilized to support the initiatives, (i) a description of how the plan will align with the district's annual Improvement Plan, for completing the strategic initiatives, (j) an assessment of the impact of class size on student performance, and consideration of student to teacher ratios and other factors and supportive adult resources, (k) the enhancement of parental involvement in the life of the school, safety and discipline, (l) the establishment of a welcoming school environment characterized by tolerance and respect for all groups, (m) extracurricular activities, (n) the development of means for meeting the diverse learning needs of as many children as possible, including children with special needs currently assigned to separate programs, within the regular education programs at the school, and such further subjects as the principal, in consultation with the school council, shall consider appropriate. In school districts with language minority student populations the professional development plan under this section shall specify how the plan will address the need for training and skills in second language acquisition and in working with culturally and linguistically diverse student populations. In school districts with language minority student populations, the plan to improve student performance shall include a description of the opportunities to be provided by the school to ensure the progress of limited English proficient students in developing oral comprehension, speaking, reading and writing of English, and also in meeting academic standards and curriculum frameworks established under sections 1D and 1E of chapter 69. Each school improvement plan shall be submitted to the school committee for review and approval every year. If said school improvement plan is not reviewed by the school committee within thirty days of said school committee receiving said school improvement plan, the plan shall be deemed to have been approved. Said school improvement plan shall be incorporated into the district improvement plan required by section 1I of chapter 69.”.

The amendment was adopted.

Mr. DeLeo of Winthrop then moved that the bill be amended by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide fiscal relief to municipalities in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

The amendment was adopted.

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

“SECTION 116. Any person who was employed by a municipality as an administrative hearing officer, paid as an independent contractor and whose title

was later determined by said municipality to be classified as an employee pursuant to the provisions of Section One of Chapter 32 of the Mass General Laws is hereby authorized to establish credit for time in service to said municipality prior to said positions reclassification, provided, however, that no credit shall be allowed unless such person has paid into the Annuity Savings Fund of the retirement system of said municipality, in one sum or in installments, upon such terms and conditions as the board prescribe an amount equal to that which would have been withheld as regular deductions for such previous period had he/she had been a member of the retirement system during the period the service was rendered; plus regular interest. The maximum creditable service allowable under this paragraph for any member shall not exceed three years.”.

The amendment was adopted.

Miss Reinstein of Revere then moved that the bill be amended in section 75 (as printed and as previously amended) by adding at the end thereof the following paragraph:

“Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the legislative and executive authorities within a city, town or county or an authority or district within a city, town or county or regional retirement system, the provisions of this section providing for an early retirement incentive program may be applied to an eligible employee who shall be an employee of said city, town, county, authority or district and an active member in service of the appropriate city, town, county or regional retirement system or shall be an employee of a regional school district and an active member in service of the state retirement system as of January 1, 2003 and not yet retired.”.

The amendment was adopted.

Mrs. Paulsen of Belmont then moved that the bill be amended by adding at the end thereof the following 9 sections:

“SECTION 117. The general court hereby finds and declares that (a) the continued degradation of the state’s rivers, streams, lakes, estuaries and wetlands is due in large measure to nonpoint source pollution; (b) the correction thereof requires focused attention at the local level through establishment of stormwater utilities; (c) the cost of such effort should be borne by property owners in proportion to their contribution to such nonpoint source pollution; and (d) such effort will be of long-term benefit to the residential business community through the Commonwealth.

SECTION 118. Chapter 40 of the Massachusetts General Laws, as it appears in the 2000 Official Edition, is hereby amended by adding the following section:—

Section 8L. Local Stormwater Utility — In a city, town, or district whose legislative body accepts the provision of this section, the city, town, or district may by ordinance, by-law, or regulation establish a stormwater utility. To improve the quality of the state’s rivers, streams, lakes, estuaries and wetlands, (i) the utility shall work in cooperation with the Watershed Initiative administered by the executive office of environmental affairs and with the stormwater management program administered by the department of environmental protection and make efforts to meet the standards established for specific watersheds for the proper control and cleanup of storm discharges; (ii) shall complement, to the extent applicable, the river basin water quality management plans pursuant to 33 USC

section 303(e), the nonpoint source management plans pursuant to 33 USC section 319, and the estuary management plans pursuant to 33 USC section 320; (iii) shall comply with Phases I & II of the stormwater regulations promulgated by the United States Environmental Protection Agency under the National Pollutant Discharge Elimination System; (iv) shall consult with the department of environmental protection and the Watershed Initiative of the executive office of environmental affairs before adopting or updating its local stormwater management plan; and (v) shall formulate plans and establish priorities for stormwater management systems and watersheds to meet the needs of the community for flood protection and protection of water quality.

