

JOURNAL OF THE HOUSE.

Monday, April 26, 2010.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

Eternal God, Infinite Spirit of Truth and Goodness, we begin this morning's legislative session with a prayer for guidance as we take up important economic legislation, including House 4600. Teach us to recognize both our various responsibilities and our many opportunities for serving You, our constituents and our communities in a faithful and positive manner. In dealing with public policy matters and sensitive issues, free us from our prejudices, petty controversies and a lack of sympathetic spirit. Inspire us to offer You, the people and the Commonwealth our best reasoned judgments and the courage to follow our traditional principles and convictions. May we be open to the concerns and the suggestions of people who often find each day a challenge in achieving their personal and family goals.

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

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayer.

During the session (Mr. Donato of Medford being in the Chair), at the request of Representatives Sullivan of Fall River, Aguiar of Fall River and Rodrigues of Westport, the members, guests and employees stood in a moment of silent tribute to Army Sergeant Robert Barrett of Fall River, who was killed by a suicide bomber in Afghanistan on Monday, April 19. Sergeant Barrett was the father of a 2 year old daughter, Sophie Alexandra. Sergeant Barrett was a 2007 graduate of B.M.C. Durfee High School, commanding officer as a senior of the school's Junior ROTC and head of its honor guard. He was serving since February in Afghanistan with the 1st Battalion, 101st Field Artillery Regiment of the National Guard. He would have turned 21 years of age on May 14.

Statement Concerning Representative Vallee of Franklin.

A statement of Mr. Mariano of Quincy concerning Mr. Vallee of Franklin was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Mr. Vallee of Franklin will not be present in the House Chamber for today's session and tomorrow's session due to his service on active military duty. His missing of roll calls today and tomorrow will be due entirely to the reason stated.

Fall River,—
Sergeant
Robert
Barrett.

Statement
concerning
Mr. Vallee
of Franklin.

Resolutions.

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

- Mark D. Juknavorian. Resolutions (filed by Representatives Keenan of Salem and Campbell of Methuen) honoring Mark D. Juknavorian on the occasion of his retirement;
- John R. Levinson. Resolutions (filed by Representatives Peisch of Wellesley and Kafka of Stoughton) honoring John R. Levinson on receiving the Heart of Gold Award from the American Heart Association;
- Irving A. Fradkin. Resolutions (filed by Ms. Provost of Somerville) honoring Dr. Irving A. Fradkin, founder of "Dollars for Scholars" and its affiliate, the Somerville Mathematics Fund;
- Randi Cherschiglia. Resolutions (filed by Mr. Turner of Dennis) congratulating Randi Cherschiglia on the occasion of her retirement;
- Friends of the Public Garden. Resolutions (filed by Ms. Walz of Boston) congratulating the Friends of the Public Garden on its fortieth anniversary; and
- Susan C. Ayers. Resolutions (filed by Ms. Wolf of Cambridge) congratulating Susan C. Ayers on her many accomplishments at the Guidance Center, Inc.;
- Mr. Binienda of Worcester, 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. Flynn of Bridgewater, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Mr. Finegold of Andover presented a petition (subject to Joint Rule 12) of Barry R. Finegold and others relative to authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the town of Tewksbury for recreational and open space purposes; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

- Essex North Shore School. A Bill relative to the Essex North Shore Agricultural and Technical School (Senate, No. 2392) (on Senate, No. 2335); and
- Civic engagement,—study. A Resolve reviving and continuing the special commission on civic engagement and learning (Senate, No. 2277) (on Senate, No. 258 and House, Nos. 351, 474, 529 and 3549);
- Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.
- Francis H. George. A Bill designating the East Brookfield district courthouse as the Francis H. George Courthouse (Senate, No. 1575) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.
- Erving,—trust fund. A petition (accompanied by bill, Senate No. 2387) of Stanley C. Rosenberg (by vote of the town) for legislation to authorize the town of Erving to establish another employment benefits trust fund, was referred, in concurrence, to the committee on Municipalities and Regional Government.

Reports of Committees.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Dinamarie McCarthy, an employee of the Department of Children and Families (House, No. 4615). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Dinamarie McCarthy,—sick leave.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the bill was read a second time forthwith; and it was ordered to a third reading.

Emergency Measure.

The engrossed Bill designating the library at the Corrigan Mental Health Center in the city of Fall River as the Ralph A. Roberts Library (see House, No. 4364), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Fall River,—Ralph A. Roberts Library.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 53 to 0. Sent to the Senate for concurrence.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the conveyance of certain conservation land in the town of Sharon (see House, No. 4468) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Sharon,—land.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Bill enacted (land taking),—yea and nay No. 354.

[See Yea and Nay No. 354 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Subsequently a statement of Mr. Rogers of Norwood was spread upon the records of the House:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber on the previous roll call due to official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the affirmative.

Statement of Mr. Rogers of Norwood.

Engrossed Bills.

- Engrossed bills
- Designating a certain bridge in the town of Clinton as the Arthur J. Mayou Memorial Bridge (see House, No. 3280);
- Designating Route 20 in the town of Northborough as the John Davis Highway (see House, No. 4030); and

Bills enacted.

Bills
enacted.

Designating a certain bridge in the town of Mansfield as the S/Sgt. Edward J. Pazzit USAAF Memorial Bridge (see House, No. 4338, changed);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

*Motion to Discharge a Certain Matter
from the Orders of the Day.*

Debt
restructuring.

The House Bill relative to debt restructuring (House, No. 4617) was discharged from its position in the Orders of the Day and read a second time forthwith, under suspension of Rule 47, on motion of Mr. Murphy of Burlington.

Pending the question on ordering the bill to a third reading, the same member moved to amend it in section 1, in line 12, by inserting after the word "board" the words "; the house and senate committees on bonding, capital expenditures and state assets". The amendment was adopted; and the bill, as amended, was ordered to a third reading.

Under suspension of the rules, on further motion of Mr. Murphy of Burlington, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4617, amended) then was sent to the Senate for concurrence.

Recesses.

Recesses.

At eleven minutes before twelve o'clock noon, on motion of Ms. Story of Amherst (Mr. Petrolati of Ludlow being in the Chair), the House recessed until half past twelve o'clock; and at fourteen minutes before one o'clock P.M.; the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Donato of Medford, until the hour of two o'clock; and at twenty minutes after two o'clock the House was called to order with Mr. Petrolati in the Chair.

Quorum.

Quorum.

Ms. Story of Amherst thereupon 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. 355 in Supplement.]

Therefore a quorum was present.

*Motion to Discharge a Certain Matter
from the Orders of the Day.*

Municipal
relief.

The House Bill relative to municipal relief (House, No. 4526) was discharged from its position in the Orders of the Day and read a second

time forthwith, under suspension of Rule 47, on motion of Mr. Murphy of Burlington.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4618),— was adopted; and the substituted bill was ordered to a third reading.

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

After remarks on the question on passing the bill to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it by striking out sections 7, 8 and 9 and also section 12.

The amendment was adopted.

Mr. Brownsberger of Belmont then moved to amend the bill in section 11, in lines 348 to 351, inclusive, by striking out the sentence contained in those lines; and by adding the end of said section the following paragraph:

"(j) By a vote of the school committee and with the further approval of the municipal chief executive officer as provided in subsection (b) of this section, members of the state teachers' retirement system and teachers employed by the City of Boston who are members of the State-Boston retirement system shall be eligible for an early retirement incentive in accordance with the provisions of this section; provided, however, that no member shall benefit from both the incentive established by this section and the allowances provided for in subdivision 4 of Section 5 of Chapter 32 unless the school committee and the municipal chief executive officer explicitly permit this in their approval. In the event that a municipality offers the incentives of this section to members of the state teachers' retirement system or teachers employed by the City of Boston who are members of the State-Boston retirement system, the municipality shall reimburse the appropriate retirement system for all actuarially determined costs resulting from the members' choices made under this subsection, in equal installments over a ten year period starting in the next fiscal year as determined by the Public Employee Retirement Administration Commission. As to positions vacated by members electing to receive both the incentives of this section and the allowances provided for in subdivision 4 of Section 5 of said Chapter 32, the percentage applicable in subsection (e) of this section shall be zero in Fiscal 2011."

Pending the question adoption of the amendment, Mr. Donato of Medford moved to amend it by adding at the end thereof 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 its impact on the state's economy and 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 house and senate committees on ways and means and the joint committee on public service and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution."

Further amendment adopted,—yea and nay No. 356.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Brownsberger; and on the roll call 87 members voted in the affirmative and 69 in the negative.

[See Yea and Nay No. 356 in Supplement.]

[Mr. Murphy of Lowell answered “Present” in response to his name.] Therefore the further amendment was adopted.

The amendments offered by Mr. Brownsberger, as amended, then also were adopted.

Mr. Wagner of Chicopee being in the Chair,— Mr. Driscoll of Braintree moved to amend the bill by adding the following section:

“SECTION 13. For the purposes of this section the following terms shall have the following meanings:

‘Crime’ an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency.

‘Law enforcement authority’ any police department in the commonwealth or any of its political subdivision.

The licenses of any hotel, motel, resort, boarding house or inn licensed by a city or town where law enforcement authorities are required to respond to on more than 3 times in a calendar year for calls involving the commission of a crime may be revoked by the city or town.”

After remarks the amendment was rejected.

Mr. Petrolati of Ludlow being in the Chair,— Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 8 the following section:

“SECTION 8A. Chapter 64A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city or town which having consumed the same for any municipal purpose shall be exempt from the excise established by this chapter.”

Pending the question on adoption of the amendment, Mr. Donato of Medford moved to amend it by adding 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 its impact on the state’s economy and 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 house and senate committees on ways and means and the joint committee on revenue and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Murphy of Burlington; and on the roll call 124 members voted in the affirmative and 32 in the negative.

[See Yea and Nay No. 357 in Supplement.]

Therefore the further amendment was adopted.

The amendment, as amended, then also was adopted.

Further amendment adopted,—yea and nay No. 357.

Mr. Donelan of Orange then moved to amend the bill by adding the following section:

“SECTION 13. There shall be a commission to examine efficient and effective strategies to implement school district collaboration and regionalization. The commission shall consist of 16 members: 1 of whom shall be the secretary of education, or his designee, who shall serve as chair; 1 of whom shall be the commissioner of the department of elementary and secondary education, or his designee; 1 of whom shall be the executive director of the Massachusetts school building authority, or her designee; 1 of whom shall be a member of the house of representatives appointed by the speaker of the house; 1 of whom shall be a member of the house appointed by the minority leader; 1 of whom shall be a member of the senate appointed by the senate president; 1 of whom shall be a member of the senate appointed by the minority leader; 9 of whom shall be appointed by the secretary of education, 1 of whom shall be selected from a list of 3 nominees offered by a representative of the Massachusetts Association of School Superintendents, 1 of whom shall be selected from a list of 3 nominees offered by a representative of the Massachusetts Association of School Committees, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Association of Regional Schools, 1 of whom shall be selected from a list of 4 nominees offered by the Massachusetts Teachers Association and the American Federation of Teachers of Massachusetts, 1 of whom shall be selected from a list of 3 nominees offered by Massachusetts Association of School Business Officials, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Business Alliance for Education, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Municipal Association, and 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Organization of Educational Collaboratives.

The commission shall examine and make recommendations on model approaches regarding, but not limited to, the following areas: (1) identifying indicators for assessing the effectiveness of the central office, and the fiscal viability, efficiency, and long-term sustainability of school districts; (2) cooperative purchasing of materials and services; (3) inter-district academic and extracurricular programs; (4) merger of school district central office buildings, staff, and operational systems; (5) merger of collective bargaining agreements; (6) merger of debt obligations, including for school building projects; (7) the effect of school district regionalization on educational and instructional outcomes; (8) the effect of school district regionalization on school funding allocations; (9) school consolidation; (10) transitional costs associated with school district regionalization; (11) appropriate time frames for implementing school district regionalization; (12) incentives for school districts to increase collaboration and/or regionalize; (13) revisions of chapter 71 of the General Laws to facilitate the effective implementation of existing and future regional school district agreements; (14) school building capacity and facilities; (15) the feasibility of adopting a regional district finance structure in which the local contribution of the member cities or towns that such regional district serves is assessed on the basis of a uniformly measured fiscal capacity;

Municipal
relief.

and (16) in-district collaborations between schools, including consolidating buildings, programs, school and central office administration, special education and food service.

The commission shall conduct its first meeting not less than 45 days after the date of enactment of this act and shall issue a final report containing recommendations on or before January 31, 2011. Said commission shall report to the general court the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerk of the senate who shall forward the same to the chairs of the joint committee on education and the chairs of the senate and house committees on ways and means on or before January 31, 2011."

The amendment was adopted; and the bill (House, No. 4618, amended) was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Mr. Binienda of Worcester, for said committees, then reported recommending that the bill ought to pass.

Under suspension of the rules, on motion of Mr. Donato of Medford, the bill was considered forthwith.

Pending the question on passing the bill, as amended, to be engrossed, Representatives Sullivan of Fall River and Richardson of Framingham moved to amend it by adding at the following seven sections:

"SECTION 14. Subsection (b) of section 1 of chapter 30B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 6, the word 'section' and inserting in place thereof the following 'sections 11C or'.

SECTION 15. Said subsection (b) of said section 1 of said chapter 30B, as so appearing, is hereby amended in subdivision (4) by inserting after the word 'commonwealth' the following 'except as pertains to section 16(i)';.

SECTION 16. Said section 1 of said chapter 30B, as so appearing, is hereby amended by inserting at the end thereof the following subsection:—

(f) This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration Federal supply schedule that is available for use by governmental bodies.

SECTION 17. Section 2 of Chapter 30B of the General Laws, as so appearing, is hereby amended by inserting the following:—

'Electronic bidding', the electronic solicitation and receipt of offers to contract for supplies and services. Offers may be accepted and contracts may be entered by use of electronic bidding.

'Reverse auction,' an internet based process used to buy supplies and services whereby sellers of the supply or service being auctioned anonymously bid against each other until time expires and until the governmental body determines from which sellers it will buy based on the pricing obtained as a result of the reverse auction.

'Sound business practices', ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.

'Cooperative purchasing' means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement activity.

'External procurement activity' means: (a) any public agency not located in this State which would qualify as a public procurement unit; (b) buying by the United States government.

'Local public procurement unit' means any political subdivision or unit thereof which expends public funds for the procurement of supplies.

'Public procurement unit' means either a local public procurement unit or a state public procurement unit.

'State public procurement unit' means the offices of the chief procurement officers and any other purchasing agency of this or any other State.

SECTION 18. Subsection (d) of section 4 of said chapter 30B, as so appearing, is hereby amended, by striking out the words 'generally accepted', in line 24, and inserting in place thereof the following 'sound'.

SECTION 19. Chapter 30B of the General Laws, as so appearing, is hereby amended by adding after Section 6 the following new section:—

Section 6A. (a) A chief procurement officer may enter into procurement contracts in the amount of \$25,000 or more utilizing reverse auctions for the acquisition of supplies and services. The reverse auction process shall include a specification of an opening date and time when real-time electronic bids may be accepted, and provide that the procedure shall remain open until the designated closing date and time.

(b) All bids on reverse auctions shall be posted electronically on the Internet, updated on a real-time basis, and shall allow registered bidders to lower the price of their bid below the lowest bid on the Internet.

(c) The chief procurement officer shall require vendors to register before the reverse auction opening date and time, and as part of the registration, agree to any terms and conditions and other requirements of the solicitation.

(d) Any mechanism, including but not limited to software, developed by the Operational Services Division for the purpose of conducting reverse auctions by the Commonwealth, shall provide for the utilization of such mechanism by municipalities.

(e) The Operational Services Division may assess any municipality utilizing such reverse auction mechanism a reasonable fee, calculated to compensate for any increased cost attributable to such utilization, which shall be credited to the general fund.

(f) Reverse auctions shall not be subject to subsections (b) (1) or (d) of section 5 but shall be subject to all other provisions of that section.

SECTION 20. Section 20 of Chapter 30B of the General Laws is hereby amended by inserting at the end thereof the following:—

Any public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The public procurement unit conducting the procurement of any supplies shall do so in a manner that constitutes a full and open competition."

The amendment was adopted.

Municipal relief.

Mr. Kaufman of Lexington and other members of the House then moved to amend the bill by adding the following section:

"SECTION 21. (A) Subsection twenty-second E of section 5 of chapter 59 of the General Laws, is hereby amended by striking out the words 'and are incapable of working' in the first paragraph.

(B) Subsection forty-first c½ of said section of said chapter, is hereby amended by adding to the end of the second paragraph, the following sentence: (4) utilizing income limits on a household basis rather than a single applicant basis for real estate tax exemptions.

(C) Said section of said chapter is hereby further amended by adding the following subsection:

Fifty-sixth. Upon the acceptance of this section by a city or town, the board of assessors may grant, real and personal property tax abatement up to 100% of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors.

The authority to grant abatements under this act shall expire after 2 years of adoption unless extended by a vote of the city or town.

(D) Said section of said chapter is hereby further amended by adding the following subsection:

Fifty-seventh. Upon the acceptance of this section by a city or town, the board of assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under the provisions of subsection (k) of section 6 of chapter 62.

(E) Section 5K of Chapter 59 of the General Laws is hereby amended by adding the following paragraph:

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption contained in this clause by: (1) allowing an approved representative, for persons physically unable, to provide such services to the city or town; (2) allowing the maximum reduction of the real property tax bill to be based on one hundred and twenty-five volunteer service hours in a given tax year, rather than \$1,000."

After debate the amendment was adopted.

Mr. Conroy of Wayland then moved to amend the bill by adding the following section:

"SECTION 22. Section 6 of chapter 70B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'dates', in line 66, the following words:— or up to 30 years in instances when consistent with the guidelines established pursuant to section 7 of chapter 44."

The amendment was adopted.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill by adding at the end of section 4 the following paragraph:

"(e) Systems may establish a schedule under this section that provides for an increase in the maximum base amount, on which the cost-of-living adjustment is calculated pursuant to section 103, in multiples of \$1,000. Acceptance of this subsection shall be in accordance with the provisions in section 103 (j)."; in section 11, in line 398, by striking out the word "regular"; and by adding the following twenty-nine sections:

"SECTION 23. Section 20 of said chapter 30B, as so appearing, is hereby amended by adding the following paragraph:—

A state or local public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies with one or more state or local public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The state or local public procurement unit conducting the procurement of any supplies shall do so in a manner that constitutes a full and open competition.

SECTION 24. Section 103 of chapter 32 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

(j) Notwithstanding the provisions of paragraph (a), the board of any system, that establishes a schedule pursuant to section 22D or section 22F, may increase the maximum base amount, on which the cost-of-living adjustment is calculated, in multiples of \$1,000. Each increase in the maximum base amount shall be accepted by a majority vote of the board of such system, subject to the approval of the legislative body. For the purpose of this section, 'legislative body' shall mean, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county or region, the county or regional retirement board advisory council, in the case of a district, the district members, and, in the case of an authority, the governing body. Acceptance of an increase in the maximum base amount shall be deemed to have occurred upon the filing of the certification of such vote with the commission. A decision to accept an increase in the maximum base amount may not be revoked.

SECTION 25. Section 56 of chapter 40 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding the first paragraph, the commissioner may, from time to time, issue a revised schedule for the year in which he shall certify whether the board of assessors is assessing property at full and fair cash valuation. After the schedule is issued, a city or town may classify in the manner set forth in this section for any year before the next year of certification established in the schedule for the city or town. In arranging the schedule the commissioner shall, so far as practicable and appropriate, consider but not be limited to the following goals: balancing the number of certification reviews conducted in each year of the triennial period, facilitating and implementing joint or cooperative assessing agreements or districts, assisting boards of assessors to comply with any minimum standards of assessment performance established under section 1 of chapter 58 and producing uniformity in the valuation, classification and assessment of property within each city or town and throughout the commonwealth.

SECTION 26. Section 7 of chapter 44 of the General Laws is hereby amended by inserting after clause 17 the following new clause:—

(17A) For dredging of tidal and non-tidal rivers and streams, harbors, channels and tide waters, 10 years.

SECTION 27. Section 7 of chapter 44 of the General Laws is hereby amended by inserting at the end thereof the following new clause:—

(32) For the cost of cleaning up or preventing pollution caused by existing or closed municipal facilities not defined in clause (21) of sec-

Municipal relief.

tion 8 including cleanup or prevention activities taken pursuant to chapter 21E or chapter 21H, 10 years; provided, however, that no indebtedness shall be incurred hereunder until plans relating to the project shall have been submitted to the department of environmental protection and the approval of the department has been granted therefore, 10 years.