The stormwater utility may be operated by any department, board, commission, or district that conducts the municipal wastewater collection and/or treatment program or by a separate utility established within the municipality whose function is to operate a stormwater program. Any such department, board, commission, or separate entity authorized to carry out such stormwater program shall be referred to as the stormwater utility.

The stormwater utility shall treat watersheds as integrated systems and shall work to lower the concentrations of pesticides, nutrients, industrial chemicals, metals, suspended solids, and other pollutants within the streams, lakes, estuaries, wetlands, and groundwater of the one or more watersheds within the jurisdiction of such stormwater utility.

The stormwater utility with the approval of the city council of any city, board of selectmen of any town, or board of directors of any authority or any entity operating in any special district (referred to hereinafter as 'district') may adopt regulations in order to protect the public health, safety, and welfare and the environment and to ensure proper and safe operation of the municipality's separate stormwater system or combined sanitary/stormwater system by regulating the direct and indirect discharge of wastewater and stormwater to and from such systems. Such local regulation shall be consistent with legislation and regulations under which the department of environmental protection regulates the discharge of sanitary wastewater and stormwater to and from such systems.

Notwithstanding any provisions of any general or special law to the contrary, cities, towns, and districts are expressly authorized to adopt regulations that are stricter in their protection of the environment than such state legislation and regulation. To the extent that part or all of a city or town is serviced by the Massachusetts Water Resources Authority or other authority or district, such municipality shall adopt regulations that are consistent with, but may be stricter than, the regulations of such authority or special district.

Such local regulation may require on-site detention or retention of stormwater and implementation of other stormwater management measures to control the rate, volume and quality of stormwater discharged to wastewater or storm drainage systems.

In addition to any other funding mechanism available to any city, town, or district to construct, operate, or maintain stormwater programs, the stormwater utility may adopt a system of stormwater utility fees sufficient to support the operation, construction, and maintenance of the stormwater program.

Any municipality or district may create alone, or in cooperation with another municipality or municipalities or another district or districts, one or more stormwater management benefit areas.

Cities, towns, and districts are authorized to raise and collect in advance or otherwise from all property owners within a municipality, district, or benefit area an annual, quarterly, or monthly fee or an assessment based upon amount of impervious surface, or other reasonable method, as provided in sections 15 and 16 of chapter 83 of the General Laws, as amended, to fund the activities and programs described in this section that service the city, town, district, or benefit area.

For fees assessed pursuant to this section, cities, towns, and districts may use the levy, assessment, and enforcement methods as provided in sections 14 through 29, inclusive, of chapter 83 of the General Laws.

SECTION 119. Section 1 of chapter 83 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word ‘drainage’ in line 6, the following words:— stormwater treatment and disposal,.

SECTION 120. Said section 1 of chapter 83, as so appearing, is hereby further amended by inserting at the end of the second sentence at line 11 the following new sentence:— Such works for drainage may include any stormwater treatment facility or measure of treating, or removing sediment or containments from, stormwater discharges.

SECTION 121. Said section 1 of chapter 83, as so appearing, is hereby further amended by inserting at the end of the third sentence in line 15:— For the purposes of this chapter, the word ‘stormwater’ shall mean surface runoff from precipitation.