SECTION 28. Section 7 of chapter 44 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'specified', in line 3, the following words:— or, except with respect to clauses (3C), (11), (16), (18), (19), (21) and (22), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services of the department of revenue.

SECTION 29. Said section 7 of said chapter 44, as so appearing, is hereby further amended by striking out in lines 51 to 54, inclusive, the words:— or for such maximum term, not exceeding 15 years, based upon the maximum useful life of the equipment as determined by the board of selectmen or the mayor or city manager of the city or town.

SECTION 30. Section 7 of chapter 44 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after clause (3B) the following clause:—

(3C) For a revolving loan fund established under section 53E¾ to assist in development of renewable energy and energy conservation projects on privately held buildings, property or facilities within the city or town, 20 years.

SECTION 31. Section 8 of said chapter 44, as so appearing, is hereby amended by inserting after the word 'specified', in line 3, the following words:— or except with respect to clauses (1), (2), (3A), (5), (6), (7), (9) and (19), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed as determined in accordance with guidelines established by the division of local services of the department of revenue.

SECTION 32. Section 26 of chapter 44 is hereby repealed.

SECTION 33. Said chapter 44, as so appearing, is hereby further amended by inserting after section 53E½ the following section:—

Section 53E¾. (a) Notwithstanding the provisions of section 53 to the contrary, a city or town may establish a revolving fund to be known as the Energy Revolving Loan Fund, in this section called the fund. The purpose of the fund is to provide loans to owners of privately held real property in the city or town for energy conservation and renewable energy projects on their properties so as to prioritize energy efficiency as the first step toward reducing greenhouse gas emissions associated with buildings.

(b) The fund shall be established by ordinance or by-law. Before adoption of the ordinance or by-law, the selectmen, town council or the city council, as the case may be, shall conduct a public hearing on the question of its adoption. The ordinance or by-law shall designate an administrator for the fund and may provide for any rules, regulations and procedures for administration of the fund and eligibility for loans the city or town considers necessary or proper to carry out the purposes

of this section. The administrator may consult with the green communities division, established in section 10 of chapter 25A, in developing such regulations, rules and procedures for administration of the fund. The fund administrator may be a board, department or officer, or may consist of 1 or more members from 1 or more boards, departments or officers, of the city or town. Any city or town which is a member of a regional planning commission may enter into a cooperative agreement with that commission to perform as administrator for the fund.

(c) As authorized by section 4A of chapter 40, 2 or more municipalities may, in a city by vote of the city council thereof, and in a town by vote of the board of selectmen thereof, enter into an agreement to jointly establish and administer a common fund.

(d) The fund administrator shall have the following duties and powers:—

(1) to make loans to owners of real estate to finance or refinance the costs of energy conservation and renewable energy projects on their properties; provided no loan shall be made unless an energy audit of the property has been conducted on or after July 2, 2008, and any energy conservation measures established by the fund administrator for participation in the program have been implemented;

(2) to execute and deliver on behalf of the city or town all loan agreements and other instruments necessary or proper to make the loan and secure its repayment;

(3) to record the notice of the agreement required by subsection (f) and any other loan instruments;

(4) to apply for and accept grants or gifts for purposes of the fund; and

(5) to exercise any other powers or perform any other duties the city or town may grant by ordinance or by-law to carry out the purposes of the section.

(e) The city or town treasurer shall be the custodian of the fund, which shall be maintained as a separate account, and into which shall be placed:—

(1) all monies appropriated and proceeds from bonds issued under clause (3C) of section 7 for purposes of providing loans to private property owners for energy conservation and renewable energy projects;

(2) all funds received from the commonwealth or any other source for those purposes;

(3) all repayments of the loans made by property owners under this section, and any reserve or other required payments made by the owners in connection with the loans; and

(4) any other amounts required to be credited to the fund by any law.

The city or town treasurer may invest the monies in the manner authorized by section 55, and any interest earned thereon shall be credited to and become part of the fund.

The city or town treasurer shall, not later than June 30 of each year, certify in writing to the fund administrator and auditor or similar officer in cities, or the town accountant in towns having that officer, the principal and interest due in the next fiscal year on any bonds issued under clause (3C) of section 7 and not otherwise provided for, and the amount certified shall be reserved for payment of that debt

Municipal
relief.

service without further appropriation. Loans may be made from the fund by the fund administrator without further appropriation, subject to this section; provided, however, that no loans shall be made or liabilities incurred in excess of the unreserved fund balance, nor made unless approved in accordance with sections 52 and 56 of chapter 41.

(f) Whenever the city or town enters into a loan agreement with a property owner under this section, a notice of the agreement shall be recorded as a betterment and be subject to the provisions of chapter 80 relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, the lien shall take effect by operation of law on the day immediately following the due date of the assessment or apportioned part of the assessment and the assessment may bear interest at a rate determined by the city or town treasurer by agreement with the owner at the time the agreement is entered into between the city or town and the property owner. In addition to remedies available under chapter 80, the property owner shall be personally liable for the repayment of the total costs incurred by the city or town under this section; provided, however, that upon assumption of the personal obligation by a purchaser or other transferee of all of the original owner's interest in the property at the time of conveyance and the recording of the assumption, the owner shall be relieved of the personal liability.

A betterment loan agreement between an owner and a city or town under this section shall not be considered a breach of limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

Notwithstanding any provision of chapter 183A to the contrary, the organization of unit owners of a condominium may enter into a betterment loan agreement under this section to finance an energy conservation and renewable energy project provided that the project comprises part of the common areas and facilities. The agreement shall: (i) be approved by a majority of the unit owners benefited by the project; (ii) include an identification of the units and unit owners subject to the agreement and the percentages, as set forth in the master deed, of the undivided interests of the respective units in the common area and facilities; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the city or town, the certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of the agreement shall be recorded as a betterment in the registry of deeds or registry district of the land court where the master deed is recorded and shall be otherwise subject to the provisions of chapter 80 as provided for in this section. The assessment under the agreement may be charged or assessed to the organization of units owners but shall not constitute an assessment of common expenses. Instead, the allocable share of the assessment, prorated on the basis of the percentage interests of the benefited units in the common areas and facilities, shall attach as a lien only to the units identified in the recorded notice and benefited by the project and the owners of those units shall also be personally liable for their allocable

share of the assessment as provided for in this section. Words defined in section 1 of said chapter 183A and used in this paragraph have the same meanings as appearing in said chapter 183A.

(g) The fund administrator shall file annually no later than June 30 a report detailing the amount of money in the fund, loans made, and repayments received, and shall also include the types of projects financed. The report shall be filed with the chief executive officer of the city or town, the executive office of administration and finance, the joint committee on municipalities and regional government, the senate and house committees on ways and means, and the clerks of the senate and the house of representatives.

SECTION 34. Section 8 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:—

The commissioner shall make, and from time to time revise, rules, regulations and guidelines necessary for establishing an expedited procedure for granting authority to abate taxes, assessments, rates, charges, costs or interest under this section in such cases as he determines are in the public interest and shall from time to time for such periods as he considers appropriate authorize the assessors or the board or officer assessing the tax, assessment, rate or charge, to grant these abatements. No abatement authorized by these procedures shall be granted unless the assessors or board or officer shall certify, in writing, under pains and penalties of perjury that the procedures have been followed. The commissioner shall require yearly reports and audits of these abatements by assessors or boards or officers that the commissioner considers necessary to ensure that any authority granted under this paragraph has been properly exercised, and shall withdraw this grant of authority to any particular assessors, board or officer upon his written determination that the authority has been improperly exercised. The commissioner may make, and from time to time revise, reasonable rules, regulations, and guidelines that he considers necessary to carry out this paragraph.

SECTION 35. Section 29 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words 'thirty days after the mailing of the tax bills' and inserting in place thereof the following words:— the last day for filing an application for abatement of the tax.

SECTION 36. Said chapter 59, as appearing in the 2008 Official Edition, is hereby further amended by inserting after section 31 the following section:—

Section 31A. For the purpose of verifying that a person required to file a true list of taxable personal property under section 29 has made a complete and accurate accounting of that property, the assessors may at any time within 3 years after the date the list was due, or the date the list was filed, whichever is later, examine the books, papers, records and other data of the person required to file the list. The assessors may compel production of books, papers, records and other data of the person through issuance of a summons served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth, and all provisions of law relative to summonses in such cases shall, so far as applicable, apply to summonses issued under

Municipal
relief.

this section. Any justice of the supreme judicial court or of the superior court may, upon the application of the assessors, compel the production of books, papers, records and other data in the same manner and to the same extent as before the said courts.

SECTION 37. Section 32 of said chapter 59, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:— Lists filed under section 29 and books, papers, records and other data obtained under section 31A, shall be open to the inspection of the assessors, the commissioner, the deputies, clerks and assistants of either the assessors or the commissioner and any designated private auditor of the commissioner or the assessors as may have occasion to inspect the lists, books, papers, records and other data in the performance of their official, contractual or designated duties, but so much of the lists, books, papers, records and other data as shows the details of the personal estate shall not be open to any other person except by order of a court. For purposes of this section, a designated private auditor shall be an individual, corporation or other legal entity selected by the commissioner or any city or town to value personal property or perform an audit which includes the assessing department of a city or town under any legal authority, including the examination of records under section 31A, an audit under sections 40 or 42A of chapter 44 or an investigation under section 46A of chapter 44.

SECTION 38. Section 38D of chapter 59 is hereby amended in paragraph two by striking the first sentence and inserting in place thereof the following sentence:— Failure of an owner or lessee of real property to comply with such request within 60 days after it has been made by the board of Assessors shall be automatic grounds for dismissal of a filing at the appellate tax board. The appellate tax board and the county commissioners shall be prohibited from granting extensions for the purposes of extending the filing requirements unless the applicant was unable to comply with such request for reasons beyond his control or unless he attempted to comply in good faith.