SECTION 122. Section 10 of said chapter 83, as so appearing, is hereby further amended by inserting at the end of the first sentence of section 10 the following:— A city, town, sewer district, or stormwater district may from time to time prescribe rules and regulations for the use of main drains and the management of stormwater to prevent the discharge of sediment and pollutants therein which may tend to degrade wetlands, streams, other surface water bodies, and groundwater and to inspect the facilities for the collection and infiltration of stormwater in order to reduce flooding and improve the quality of and decrease the quantity of stormwater runoff; for the connection of estates and buildings with main drains; for the construction, alteration, and use of all connections entering into such main drains; and for the inspection of all materials used therein; and may prescribe civil penalties, not exceeding the words five thousand dollars for each day of violation of any such rule or regulation.

SECTION 123. Section 11 of said chapter 83, as so appearing, is hereby further amended by adding after ‘common sewer’ in line 3 the following:— or main drain.

SECTION 124. Section 15 of said chapter 83, as so appearing, is hereby further amended by adding after the third paragraph the following new paragraphs:— In connection with making assessments for the costs of main drains and connections thereto and facilities for the costs of the treatment and control of stormwater discharges, the city, town, or district shall estimate the average number of square feet of impervious surface attributable to single family residential units within its jurisdiction. This shall be referred to as a ‘sewer unit.’ Properties with uses other than single family shall be assigned a number of sewer units in the

proportion that their respective amount of square feet of impervious surface bears to the number of square feet represented by a single sewer unit. A rate shall be established for the sewer unit, and each property owner shall pay the sewer unit rate multiplied by the number of sewer units assigned to the owner's property. Alternatively, classes of uses other than single family shall be assigned a number of sewer units in the proportion that their respective average amount of square feet of impervious surface bears to the number of square feet of impervious surface represented by a single sewer unit. A rate shall be established for the sewer unit, and each property owner shall pay the sewer unit rate multiplied by the number of sewer units assigned to the owner's property. In either case, single family residential units shall be assigned one sewer unit each.

Credits may be granted against the amount of the assessment charged to those property owners who maintain functioning on-site retention detention basins or other filtration structures as approved by the stormwater utility, conservation commission, or other governmental entity with appropriate authority. The costs of stormwater related facilities that benefit a part of any city, town, or district may be apportioned in the rate setting process to properties that directly benefit from such facilities. No assessment for the costs of stormwater related facilities under this section shall be made against undeveloped property.

SECTION 125. Section 16 of said chapter 83, as so appearing, is hereby amended by adding after the words 'use of common sewers' in line 3 the following: 'and main drains and related stormwater facilities' and by adding at the end of section 16 the following:— In establishing quarterly or annual charges for the use of main drains and related stormwater facilities, the city, town, or district may either charge a uniform fee for residential properties and a separate uniform fee for commercial properties or establish an annual charge based upon the number of sewer units assigned to any property, as established in section 15, multiplied by the sewer unit rate. The annual charge shall be calculated to supplement other available funds as maybe necessary to plan, construct, operate and maintain stormwater programs. The city, town or district may grant credits against the amount of the quarterly or annual charge to those property owners who maintain on-site functioning retention/detention basins or other filtration structures as approved by the stormwater utility, conservation commission, or other governmental entity with appropriate authority.”.

The amendment was adopted.

Ms. Gobi of Spencer then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 126. Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, the Quabbin Regional School Committee is hereby authorized to conduct a pilot program to provide additional flexibility in scheduling. Said district shall be authorized to reduce the school year requirements contained in 603 CMR 27.03; provided, that said district shall maintain a five day work week; provided, further, that the structured learning time requirements contained in 603 CMR 27.04 are fully complied with. Said pilot program shall be subject to the provisions of collective bargaining law, and to the approval of town meetings in each member town or the district. The district, in conjunction with the

department of education, shall issue a report on the success of the initiative no later than March 1, 2004, to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees, and the house and senate clerks.”.

The amendment was adopted.

Mr. Koczera of New Bedford then moved that the bill be amended in section 75 (as printed), in line 116, by striking out the following: “2001 or” and inserting in place thereof the following: “2001, eligible employees who participated in the retirement incentive program”; and the amendment was adopted.