SECTION 39. Said chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby further amended by inserting after section 42 the following section:—

Section 42A. For the purpose of verifying that any owner of a pipeline or a telephone or telegraph company required to make a return under section 38A or 41 has made a complete and accurate accounting of the property required to be returned, the commissioner shall have all the powers and remedies provided by section 31A to assessors of cities and towns. If the commissioner reasonably believes, as a result of an examination of books, papers, records, and other data or otherwise, that taxable personal property for a fiscal year was not valued or was incorrectly valued, the commissioner may, not later than 3 years and 6 months after the date the return was due, or the date the return was filed, whichever is later, certify an amended valuation to the owner of the pipeline or telephone or telegraph company and boards of assessors of the cities and towns where the property was subject to taxation for that year. Not later than 2 months after the date of the amended certification, the assessors shall assess and commit to the collector with their warrant for collection an additional tax to the owner of the pipeline or

telephone or telegraph company. Any owner or company aggrieved by the assessment of the additional tax may, within 1 month after the bill or notice of the additional assessment is first sent, appeal the valuation to the appellate tax board. The appeal shall name as appellees the commissioner and board of assessors. Except as otherwise provided in this section, the hearing and appeal before the appellate tax board shall proceed in the same manner as an appeal of the valuations originally certified by the commissioner.

SECTION 40. Section 61 of said chapter 59, as so appearing, is hereby amended by inserting after the word 'twenty-nine', in line 4, the following words:— , and complied with any requests by the assessors to examine books, papers, records, and other data under section 31A.

SECTION 41. Said section 61 of chapter 59, as so appearing, is hereby further amended by inserting after the word 'twenty-nine', in line 6, the following words:— , or the person has not complied with any requests by the assessors to examine books, papers, records, and other data under section 31A.

SECTION 42. Section 75 of said chapter 59, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following 3 sentences:— If any parcel of real property or the personal property of a person has been unintentionally omitted from the annual assessment of taxes due to clerical or data processing error or other good faith reason, or if the personal property of a person was omitted from the annual assessment of taxes but discovered upon an examination of books, papers, records, and other data under section 31A, the assessors shall in accordance with any rules, regulations and guidelines as the commissioner may prescribe, assess such person for such property. Except for personal property found after an examination under section 31A which shall be made no later than 3 years and 6 months after the date the true list in which such property should have been returned was due, or the date the return was filed, whichever is later, no such assessment shall be made later than June 20 of the taxable year, or 90 days after the date on which the tax bills are mailed, whichever is later. The assessors shall annually, not later than June 30 of the taxable year, or 100 days after the date on which the tax bills are mailed, if mailed after March 22, return to the commissioner a statement showing the amounts of additional taxes so assessed.

SECTION 43. Section 76 of said chapter 59, as so appearing, is hereby amended by inserting after the word 'reason', in line 3, the following words:— , or due to discovery upon an examination of books, papers, records, and other data under section 31A that the property was not accurately or properly reported.

SECTION 44. Chapter 60 of the General Laws is hereby amended by striking out section 3A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:—

Section 3A. (a) Every bill or notice shall be in a form approved by the commissioner and shall summarize the deadlines under section 59 of chapter 59 for applying for abatements and exemptions. Every bill or notice shall also have printed on it the last date for the assessed owner to apply for abatement and for exemptions under clauses other than those specifically listed in said section 59 of said chapter 59. Except in the case of a bill or notice for reassessed taxes under sec-

Municipal
relief.

tion 77 of said chapter 59, every bill shall also have printed on it the last date on which payment can be made without interest being due. If a bill or notice contains an erroneous payment or abatement application date that is later than the date established under said chapter 59, the date printed on the bill or notice shall be the deadline for payment or for applying for abatement or exemption, but if the error in the date is the wrong year, the due date shall be the day and month as printed on the bill but for the current year. The commissioner may require, with respect to any city or town, that the tax bill or notice include such information as he may determine to be necessary to notify taxpayers of changes in the assessed valuation of the property. Every bill or notice for real or personal property tax shall have printed thereon in a conspicuous place the tax rate for each class within the town, as determined by the assessors. In addition, every bill or notice for a tax upon real property shall identify each parcel separately assessed by street and number or, if no street number has been assigned, by lot number, name of property or otherwise, shall describe the land, buildings and other things erected on or affixed to the property and shall state for each such parcel the assessed full and fair cash valuation, the classification, the residential or commercial exemption, if applicable, the total taxable valuation and the tax due and payable on such property. If the assessors have granted the owner an exemption under any clause specifically listed in said section 59 of said chapter 59, the bill or notice of such owner may also show the exemption and the tax, as exempted, that is due and payable on such property.

(b) The collector may issue the bill or notice required by section 3 in electronic form, provided that the electronic bills or notices meet the standards set forth in subsection (a). Any electronic bills or notices issued shall be under voluntary programs established by the collector with the approval of the board of selectmen, or mayor, as the case may be. No political subdivision shall require its taxpayers to take part in an electronic billing system or program.

(c) The collector may include in the envelope or electronic message in which property tax bills are sent those bills or notices for rates, fees and charges assessed by the city or town for water or sewer use, solid waste disposal or collection, or electric, gas or other utility services as may be authorized by ordinance or by-law, provided that the bills or notices shall be separate and distinct from the property tax bills. The ordinance or by-law may authorize the collector, upon vote of any municipal water and sewer commission established by the city or town under chapter 40N or a special act, to include bills or notices for rates, fees or charges assessed by the commission for water or sewer use.

(d) The collector may, with the approval of the board of selectmen, or mayor, as the case may be, include in the envelope or electronic message in which property tax bills are sent nonpolitical municipal informational material; provided, however, that such nonpolitical municipal informational material is mailed, it shall not be included if the material causes an increase in the postage required to mail the tax bill.

SECTION 45. Section 2 of chapter 60A, as so appearing, is hereby amended by inserting after the word 'section', in line 42, the following words:— and the due date shall be clearly indicated on the tax notice.

SECTION 46. Section 37 of chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end of line 6, the following sentence:— The school committee in each city and town and regional school district shall have the authority to select a superintendent jointly with one or more other school committees and said superintendent shall serve as the superintendent of all of the districts that selected him.

SECTION 47. Chapter 71 of the General Laws is hereby amended by inserting after section 37M the following section:—

Section 37M½. For any city or town accepting the provisions of this section, not earlier than December first of each alternating year beginning in 2010, and not later than January thirty-first of every other year, the superintendent of schools for each school district serving such municipality shall meet with the mayor, town manager, or chief municipal officer or his designee for that municipality to review the fiscal status of the school district budget and to identify opportunities for cost savings and efficiencies and any potential methodologies, including, but not limited to, joint procurement or consolidation of redundant functions. The results of each meeting shall be transmitted to the local legislative body and the local school committee not later than 30 days after the meeting.

SECTION 48. Chapter 111C of the General Laws is hereby amended by adding the following section:—

Section 25. When a class I, II or V ambulance, as defined in 105 CMR 170.455, 170.460 and 170.470, transports a patient receiving care at the paramedic level of advanced life support, as defined in 105 CMR 170.295, the ambulance must be staffed with a minimum of 2 emergency medical technicians, only 1 of whom must be certified at the EMT-Paramedic level, as defined in 105 CMR 170.840.

SECTION 49. Chapter 176D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 3B the following new section:—

Section 3C. (a) As used in this section the following words, shall unless the context clearly requires otherwise, have the following meanings:—

'Ambulance Service Provider', a person or entity licensed by the department of public health under section 6 of chapter 111C to establish or maintain an ambulance service.

'Ambulance Services', 1 or more of the services that an ambulance service provider is authorized to render under its ambulance service license.

'Insurance Policy' and 'Insurance Contract', a contract of insurance, motor vehicle insurance, indemnity, medical or hospital service, dental or optometric, suretyship, or annuity issued, proposed for issuance or intended for issuance by any insurer.

'Insured', an individual entitled to ambulance services benefits under any insurance policy or insurance contract.

'Insurer', a person as defined in section 1 of chapter 176D; any health maintenance organization as defined in section 1 of chapter 176G; a non-profit hospital service corporation organized under chapter 176A; any organization as defined in section 1 of chapter 111I that participates in a preferred provider arrangement also as defined in

Municipal
relief.

said section 1 of said chapter 111I; any carrier offering a small group health insurance plan under chapter 176J; any company as defined in section 1 chapter 175; any employee benefit trust; any self-insurance plan, and any company certified under section 34A of chapter 90 and authorized to issue a policy of motor vehicle liability insurance under section 113A of chapter 175 that provides insurance for the expense of medical coverage.

(b) Notwithstanding any general or special provision of law to the contrary, in any instance in which an ambulance service provider provides an ambulance service to an insured but is not an ambulance service provider under contract to the insurer maintaining or providing the insured's insurance policy or insurance contract, the insurer maintaining or providing such insurance policy or insurance contract shall pay the ambulance service provider directly and promptly for the ambulance service rendered to the insured. Such payment shall be made to the ambulance service provider notwithstanding that the insured's insurance policy or insurance contract contains a prohibition against the insured assigning benefits thereunder so long as the insured executes an assignment of benefits to the ambulance service provider, and such payment shall be made to the ambulance service provider in the event an insured is either incapable or unable as a practical matter to execute an assignment of benefits under any insurance policy or insurance contract pursuant to which an assignment of benefits is not prohibited, or in connection with an insurance policy or insurance contract that contains a prohibition against any such assignment of benefits. An ambulance service provider shall not be considered to have been paid for an ambulance service rendered to an insured, if the insurer makes payment for said ambulance service to the insured. An ambulance service provider shall have a right of action against any insurer that fails to make any payment to it pursuant to this subsection.

SECTION 50. Section 9A of chapter 200A of the General Laws, as so appearing, is hereby amended by striking it out in its entirety and inserting in place thereof the following:—

(a) This section shall apply to abandoned funds, as determined herein, held in the custody of cities, towns or districts that have accepted the provisions of this section pursuant to section 4 of chapter 4 of the general laws. In the case of such cities, towns or districts accepting the provisions of this section there shall be an alternative procedure for disposing of abandoned funds held in the custody of such cities, towns or districts as provided in this section, and only this section shall apply to the disposition of such funds.

(b) Any funds held in the custody of a city, town or district that has accepted this section may be presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation, organization, beneficiary or person entitled thereto within one year after the date prescribed for payment or delivery, provided the last instrument intended as payment bears upon its face the statement 'void if not cashed within one year from date of issue.' Once a period of one year has elapsed from the date of any such instrument, the treasurer of any such city, town or district may cause the financial institution upon which the instrument was drawn to stop payment on the instrument, or otherwise cause the financial institution to decline payment on the

instrument, and any claims made beyond this date may only be paid by the city, town or district through the issuance of a new instrument. Neither the city, town, district nor financial institution shall be liable for damages, consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district submitted for payment more than one year from its issuance.

(c) The treasurer of a city, town or district holding funds owed to a corporation, organization, beneficiary or person entitled thereto, that are presumed to be abandoned as aforementioned, shall post a notice, which notice shall be entitled 'Notice of Names of Persons appearing to be Owners of funds held by (insert city, town or district name), and deemed abandoned.' The notice shall specify those who appear from available information to be entitled to such funds, shall provide a description of the appropriate method for claiming such funds, and shall state a deadline beyond which funds may no longer be claimed, provided such deadline is no earlier than 60 days from the date such notice was either postmarked or first posted on a website as herein provided. The treasurer of such city, town or district may post such notice using the following methods: (1) by mailing such notice postpaid to the last known address of the beneficiary or person entitled thereto, sent via first class mail, and (2) if the city, town or district maintains an official website the said treasurer may, post the notice conspicuously on said website for a period of not less than 60 days. After 60 days from the mailing or posting of the notice, if the apparent owner fails to respond, the treasurer shall cause a notice of the check to be published in a newspaper of general circulation which is printed in English in the county in which the city or town is located.

(d) In the event funds appearing to be owed to a corporation, organization, beneficiary or person amount to \$100 or more, and the deadline as provided in the aforementioned notice has passed, and no claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the same form as the aforementioned notice, to be published in a newspaper of general circulation in the county (or counties) in which the city, town or district is located, except that this notice shall provide an extended deadline beyond which funds cannot be claimed, which shall be no earlier than one year from the date of publication of such notice.

(e) Once the final deadline of the aforementioned notice(s) has passed, the funds owed to such corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the general fund of the city, town or district, and the city, town or district shall not thereafter be liable to the corporation, organization, beneficiary or person for payment of those funds, nor for the underlying liability for which the funds were originally intended. These funds shall then be available to the city, town or district's appropriating authority for appropriation for any other public purpose. In addition to the notices herein provided for, the treasurer of the city, town or district may initiate any other notices or communications that are directed in good faith toward making final disbursement of the funds to the corporation, organization, beneficiary or person entitled thereto.

Municipal relief.

Prior to escheatment of the funds, the treasurer of the city, town or district shall hear all claims on funds that may arise, and if it is clear, based on a preponderance of the evidence available to the treasurer at the time the claim is made that the claimant is entitled to disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification agreement from the claimant wherein the claimant agrees to hold the city, town or district and the treasurer of the city, town or district harmless in the event it is later determined that the claimant was not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a separate, interest bearing, bank account and shall notify the claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days to the district, municipal or superior court of the county in which the city, town or district is located. The claimant shall have a trial de novo. An appeal shall be perfected by the claimant within 20 days after receiving notice of this action by the city, town or district treasurer. A 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 20 days from the date of the decree.

If the validity of the claim shall be determined in favor of the claimant or another party, the treasurer shall disburse funds to the claimant in accordance with the order of the court, including interest accrued. If the validity of the claim is determined to be not in favor of the claimant or any other party, or if the treasurer does not receive notice that an appeal has been filed within one year from the date the claimant was notified that funds were being withheld, then the funds, plus accrued interest, shall escheat to the city, town or district in the manner herein provided.

If the claimant is domiciled in a country or state outside the United States or its territories and the city, town or district determines that there is no reasonable assurance that the claimant will actually receive the payment provided for in this section in substantially full value, the superior court, in its discretion or upon a petition by the city, town or district may order that the city, town or district retain such payment.

SECTION 51. (a) The terms used in this section shall have the following meanings unless the context clearly requires otherwise:

'Amnesty period', a period of time commencing not earlier than the date a municipal legislative body establishes a municipal tax amnesty program according to this act and expiring on June 30 2011 or on such earlier date as the municipal legislative body might determine, during which the municipal tax amnesty program established by the municipal legislative body shall be in effect in that city or town.

'Collector', as defined in section 1 of chapter 60 of the General Laws.

'Covered amount', the aggregate of all penalties, fees, charges and accrued interest assessed by the collector or treasurer for the failure of a certain taxpayer to timely pay a subject liability; provided, that the covered amount shall not include the subject liability itself.

'Municipal tax amnesty program', a temporary policy whereby a city or town forever waives its right to collect all or any uniform proportion of the covered amount, as determined by the local enacting authority, then due from any person who, prior to the expiration of the amnesty period, voluntarily pays the collector or treasurer the full amount of the subject liability that serves as the basis for said covered amount; provided, that a municipal tax amnesty program shall not include any policy that enables or requires a city or town to waive its right to collect the covered amount from any person who, as of the time the amnesty period commences, is or was the subject of a criminal investigation or prosecution for failure to pay the city or town any subject liability or covered amount.

'Subject liability', the principal amount of a particular tax or excise liability payable by a taxpayer under chapter 59, 60, 60A, or 60B of the General Laws, as determined by the municipal legislative body.

'Treasurer', as defined in chapter 41 of the General Laws.

(b) Notwithstanding any general or special law to the contrary, the municipal legislative body in any city or town may vote to establish a municipal tax amnesty program according to the provisions of this section and shall, at the same time as such vote, determine the amnesty period. Tax amnesty periods shall not extend beyond June 30, 2011. The commissioner of revenue may issue such guidelines as he deems appropriate to carry out this section."

The amendments were adopted.

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. Donato of Medford; and on the roll call (Mr. Donato being in the Chair) 156 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 358 in Supplement.]

Therefore the bill (House, No. 4631, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Reports of a Committee.

By Mr. Kakfa of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill prohibiting certain election practices (House, No. 557) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kakfa of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill relative to historic stone walls (House, No. 1694) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Michlewitz of Boston, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kakfa of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill relative to the transportation of swimming pools (House, No. 4025) be scheduled for consideration by the House.

Bill passed to be engrossed,—yea and nay No. 358.

Election practices.

Historic stone walls.

Swimming pools,—transportation.

Under suspension of Rule 7A, on motion of Mr. Bradley of Hingham, the bill was read a second time forthwith; and it was ordered to a third reading.

Recess.

At twenty-five minutes after six o'clock P.M.; on motion of Mr. Moran of Boston (Mr. Donato of Medford being in the Chair), the House recessed until a quarter after seven o'clock; and at twenty-eight minutes after seven o'clock the House was called to order with Mr. Donato in the Chair.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), 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 146 members were recorded as being in attendance.

[See Yea and Nay No. 359 in Supplement.]

Therefore a quorum was present.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600) was read a second time.

After remarks on the question on ordering it to a third reading, Mr. Frost of Auburn moved to amend the bill by inserting after section 47 the following section:

"SECTION 47A. Section 6 of chapter 62 of the General Laws, as most recently amended by chapter 166 of the Acts of 2009, is hereby further amended by adding the following subsection:—

(q)(1) A taxpayer who pays for direct home health services for an elderly parent or in law 60 years of age or older who resides in the commonwealth shall be allowed a credit of \$5000. (2) A taxpayer who pays for his own home health care services shall be allowed a credit of \$5000. (3) A taxpayer who pays for direct home hospice services for another of any age shall be allowed a credit of \$5000."

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. Frost; and on the roll call 22 members voted in the affirmative and 134 in the negative.

[See Yea and Nay No. 360 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 28 the following section:

"SECTION 28A. Section 55 of chapter 27 of the acts of 2009 is hereby repealed."

And by inserting after section 49 (as printed) the following section:

General Appropriation Bill.

Amendment rejected,—yea and nay No. 360.

"SECTION 49A. Section 28A shall be effective July 1, 2011."

Pending the question on adoption of the amendments, Mr. Kaufman of Lexington moved to amend them by adding at the end of the proposed sections 28A and 49A, 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 executive office of administration and finance and the department of revenue has furnished a study of its impact on the state's economy and 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 revenue and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution."

After debate on the question on adoption of the further amendments, at one minute before nine o'clock P.M.; on motion of Ms. Malia of Boston (Mr. Donato of Medford being in the Chair), the House recessed until the following day at ten o'clock A.M.; and at that time the House was called to order with Mr. Donato in the Chair.

Recess.

Tuesday, April 27, 2010 (at 10:00 o'clock A.M.).

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

Gracious God, You are our ever-present source of inspiration, guidance and courage. Once again, at the opening of today's legislative session, we turn our attention to You and spiritual values and principles. Often we are busy with tasks to accomplish and places to go so that we sometimes overlook You and Your presence in our lives. As we address the items on today's calendar let our hearts and minds be filled with Your peace, light, hope and joy. In resolving the current needs of the people and the Commonwealth may we be mindful of the needs of future generations. Teach us to be aware of the debt of gratitude we owe to our predecessors who labored to make Massachusetts safe, prosperous, with a deep concern for children, families and the elderly.

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

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Prayer.

Pledge of allegiance.

Statement of Representative Bosley of North Adams.

A statement of Mr. Bosley of North Adams was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for yesterday's session due to business in my district. Had I been present for the taking of the yeas and nays on the question on passing to be engrossed the municipal relief bill, I would have voted in the affirmative. My missing of roll calls yesterday was due entirely to the reason stated.

Statement of Mr. Bosley of North Adams.

Guests of the House.

Former professional athletes supporting concussion prevention.

During the session, Mr. Kujawski took the Chair for the purpose of introducing noted former professional athletes: Ted Johnson, former Patriot's linebacker and three time Superbowl champion; Bob Sweeney, former Boston Bruin; Jason Zent, former NHL player; Micky Ward, boxing legend; and Chris Nowinski, former WWE wrestler and co-director of the Center for the Study of Traumatic Encephalopathy. The distinguished former athletes were visiting the State House in support of concussion prevention in young student athletes. Mr. Nowinski then addressed the House briefly.

Papers from the Senate.

Somerville,—land transfer.

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the city of Somerville to the Somerville housing authority (Senate, No. 2286, 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 authorize forthwith the division of capital asset management and maintenance to convey a certain parcel of land in the city of Somerville for the creation of affordable housing for elderly residents, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience".) [Local Approval Received], passed to be engrossed by the Senate was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Middlefield,—recall election.