Messrs. Koczera and Galvin of Canton then moved that the bill be amended in section 76 (as printed) by adding at the end thereof the following paragraph: “Employees of the Minuteman Regional School District, Blue Hills Regional School District and Greater Lawrence Sanitary District who are members of the Minuteman Regional School District Retirement System, Blue Hills Regional School District Retirement System or the Greater Lawrence Sanitary District Retirement System respectively, upon acceptance by the legislative and executive authorities, shall be eligible to receive the rights and privileges of the early retirement incentive program as provided in section 79, under the same terms and conditions as provided in said section 79; provided, however, that for the purposes of this paragraph and the purposes of the third and sixth paragraphs of said section 79, the executive and legislative authority for a regional school district shall be the regional district school committee and for the Greater Lawrence Sanitary District the district board; provided, however, no employee of the Minuteman Regional School District, Blue Hills Regional School District and Greater Lawrence Sanitary District shall be eligible to receive any additional benefit under this paragraph if any costs are assumed by the Commonwealth of Massachusetts.”.

The amendment was adopted.

Mr. Wagner of Chicopee then moved that the bill be amended in section 37 (as printed) by adding at the end thereof the following paragraph: “Such account shall include an itemization of all civil process fees charged by the constable’s civil process office, all revenue received from said fees, the compensation structure for personnel engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. The account shall also include the number of civil process transactions by nature and quantity performed by such constable, fee schedule per transaction for those transactions where section 8 of chapter 262 afford the constable discretion to set the fee, the role of the city or county treasurer in the operation of the civil process division, the number of full-time and part-time employees and independent contractors utilized for the service of civil process, and the compensation structure used to compensate such civil process employees and independent contractors.”.

The amendment was adopted.

Messrs. Lantigua of Lawrence and Humason of Westfield then moved that the bill be amended by adding at the end thereof the following section: “SECTION 127. Section 2 of Chapter 140 of the General Laws in line 14 is hereby amended by striking ‘fifty dollars’ and adding the following:— one hundred dollars.”.

The amendment was adopted.

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

“SECTION 128. Section 80 of chapter 184 of the acts of 2002, is hereby further amended by striking out, in line 3, the figure ‘7’ and inserting in place thereof the figure ‘10’, and by striking, in line 5, the figure ‘25’ and inserting in place thereof the figure:— 28.”.

The amendment was adopted.

Mr. Casey of Winchester then moved that the bill be amended in section 13 (as printed), in line 9, by inserting after the word “department” the following: “but in no event shall the maximum rate be greater than 100 per cent of the amount that said city or town charged in the prior year for the following 10 years”.

The amendment was adopted. (For subsequent reconsideration, see yea and nay number 128).

Mr. Turkington of Falmouth then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 129. Section 57C of Chapter 59 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

The provisions of this section shall be applicable in any city or town which accepts the provisions of this section, notwithstanding the provisions of section fifty-seven. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out no later than July first of each year. In the case of cities and towns with quarterly tax payments the preliminary tax shall be due and payable in two installments, the first installment due on August first, the second installment on November first, after which dates if unpaid, they shall become delinquent and subject to interest as provided herein. In the case of cities and towns with semi-annual tax payments the preliminary tax shall be due and payable in one installment due on November first. The preliminary tax shall in no event exceed fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year.

SECTION 130. Said section 57C of said chapter 59, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, and in the case of cities and towns with quarterly payments shall be due and payable in two installments, on February first and on May first respectively, after which dates if unpaid, they shall become delinquent; and in the case of cities and towns with semi-annual payments shall be due and payable in one installment, on May first, after which dates if unpaid, they shall become delinquent.”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the

bill be amended in section 73 (as printed), in line 7, by inserting after the year “2004” the following: “and 2005”, and by adding at the end of said section the following: “; provided however that this section shall not apply to any city or town that has finally approved its fiscal year 2004 budget prior to the effective date of this act”; in section 78 (as printed and as previously amended) by striking out the figures “77” (previously changed by the committee on Bills in Third Reading from the figures “73”); and in section 79 (as printed and as previously amended) by inserting after the figures “75” (previously changed by the committee on Bills in the Third Reading from the figures “71”) the following: “, 77”.

The amendments were adopted.