A Bill relative to recall in the town of Middlefield (Senate, No. 2391) (on Senate bill No. 2129) [Local Approval Received], passed to be engrossed by the Senate was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Report of Committee.

Musical instruments.

By Ms. Walz of Boston, for the committee on Education, on House, No. 111, a Bill requiring the sterilization of musical instruments in schools (House, No. 4633). Referred, under Joint Rule 1E, to the committee on Health Care Financing.

Recesses.

Recesses.

At twelve minutes after ten o'clock A.M. (Tuesday, April 27), on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed until twenty minutes after ten o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on further motion of Mr. Peterson, until the hour of eleven o'clock; and at that time the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Resolutions.

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

Resolutions (filed by Mr. Fernandes of Milford) congratulating Colin Joseph Chabot on earning the Eagle Scout Award; and

Colin Joseph Chabot.

Resolutions (filed by Mr. Frost of Auburn and other members of the House) commending the Massachusetts letter carriers on their eighteenth anniversary of dedicated service to the food banks, food pantries and shelter of the Commonwealth of Massachusetts;

Letter carriers.

Mr. Binienda of Worcester, 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. Scibak of South Hadley, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Engrossed Bills.

The engrossed Bill designating the library at the Corrigan Mental Health Center in the city of Fall River as the Ralph A. Roberts Library (see House, No. 4364) (which originated in the House), in respect to which the Senate had concurred in the adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted.

The engrossed Bill designating a portion of Route 2 as the Dennis Rindone Roadway (see House, No. 1889) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted.

Quorum.

Mr. Peterson thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

Quorum roll call,—yea and nay No. 361.

[See Yea and Nay No. 361 in Supplement.]

Therefore a quorum was present.

Orders of the Day.

The House Bill authorizing Edward Grace to take civil service examinations notwithstanding maximum age requirements (House, No. 2551) (its title having been changed by the committee on Bill in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Edward Grace.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered, the main question being on ordering the bill to a third reading.

General Appropriation Bill.

The further amendments (offered at the previous session by Mr. Kaufman of Lexington) to the amendments offered by Mr. Jones and other members of the House then also were considered.

On the question on adoption of the further amendments, the sense of the House was taken by yeas and nays at the request of Ms. Polito of Shrewsbury; and on the roll call 88 members voted in the affirmative and 67 in the negative.

[See Yeas and Nays No. 362 in Supplement.]

Therefore the further amendments were adopted.

The amendments, as amended, then also were adopted. Mr. Pedone of Worcester moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 28A (inserted by amendment) the following section:

“SECTION 28B. Sections 53, 56, 57, and 59 of chapter 27 of the acts of 2009 are hereby repealed.”; and

By inserting after section 49A (inserted by amendment) the following section:

“SECTION 49B. Section 28B shall be effective July 1, 2011.”.

Pending the question on adoption of the amendments, Mr. Kaufman of Lexington moved to amend them by adding at the end of the proposed sections 28B and 49B, 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 and Massachusetts state lottery commissions has furnished a study of its impact on the state’s economy and 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 revenue and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

Mr. Peterson thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), 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 148 members were recorded as being in attendance.

[See Yeas and Nays No. 363 in Supplement.]

Therefore a quorum was present.

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 Mr. Peterson of Grafton; and on the roll call 97 members voted in the affirmative and 57 in the negative.

[See Yeas and Nays No. 364 in Supplement.]

Therefore the further amendments were adopted.

The amendments, as amended, then also were adopted. Mr. Murphy of Burlington moved that this vote be reconsidered; and the motion to reconsider was negatived.

Representatives Barrows of Foxborough and Poirier of North Attleborough then moved to amend the bill by adding the following section:

“SECTION 52. Section 6 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking subsection (i) and inserting in place thereof the following subsection:—

Any owner of residential property located in the commonwealth who is not a dependent of another taxpayer and who occupies said property as his principal residence, shall be allowed a credit equal to 40 per cent of the expenditures for design and construction expenses for the repair or replacement of a cesspool or septic system pursuant to the provisions of Title V as promulgated by the department of environmental protection in 1995. Said expenditures shall be the actual cost to the taxpayer or \$10,000, whichever is less; provided, however, that said credit shall be available to eligible taxpayers beginning in the tax year in which the repair or replacement of said cesspool or septic system was completed; and provided, further, that said credit shall not exceed \$1,000 in any tax year and any excess credit may be applied over the following four subsequent tax years up to an aggregate maximum of \$4,000. The amount of any such credit shall be reduced by an amount equal to the total interest subsidy or grant received from the commonwealth, whether directly or indirectly, toward the cost of said expenditures. The department shall promulgate such rules and regulations as are necessary to administer the credit afforded by this subsection, including, but not limited to, a notification system by the commonwealth to recipients of said interest subsidy or grant of the amount of the total subsidy provided by the commonwealth.”.

After debate the amendment was rejected.

Mr. Kujawski of Webster then moved to amend the bill by adding the following section:

“SECTION 52. Notwithstanding any general or special law to the contrary, an endowment fund shall be an institutional fund of a private institution of higher learning not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

Any private institution of higher learning that has an endowment fund in excess of \$1,000,000,000 shall be subject to an annual excise of 2½ percent of all monies in excess of \$1,000,000,000.”.

Pending the question on adoption of the amendment, Mr. Torrisi of North Andover moved to amend it by adding 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 executive office for administration and finance and the department of revenue has furnished a study of its impact on the state’s economy and revenue cost to the commonwealth, 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 house and senate committees on ways and means and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

After debate the further amendment was adopted.

The amendment, as amended, then also was adopted.

Further amendments adopted,—yeas and nays No. 362.

Quorum.

Quorum roll call,—yeas and nays No. 363.

Further amendments adopted,—yeas and nays No. 364.

General Appropriation Bill.

Mr. Mariano of Quincy being in the Chair,— Mr. Patrick of Falmouth then moved to amend the bill by adding the following section:

“SECTION 53. Section 4 of Chapter 62 of the General Laws as appearing in the 2008 Official edition is hereby amended by striking subsection (a) (2) and inserting in place thereof the following subsection (a) (2) Part A taxable income consisting of interest and dividends shall be taxed at the rate of 12% provided that for any taxpayer who is 65 years of age or older and is not a dependent of another taxpayer the first \$5000 of interest and dividends shall be exempt.”

Quorum.

After remarks on the question on adoption of the amendment, Mr. Pedone of Worcester asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum roll call—yea and nay No. 365.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 365 in Supplement.]

Therefore a quorum was present.

Amendment rejected—yea and nay No. 366.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Patrick of Falmouth; and on the roll call 9 members voted in the affirmative and 147 in the negative.

[See Yea and Nay No. 366 in Supplement.]

Therefore the amendment was rejected.

Mr. Webster of Pembroke then moved to amend the bill by inserting after section 20 the following section:

“SECTION 20A. Section 6 of chapter 64H of the General Laws is hereby amended by inserting after subsection (xx) the following:—

(yy) Allowances afforded to a purchaser in a bundled cellular telephone transaction, so-called. For the purposes of this subsection, allowances exempt from taxation shall be the difference between the amount the dealer charges for a particular telephone in a bundled transaction and the price the dealer would charge for that same telephone in an unbundled transaction.”

After remarks the amendment was rejected.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill by inserting after section 20 the following section:

“SECTION 20A. Section 23 of chapter 64H of the General Laws is hereby repealed.”; and

By inserting after section 21 the following section:

“SECTION 21A. Paragraph (4) of subsection (A) of section 3 of chapter 90C of the General Laws, as amended by section 73 of chapter 27 of the acts of 2009, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:— A violator may contest responsibility for the infraction by making a signed request for a noncriminal hearing on the back of the citation and mailing such citation, together with a \$25 fee, to the registrar at the address indicated on the citation within 20 days of the citation. Such fees shall be transferred by the registrar to the state treasurer for deposit in the General Fund.”.

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. Peterson of Grafton; and on the roll call 139 members voted in the affirmative and 18 in the negative.

Amendments adopted,—yea and nay No. 367.

[See Yea and Nay No. 367 in Supplement.]

Therefore the amendments were adopted.

The bill (House, No. 4600, amended) then was ordered to a third reading.

Recess.

At twenty-one minutes before seven o'clock P.M. (Tuesday, April 27), on motion of Mr. Hill of Ipswich (Mr. Mariano of Quincy being in the Chair), the House recessed until half past seven o'clock; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), 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 (Mr. Petrolati of Ludlow being in the Chair) 143 members were recorded as being in attendance.

Quorum roll call—yea and nay No. 368.

[See Yea and Nay No. 368 in Supplement.]

Therefore a quorum was present.

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

Pending the question on passing the bill, as amended, to be engrossed, Ms. Wolf of Cambridge and other members of the House moved to amend it in section 2, in item 9110-1660, by adding the words “; provided, that funds may be expended for Naturally Occurring Retirement Communities”. The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 47 (as printed) the following section:

“SECTION 47A. There shall be a special commission to be referred to as the MassHealth Cost Control Commission to investigate the use of co-payments for MassHealth members with the goal of encouraging the most cost effective use of health care resource. The investigation shall include, but not be limited to, the study of savings that would result from charging a small co-payment for the use of emergency care in non-emergency situations, in order to discourage the inappropriate use of health care resources. Inappropriate use of health care resources may be defined as an instance in which an individual seeks care in an emergency room department but whose medical needs do not warrant in-patient medical care.

The commission shall investigate possible cost-savings for the MassHealth program and any positive and negative deterrent effects a co-payment will have on MassHealth members, in encouraging members to use primary care rather than emergency care in non-emergency situations.

The MassHealth Cost Control Commission shall consist of 9 members. 1 member who shall be a representative of a major hospital within the commonwealth, appointed by the Governor; 1 member who

General
Appropriation
Bill.

shall be an advocate for MassHealth members, appointed by the director of Medicaid; 1 member who shall be an expert in national health care policy, appointed by the Governor; 1 member who shall be a representative of MassHealth, appointed by the director of Medicaid; 1 member who shall be a taxpayer's advocate, appointed by the Governor; 1 member of the senate, appointed by the senate president; 1 member, appointed by the senate minority leader; 1 member of the house of representatives, appointed by the speaker of the house; and 1 member, appointed by the house minority leader.

The Commission shall submit its report and findings, along with any draft of legislation, to the house and senate committees on ways and means, the joint committee on health care financing, and the clerks of the house of representatives and the senate within 90 days of the passage of this act."

The amendment was adopted.

The Chair (Mr. Petrolati of Ludlow) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 128 members voted in the affirmative and 28 in the negative.

[See Yeas and Nays No. 369 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Jones of North Reading and other members of the House then moved to amend the bill [A] by inserting after section 21A (inserted by amendment) the following section:

"SECTION 21B. Chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following new section:—

Section 63. The executive office of health and human services shall discontinue membership in the MassHealth fee-for-service program and primary care clinician plan, and shall begin enrolling all members meeting eligibility requirements as established pursuant to applicable federal and state law and regulation, and for whom the discontinuation would result in cost savings for the MassHealth program, into a Medicaid managed care organization that has contracted with the commonwealth to deliver such managed care services, in accordance with the enrollment and assignment processes for other eligible categories and at the appropriate levels of premium. The office shall submit a report to the joint committee on health care financing and the clerks of the house and the senate by June 30, 2011 detailing which members it has newly enrolled in a Medicaid managed care organization, which members it has maintained in the MassHealth fee-for-service program and primary care clinician plan, and an actuarial justification for those members who have not been transferred to a Medicaid managed care organization."

Pending the question on adoption of the amendment, Ms. L'Italien of Andover moved to amend it by striking out the text of said amendment [at "A"] and inserting in place thereof the following:— in section 2, in item 4000-0300, by adding the following "; provided further, that a managed care advisory committee shall be convened to study the

impact of restructuring the commonwealth's Medicaid program by moving to a program of all-managed care, provided further that the advisory committee shall consist of the secretary of administration and finance who shall serve as chair, the secretary of health and human services, the commissioner of the division of health care finance and policy, the director of Medicaid, the executive director of the Commonwealth Health Insurance Connector Authority, the chair of the House Committee on Ways and Means, the chair of the Senate Committee on Ways and Means, the chairs of the joint committee on health care financing, one member representing the House minority party, one member representing the Senate minority party, one member representing the Massachusetts Association of Health Plans, one member of the Massachusetts Medical Society who shall be a practicing primary care physician, one member representing the Massachusetts Hospital Association; provided further that the advisory committee shall compare the MCO program and Primary care clinical plan, and determine the overall financial impact that moving to a program of all managed-care will have on the Medicaid budget, including, but not limited to, an estimation of the potential increase or decrease in programmatic costs, the potential for improvements in the quality and continuity of care provided to MassHealth members, the potential for improvements to access to disease management and care coordination programs, the impact on MassHealth special populations, the potential impact on access to behavioral health services, the advantages and disadvantages of providing the full range of services across the continuum of care in an integrated setting, the ability to assure accountability through the reporting of data on quality metrics, and the potential for addressing racial and ethnic disparities; provided further that in conducting this analysis the organization shall use actual and existing Medicaid and managed care data; provided further that the executive office of health and human services shall make any data requested available in a timely manner; provided further that for the purpose of conducting this analysis the executive office of administration and finance, in consultation with the managed care advisory committee and subject to appropriation, shall contract with an independent, outside organization with expertise in fiscal analysis of the Medicaid program and the managed care model within state Medicaid programs by August 2, 2010; provided further that the advisory committee shall file a report of its findings with the clerks of the senate and house of representatives, the house and senate committees on ways and means, and the joint committee on health care financing no later than November 15, 2010."

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 125 members voted in the affirmative and 31 in the negative.

[See Yeas and Nays No. 370 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Cabral of New Bedford then moved to amend the bill in section 30, in the second paragraph, at the end of the first sentence, by striking out the following "; provided, however, that only those persons that are enrolled in the health insurance plan established pursuant

Further
amendment
adopted,—
yeas and nays
No. 370.

Suspension of
Rule 1A.

Rule 1A
suspended,—
yeas and nays
No. 369.

General Appropriation Bill.

to section 31 of chapter 65 of the acts of 2009 shall be eligible to enroll in the plan authorized by this section”.

The amendment was adopted.

Mr. Donato of Medford of Medford being in the Chair,— Mr. Murphy of Burlington and other members of the House moved to amend the bill in section 2, in item 1410-0010, by inserting after the words “Glory 54th Brigade” the following “; provided further, the secretary of veterans’ affairs shall submit a report to the joint committee on veterans and federal affairs and the house and senate committees on ways and means not later than December 1, 2010 on the effectiveness and efficiency of creating a program of behavioral health career development for returning veterans under a federal yellow ribbon scholarship entitled ‘train vets to treat vets’ in conjunction with the Massachusetts School of Professional Psychology”;

By striking out item 1410-0012 and inserting in place thereof the following item:

“1410-0012 For services to veterans, including the maintenance and operation of outreach centers; provided further, that the department shall not reduce the amount allocated to a program or its successor in section 2 of chapter 27 of the acts of 2009; provided, however, that funds shall not be expended for the Middleboro Veterans. Outreach Center; provided further, that an amount equal to the amount of funds expended in fiscal year 2010 for the Middleboro Veterans. Outreach Center shall be transferred to the Nathan Hale Foundation of Plymouth; provided further, that the centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; and provided further, that these centers shall provide services to veterans who were discharged after September 11, 2001, and their families \$1,738,686”;

By striking out item 1410-0250 and inserting in place thereof the following item:

“1410-0250 For veterans’ homelessness services; provided, that the department shall not reduce the amount allocated to a program or its successor in section 2 of chapter 27 of the acts of 2009; and provided further the Western Massachusetts Bilingual Veterans Outreach Center shall be the successor to the Springfield Bilingual Veterans Outreach Center at the YMCA \$2,083,073”;

By inserting after item 4000-0050 the following item:

“4000-0265 For a primary care workforce development and loan forgiveness grant program at community health centers, for the purpose of enhancing recruitment and retention of primary care physicians and other clinicians at community health centers throughout the commonwealth; provided, that the grant shall be administered by the Massachusetts League of Community Health Centers in consultation with the secretary of the executive office of

health and human services and relevant member agencies; provided further, that the funds shall be matched by other public and private funds; and provided further, that the League shall work with the secretary and the agencies to maximize all sources of public and private funds \$500,000”;

By striking out item 4000-0300 and inserting in place thereof the following item:

“4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha’s Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced inter-agency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated in this item shall be expended for administrative and contracted services related to the implementation and operation of programs authorized by chapter 118E of the General Laws; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed the rates that are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that funds may be expended for the operation of the office of health equity within the executive office of health and human services; provided further, that subject to appropriation, the executive office of health and human services may employ such additional staff or consultants as it may deem necessary; provided further, that the office may prepare an annual health disparities report card with regional disparities

General Appropriation Bill.

data, evaluate effectiveness of interventions and replicate successful programs across the commonwealth; provided further, that the office shall work with a disparities reduction program with a focus on supporting efforts by community-based health agencies and community health workers to eliminate racial and ethnic health disparities, including efforts addressing social factors integral to such disparities; provided further, that expenditures for the purposes of each item appropriated for programs authorized by chapter 118E of the General Laws shall be accounted for in the Massachusetts management accounting and reporting system not more than 10 days after the expenditures have been made by the Medicaid management information system; provided further, that no expenditures shall be made that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 1115(a) of said Social Security Act or the community first section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, except as specifically authorized herein, or unless made for cost containment efforts, the purposes and amounts of which have been submitted to the executive office of administration and finance and the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office of health and human services shall conduct a comprehensive study of trends in all human service programs in the MetroWest Region which shall consist of Ashland, Framingham, Holliston, Hopkinton, Natick, Southborough, Sudbury, Wayland and Westborough, and shall examine all services provided by the commonwealth to evaluate which populations have the greatest need for services, to what degree those populations are served by the programs created as well as by other existing services, and shall develop strategies for serving all underserved segments of the population; provided further, that the study shall also include program density throughout the commonwealth and the fiscal impact of these programs on cities and towns; provided further, that the executive office of health and human services working with the department of public safety shall review program evaluations, certifications and program standards and make recommendations on needed program changes, and the executive office and department shall issue a report to the general court of its study by filing same with the clerks of the house of representatives and senate not later than January 31, 2012; provided further, that the executive office may continue to recover provider overpayments made in the cur-

rent and prior fiscal years through the Medicaid management information system, and that these recoveries shall be considered current fiscal year expenditure refunds; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under said chapter 118E for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, the secretary of health and human services shall require the director of Mass Health to apply for any grants or demonstration projects relating to Medicaid beginning in fiscal year 2011 pursuant to the Patient Protection and Affordability Act of 2011, P. L. 111-38; provided further, that not later than September 1, 2010, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing planned fiscal year 2011 expenditures by the executive office as funded by chargebacks to the 17 executive office cluster agencies; provided further, that any projection of deficiency in item 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 or 4000-1405 shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that any unexpended balance in these accounts shall revert to the General Fund on June 30, 2011

\$89,511,737”;

By striking out item 4000-0600 and inserting in place thereof the following item:

“4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further,

General Appropriation Bill.

that funds shall be expended for the 'community choices' initiative; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2010; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2010; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the 'community choices' initiative in fiscal year 2011 delineated by the federal poverty level; provided further that for fiscal year 2011, the division of health care finance and policy shall establish nursing facility MassHealth rates that fully recognize the Medicaid share of the nursing home assessment established by section 25 of chapter 118G of the General Laws, as amended by section 39; provided further, that not more than \$35,000,000 shall be expended for the purpose of funding inflationary labor benefits and other costs; provided that not less than \$2,800,000 of the nursing home assessment imposed by section 25 of chapter 118G of the General Laws shall be expended as fiscal year 2011 incentive payments to Nursing Facilities meeting the criteria determined by the MassHealth Nursing Facility Pay for Performance (P4P) Program in 114.2 CMR 6.07 and that have established and participated in a cooperative effort in each qualifying Nursing Facility between representatives of employees, including, but not limited to, labor organizations, and management, that is focused on implementing said criteria and improving the quality of services available to MassHealth members; and provided further that the MassHealth Agency shall adopt regulations and procedures necessary to carry out this section; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further, care management under section 3 of chapter 211 of the acts of 2006 shall be implemented through aging and disability resource consortiums, which shall include a combination of 1 or more Aging Services Access Points and Independent Living Centers; provided further, that not less than