Mr. Casey of Winchester and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 131. Section 1 of chapter 60A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the schedule in line 12 to 17, inclusive, and inserting in place thereof the following schedule:—

In the year preceding the designated year  
of manufacture 60%

In the year of manufacture 90%

In the second year 70%

In the third year 50%

In the fourth year 35%

In the fifth year 20%

In the sixth and succeeding years 10%

SECTION 132. The eighth paragraph of section 1 of chapter 60A of the General Laws, as so appearing, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following sentence:— The excise imposed by this section shall in no event be less than \$25; no abatement under this section shall reduce any such excise to less than \$25; no abatement shall be granted in an amount less than \$25; and no refund shall be paid in an amount less than \$25.”.

After debate the amendment was rejected.

Mr. Kulik of Worthington then moved that the bill be amended in section 70 (as printed), in line 21, by inserting after the word “commission” the following: “and furthermore, no municipality may implement the provisions of this section if it has available a special statutory emergency reserve that requires at least a balance of 2.5% of prior year non-school departmental appropriations and said balance is fully unexpended”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 55 (as printed), in lines 3 and 4, and also in section 56 (as printed), in line 4, by striking out the words “district court” and inserting in place thereof, in each instance, the words “Boston municipal and district court departments”.

The amendments were adopted.

Mr. Cabral of New Bedford then moved that the bill be amended by striking out section 58 (as printed). After remarks the amendment was rejected.



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

“SECTION 131. Section 172 of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended, in line 81, by inserting after the word ‘board’ the following:— except that an officer of a town, as defined in section 1 of chapter 43, may obtain such information by submitting a written request therefor to the chief of the police department in that town, an officer of a city, as defined by section 1 of chapter 43, may obtain such information by submitting a written request therefor to the chief of the police department in that city, and the superintendent of a regional school district may obtain such information by submitting a written request therefor to the chief of any police department of any city or town located within such school district.”.

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. Hillman of Sturbridge; and on the roll call 100 members voted in the affirmative and 53 in the negative.

[\[See Yea and Nay No. 125 in Supplement.\]](#)

Therefore the amendment was adopted.

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

“SECTION 132. Chapter 200A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking section 9A in its entirety and inserting in place thereof the following:—

Section 9A. (a) On or before November first of each year the treasurer of any city or town holding checks issued by said city or town which have not been cashed and which are deemed abandoned under section five may issue a written determination that it is in the best interest of said city or town to follow the procedures set out in this section rather than the procedures set out in sections seven, seven A, seven B, eight, eight A, eight B, nine, ten, ten A and eleven. In the event that the treasurer of a city or town issues a written determination that it is in the best interests of said city or town to follow the procedures set out in this section, all checks in the possession of the city or town which were issued by said city or town and which are deemed abandoned under section five shall be governed by the provisions of subsections (b), (c), (d), and (e) rather than the provisions of sections seven, seven A, seven B, eight, eight A, eight B, nine, ten, ten A, and eleven.

(b) The treasurer of each city or town holding checks each in an amount of less than one hundred dollars issued by said city or town and not cashed, which checks are deemed abandoned under section five, shall send a notice to the last known address of the apparent owner by first class mail, or if said city or town maintains an official Internet Web Site shall post conspicuously on such web site for a period of not less than sixty days a notice, to inform the apparent owner of each check of the process necessary to rebut the presumption of abandonment; provided, however, that the records of said city or town do not disclose that said address is inaccurate. After sixty days from the mailing or posting of said notice, if the apparent owner fails to respond, the amount may be credited to the general treasury

of said city or town.

(c) The treasurer of each city or town holding checks each in an amount of one hundred dollars or more issued by said city or town and not cashed, checks have been deemed abandoned under section five, shall send a notice to the last known address of the apparent owner by first class mail, and if said city or town maintains an official Internet Web Site shall post conspicuously on such web site for a period of not less than sixty days a notice, to inform the apparent owner of the check of the process necessary to rebut the presumption of abandonment; provided, however, that the records of said city or town do not disclose that said address is inaccurate. After sixty days from the mailing or posting of said notice, if the apparent owner fails to respond, the treasurer shall cause a notice of said checks to be published at least once in a newspaper of general circulation which is printed in English in the county in which said city or town is located.

Each published notice or Internet web site posting shall be entitled, 'Notice of Names of Persons Appearing to be Owners of Checks Issued by (city or town), Which Have Not Been Cashied and are Deemed Abandoned' and shall contain the names in alphabetical order and last known address, if any, or the apparent owners. Each published or posted notice shall also contain a statement that information about each such check may be obtained by any person expressing an interest in said check by addressing an inquiry to the treasurer of said city or town whose name and address shall be included in the notice.

(d) Any person claiming an interest in a check issued by a city or town which has not been cashed and which has been deemed abandoned under section five, may establish his claim at any time on or before one year after the date of said publication. The treasurer of said city or town shall possess full and complete authority to determine all such claims and shall, forthwith, send a written notice of such determination to the claimant. At any time within twenty days thereafter, such claimant may apply for a hearing and redetermination of his claim. After an appropriate hearing, before the treasurer of said city or town or his designee, said treasurer shall make a final determination.

The treasurer of said city or town or his designee is empowered to take testimony under oath and shall have the power to subpoena and require the attendance of witnesses and the production of books, papers, and documents which may be pertinent to such hearing.

The treasurer of said city or town shall render a decision within thirty days after such hearing. A claimant adversely affected by such decision may appeal within twenty days to the district, municipal, or superior court of the county in which said city or town is located. The claimant shall be entitled to a trial de novo. An appeal shall be perfected by the claimant within twenty days after receiving notice of an adverse determination from the treasurer of said city or town. Any party adversely affected by a decree or order of the district, municipal, or superior court may appeal to the appeals court or the supreme judicial court within twenty days from the date of the decree.

If the validity of a claim shall be determined in favor of the claimant, the treasurer of said city or town shall pay over to the claimant the amount of the check at issue in said claim, with interest thereon at the rate of one-twelfth of one per cent per

month from the date that the claimant first made his claim.

If the claimant is domiciled in a country or state outside the United States or its territories and the treasurer of said city or town determines that there is not a reasonable assurance that the claimant will actually receive the payment to which he is entitled under this section in substantially full value, the superior court upon petition of said treasurer or in its discretion may order that the city or town retain such payment.

(e) A city or town in possession of a check issued by said city or town and not cashed, which is deemed under section five to be abandoned and which has not been determined to belong to a claimant within one year of the date said check has been deemed abandoned may retain said check. Said check shall thereafter be credited to the general treasury of said city or town.”.

The amendment was adopted.

Messrs. Donato of Medford and Marzilli of Arlington then moved that the bill be amended in section 75 (as printed) by adding at the end thereof the following paragraph:—

Any city or town that has already received specific authorization by the legislature to accept and implement an early retirement incentive program in said city or town whereby the retirement date for eligible employees, as determined by the executive authority of said city or town and by the provisions of any such legislation granting such authorization, was a date no earlier than November 27, 2002 and no later than January 15, 2004, may also accept the provisions of the section and may, notwithstanding the provisions of paragraph 6 of this section to the contrary, establish the following dates for the implementation of this early retirement incentive program: (1) an eligible employee shall file his application for retirement not later than a date determined by the executive authority, which shall not be later than April 1, 2004 (2) the retirement date for eligible employees shall be determined by the executive authority and shall be not earlier than the effective date of this act and shall be no later than April 30, 2004; provided, however, that the date of retirement for employees of a city retirement board and town retirement board shall be 30 days after the retirement date determined by the executive authority in the city or town; and (3) the retirement date for eligible employees of a county retirement board and regional retirement board shall be June 30, 2004. The executive director of the public employee retirement administration commission shall analyze, study and value the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with such an early retirement incentive program established by this section according to the dates authorized by this paragraph for each such retirement system. The executive director shall file a report of his findings to the board, in writing, on or before July 31, 2004, together with copies thereof to the county commissioners, the regional retirement board, the mayor, the board of selectmen, the governing board of an authority, the district committee or the regional school district committee as the case may be.”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding the following two sections:

“SECTION 133. Chapter 64A of the General Laws, as appearing in the 2000

Official Edition, is hereby amended by inserting after section 7A the following section:—

Section 7B. Any city, town, or regional school district that has purchased fuel on which an excise has been paid or is chargeable under this chapter shall be refunded by the commonwealth the amount of such excise. Application for refund may be made by a city, town, or regional school district not earlier than twenty days following the last day of the month in which such fuel was purchased.

Reimbursement shall be made within 90 days of such application.

SECTION 134. Chapter 64E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 5 the following section:—

Section 5A. Any city, town, or regional school district that has purchased fuel on which an excise has been paid or is chargeable under this chapter shall be refunded by the commonwealth the amount of such excise. Application for refund may be made by a city, town, or regional school district not earlier than twenty days following the last day of the month in which such fuel was purchased.

Reimbursement shall be made within 90 days of such application.”.

After debate on the question on adoption of the amendment, Mr. Casey of Winchester moved that the amendment be amended by adding at the end of the proposed new sections, in each instance, the following paragraph:

Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state’s economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and ancillary economic activity, to the Joint Committee on Taxation, and, without the further approval of the House and Senate committees on Ways and Means.”.

After debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 105 members voted in the affirmative and 49 in the negative.

[\[See Yea and Nay No. 126 in Supplement.\]](#)

Therefore the further amendments were adopted.

The amendment offered by Mr. Jones, et als, as amended, then also was adopted.

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

“SECTION 135. (a) There is hereby established an educational funding emergency relief task force which shall study, on a expedited basis, all available funding sources, including, without limitation, all funds available in all reserve accounts and in so-called ‘pothole’ accounts available to be expended for public education purposes during fiscal year 2004, without any further reduction to the other section 3 local assistance to municipalities, and shall, on or before July 1, 2003, make recommendations detailing what actions, if any, can be taken for fiscal year 2004 to minimize, to the fullest extent feasible, the amount of any reduction in ‘Chapter

70' local assistance to those municipalities identified in House No. 4000 as receiving a reduction of twenty percent from the prior fiscal year to such 'Chapter 70' local assistance, including, but not limited to, recommendations concerning funding priorities from any so-called 'pothole' accounts that should be given to such municipalities so identified as receiving a twenty percent reduction to such 'Chapter 70' local assistance. Said task force shall consist of eight members, two members appointed by the governor, three members appointed by the president of the senate, at least one of whom shall be of the minority party, and three members appointed by the speaker of the house, at least one of whom shall be of the minority party.

(b) Said educational funding emergency relief task force shall develop its recommendations based upon the following considerations: (1) providing a world-class quality public school education to the children of the Commonwealth is and shall remain one of the primary core missions of state government; (2) the severe economic conditions in the Commonwealth, and in our nation generally, have adversely and dramatically impacted the financial situation in Massachusetts and the budgetary challenges of fiscal year 2004; (3) reductions of twenty percent in the amount of so-called 'Chapter 70' local assistance in fiscal year 2004 to approximately 170 cities and towns in the Commonwealth present severe challenges to the progress made by such school districts, and said cities and towns should receive priority in the granting of any additional resources available on a recurring basis to the commonwealth."

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out sections 51C and 51D (as printed) and by adding at the end thereof the following two sections:

"SECTION 136. (a) Section 129B of chapter 140 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 182, the words '; provided, however, that any' and inserting in place thereof the following: '. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the firearm identification card application fee as is to be deposited into the general fund, not later than January 1, April 1, July 1 and October 1 of each year'.

(b) The first paragraph of subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by adding the following sentence: 'Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited into the general fund, not later than January 1, April 1, July 1 and October 1 of each year.'.

SECTION 137. Paragraph 9 of section 129B of said chapter 40, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following sentences: — The fee for such application shall be set at \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of such fee, and \$75 of such fee shall be deposited into the general fund of the commonwealth; provided, however that any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical

mace, pepper spray, or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to such application fee.”.

The amendment was adopted.

Mr. Jones and other members of the House then moved that the bill be amended in section 65 (as printed), in lines 13 to 18, inclusive, by striking out the following:

“twenty-one or cities and towns hosting fairs that (1) are sponsored and conducted by an agricultural or horticultural society incorporated under Massachusetts law (2) operate at least three days annually (3) have a majority of exhibits that are competitive in nature and (3) are inspected and approved by the department of food and agriculture” and inserting in place thereof the word “twenty-one”; and in lines 37 to 44, inclusive, by striking out the paragraph contained therein.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 54 members voted in the affirmative and 100 in the negative.

[\[See Yea and Nay No. 127 in Supplement.\]](#)

Therefore the amendments were rejected.

Mr. Kennedy of Brockton and other members of the House then moved that the bill be amended in section 65 (as printed), in line 42, by inserting after the word “fair” the following: “; provided further, that the assessment of said \$1 per day visitor impact fee for entrance into fairs, meeting the criteria set forth in this section, shall require the prior approval of the local town meeting of a town sponsored fair, or the mayor and city council of a city sponsored fair, or the agricultural society of an agricultural society sponsored fair, or of the county body having governing authority over county sponsored fair activities; and provided further that in addition to any other fees so established or otherwise charged, any agricultural society may assess and collect an additional visitor impact fee of \$1 per day visitor impact fee for the use of any agricultural fairground, or portion thereof for licensed activities and performances on the agricultural fairgrounds or portion thereof”.

The amendment was adopted.

Mr. Broadhurst of Methuen then moved that the bill be amended in section 70 (as printed) by striking out lines 8 to 14, inclusive, and inserting in place thereof the following: “provided, however, that in no event may the appropriation for such year be less than the normal cost component of the appropriation required by such schedule nor shall said appropriation be reduced by an amount more than the amount by which said city or town was reduced in local aid payments, either in the aggregate or only the amounts appropriated for the purposes of lottery aid and additional assistance in the aggregate, received pursuant to section 3 of chapter 184 of the acts of 2002, as further reduced pursuant to section 3 of chapter 184 of the acts of 2002”; and the amendment was adopted.

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

“SECTION 138. The Department of Revenue is hereby authorized and directed to conduct a study relative to the possible imposition of a local excise tax or

embarkation fee upon all passenger and vehicle ferry trips currently operating from a port within a city or town of the commonwealth and upon any parking within a parking lot or garage administered and/or subsidized and operated by the Massachusetts Bay Transportation Authority but excluding those paid for by passengers using commuter boats, those eligible for preferred excursion fares at a rate up to, but not exceeding, \$1 per passenger trip or parking day, and \$5 per passenger vehicle trip. The study shall include, but not be limited to, an analysis of the following: (1) the amount of revenue that could be generated by the imposition of such an excise tax or embarkation fee based upon the most recently collected and reliable statistics relative to the usage of such ferries and parking lots within said cities and towns and based upon a retention structure that would allow said cities and towns to retain such revenue proportion to the amount of such sums received from the sale of passenger and vehicle ferry trips in each such city or town (2) the potential impact that such a tax or fee could have on the collection of other revenue sources, such as sales tax collections, in communities that would be eligible to impose such a tax or fee and (3) the administrative costs, if any, that would be imposed upon the department of revenue should the General Court require that such tax or fee be collected by said department from said cities and towns and should the General Court require that said revenues be distributed, credited and paid by the state treasurer following a quarterly certification that would be conducted by said department, to each city or town that has adopted the provisions of this section. Said department shall submit a report to the Joint Committees on Transportation and Taxation detailing the findings of said study no later than December 15, 2003.

The amendment was adopted.

Mr. Scaccia of Boston moved that the vote be reconsidered by which the House adopted an amendment offered by Mr. Casey of Winchester, in section 13 (as printed).

On the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Casey; and on the roll call 74 members voted in the affirmative and 80 in the negative.

[\[See Yea and Nay No. 128 in Supplement.\]](#)

Therefore the motion to reconsider was negatived.

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. Peterson of Grafton; and on the roll call 133 members voted in the affirmative and 21 in the negative.

[\[See Yea and Nay No. 129 in Supplement.\]](#)

Therefore the bill (House, No. 4003, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

**Order.**

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

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Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-one minutes before nine o'clock P.M., on motion of Mr. Walsh of Boston (Mr. O'Flaherty of Chelsea being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.

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