\$2,500,000 shall be expended from this item to implement the provisions of section 2 of chapter 211 of the acts of 2006, the pre-admission counseling and assessment program, which shall be implemented on a statewide basis through aging and disability resource consortia; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or non-acute chronic disease hospital that provides kosher food to its residents, the department, in consultation with the division, in recognition of the unique special innovative program status granted by the executive office, shall continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that funds shall be expended for the purpose of a housing with services demonstration project known as the 'Caring Homes' initiative designed to delay or prevent nursing home placement by providing care-giving services to an elder; and provided further, that under said demonstration project, eligible MassHealth enrollees shall be able to live in the home of an individual or relative, with the exception of dependent children, to provide for their long term supports, pursuant to regulations promulgated by said executive office \$2,491,416,244";

In item 4100-0060 by striking out the figures "\$17,032,228" and inserting in place thereof the figures "\$19,032,228";

In item 9110-1455, in lines 25 to 29, inclusive, by striking out the following "; provided further, that the department shall reduce its spending from this line item by the total amount received by it beneficiaries who were granted a one-time rebate pursuant to section 3315 of the Patient Protection and Affordability Act of 2010, P.L. 111-38; provided further, that the department shall reduce its spending by an amount equal to the reduction in costs for brand-name prescription drugs received by its beneficiaries pursuant to section 1860D-14A (a) and (b) of the Patient Protection and Affordability Act of 2010, P.L. 111-38"; and

In item 9110-9002, in line 6, by inserting after the word "secretary" the following "; provided further, that funding shall be expended for provider training and outreach for LGBT elders and caregivers"; and

By adding the following two sections:

"SECTION 53. Notwithstanding any general or special law to the contrary, the office of Medicaid is hereby directed to develop and fund a global payment system for high-risk pediatric asthma patients enrolled in the MassHealth program, designed to prevent unnecessary hospital admissions and emergency room utilization. Consistent with the National Asthma Education and Prevention Program guidelines developed by the National Institutes of Health, the global payments shall be designed to reimburse non-billable expenses necessary to manage pediatric asthma including patient education, environmental assessments, mitigation of asthma triggers and purchase of necessary durable medical equipment. The global payments shall be designed to

General Appropriation Bill.

offer a financial return on investment in terms of reduced hospital and emergency room costs not later than 2 years after the effective date of this act. The global payment approach shall be piloted in communities with high rates of uncontrolled childhood asthma. The executive office of health and human services shall consult with the Community Asthma Initiative at Children's Hospital Boston and with other relevant providers in developing the global payments, and shall collaborate with participating entities in evaluating the program. The executive office will report its findings on the cost effectiveness of this program to the joint committee on health care financing, the joint committee on public health and the house and senate committees on ways and means not later than December 31, 2012.

SECTION 54. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall make all reasonable efforts to renegotiate the commonwealth's 1115 waiver to permit passive opt-out enrollment for the senior care options plan as expeditiously as possible."

After debate the amendments were adopted.

Recess.

Recess.

At four minutes before ten o'clock P.M. (Tuesday, April 27), on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until the following day at ten o'clock A.M.; and at that time the House was called to order with Mr. Donato in the Chair.

Wednesday, April 28, 2010 (at 10:00 o'clock A.M.).

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

Prayer.

God, our Creator, we begin a new day and a new legislative session with our minds and hearts focused on You, Your ways and precepts. We look to You for guidance in our common struggle to serve the people and the Commonwealth in these difficult economic and political times. May we be blessed with Your gifts of knowledge and wisdom in our decision-making actions so the common good and society are well-served. In facing a multiplicity of tasks and needs, grant a sense of proportion so that we keep all challenges and expectations of the people in perspective. May we dialogue and work together to develop public policy which continues to recognize the personal dignity of all individuals as well as the civil, human and religious rights of all. Teach us to keep in mind that we are all members of the one human family which is Your family.

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

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Guests of the House.

During the session, Mr. Costello took the Chair for the purpose of introducing members of a delegation from Beijing, China. The delegation included Huang Wei, Deputy Mayor of Beijing; Zhou Zhengyu, Deputy General Secretary of Beijing Municipal Government; Liu Limin, Director General of Beijing Municipal Commission of Education; Hu Dong, Deputy Director General of Beijing Foreign Affairs Office; Song Jianguo, Director of Beijing Traffic Management Bureau; and Jow Jengjew Lee.

Beijing, China,—municipal delegation.

During the session, Ms. Fox of Boston took the Chair for the purpose of introducing members of the Massachusetts Senior Action Coalition. They were the guests of Representative Fox.

Senior Action Coalition.

Resolutions.

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

Resolutions (filed by Mr. Vallee of Franklin) honoring retired Army Colonel Michael F. Matondi in celebration of his ninetieth birthday;

Michael F. Matondi.

Resolutions (filed by Messrs. Calter of Kingston and deMacedo of Plymouth) congratulating Warren Phillips on the occasion of his induction into the National Teachers Hall of Fame;

Warren Phillips.

Resolutions (filed by Mr. deMacedo of Plymouth) congratulating Michael James Foran on receiving the Eagle Award of the Boy Scouts of America;

Michael James Foran.

Resolutions (filed by Mr. Fagan of Taunton) honoring James F. Strojny, Jr.;

James F. Strojny.

Resolutions (filed by Messrs. Fagan of Taunton and Canessa of New Bedford) congratulating Walker School on the occasion of its one hundred fifteenth anniversary; and

Taunton,—Walker School.

Resolutions (filed by Mr. Straus of Mattapoisett) calling upon the Secretary of the Department of Commerce of the United States of America to increase the 2010 annual catch limits for the nineteen fish stocks in the Northeast Multispecies Fishery.

Catch limits,—fishing.

Mr. Binienda of Worcester, 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. Mariano of Quincy, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

The House Bill establishing a regional wastewater district for the towns of Mansfield, Foxborough and Norton (House, No. 4307) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2349.

Mansfield, Foxborough and Norton,—wastewater.

Under suspension of Rule 35, on motion of Mr. Barrows of Mansfield, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Bills

Dudley,—
police.
Gloucester,—
police chief.

Amending police appointments in the town of Dudley (Senate, No. 1146) (on a petition) [Local Approval Received]; and Exempting the position of fire chief in the city of Gloucester from the civil service law (Senate, No. 2102) (on a petition) [Local Approval Received].

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

Millbury,—
unpaid
bills.

Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a message from His Excellency the Governor, a Bill authorizing the town of Millbury to pay certain unpaid bills (printed in House, No. 4525). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Frost of Auburn, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Mr. Frost, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Engrossed Bills.

Bill
enacted.

The engrossed Bill validating certain nomination papers filed in the town of Millville for the 2010 annual election (see House bill printed in House, No. 4583) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

Id.

The engrossed Bill relative to the Brewster board of water commissioners (see House, No. 4279) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

Mrs. Haddad of Somerset being in the Chair,— At twenty-six minutes after one o'clock P.M. (Wednesday, April 28), on motion of Mr. Hill of Ipswich, the House recessed until the hour of two o'clock; and at eighteen minutes after two o'clock the House was called to order with Mr. Donato of Medford in the Chair.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Brady of Brockton and other members of the House moved to amend it by adding the following section:

“SECTION 55. Notwithstanding any general or special law, rule or regulation to the contrary, in the city of Brockton, or in the towns of West Bridgewater, East Bridgewater and Easton, no fossil fuel electric power facilities or facility shall be located in an area which is less than 1 mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern, as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or an area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2010, shall not be subject to this act. For the purpose of this section, ‘fossil fuel electric power facilities or facility’ shall be defined as any electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas.”.

After debate the amendment was rejected.

Mr. Petrolati of Ludlow being in the Chair,— Mr. Perry of Sandwich and other members of the House moved to amend the bill by adding the following section:

“SECTION 55. The General Laws, as appearing in the 2006 Official Edition, are hereby amended by inserting after chapter 117A the following new chapter:—

CHAPTER 117B.
Restrictions on Public Benefits.

Section 1. Definitions.

As used in this chapter the following terms shall have the following meanings unless the context clearly requires otherwise:—

‘Emergency Medical Condition,’ the same meaning as provided in section 1396b (v) (3) of Title 42 of the United States Code.

‘Federal Public Benefits,’ the same meaning as provided in section 1611 of Title 8 of the United States Code.

‘State Public Benefits,’ the same meaning as provided in section 1621 of Title 8 of the United States Code.

Section 2. (a) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, on and after January 1, 2011, each agency or political subdivision of the commonwealth shall verify the lawful presence in the United States of every natural person eighteen years of age or older who applies for state public benefits or for federal public benefits which are for the benefit of the applicant.

(b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

General
Appropriation
Bill.

General
Appropriation
Bill.

(c) Verification of lawful presences in the United States shall not be required:

For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule;

For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;

For short-term, non-cash, in-kind emergency disaster relief;

For public health assistance for immunization with respect to diseases and for testing and treatment of symptoms of communicable diseases;

For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by Federal laws or regulations that:

Deliver in-kind services at the community level, including services through public or private nonprofit agencies;

Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

Are necessary for the protection of life or safety or;

For parental care.

(d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state public benefits by requiring the applicant to:

(1) Produce:

A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR) 2.06 (3) (b);

A United States military card or military dependent's identification card; or

A United States Coast Guard Merchant Mariner card; or

A Native American tribal document.

(2) If such documentation as required in subparagraph (1) of subsection (d) of this section cannot be lawfully produced, execute a notarized affidavit stating:

That he or she is a United States citizen or legal permanent resident; or

That he or she is otherwise lawfully present in the United States pursuant to federal law.

(e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the Commissioner of the Department of Revenue may issue emergency rule, to be effective until July 1, 2010, providing for additional forms of identification or a waiver process to ensure that an individual seeking benefits pursuant to this section proves lawful presence in the United States. This subsection and all emergency rules authorized hereunder shall cease to be effective as of July 1, 2010.

(f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6 months

nor more than 1 year in the House of Corrections. Each time that a person receives a public benefit based upon such a statement or representation they make shall constitute a separate violation of this section.

(g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the Federal Systematic Alien Verification for Entitlement program, referred to in this section as the 'SAVE program', operated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section.

(2) The secretary of each executive office of the commonwealth shall promulgate regulations to ensure that each agency or political subdivision has access to the SAVE program by way of the executive office under which it is organized. Each executive office shall be responsible for the verification through the SAVE program of all its sub agencies. Each executive office shall enter into a memorandum of understanding or any other requirement pursuant to the SAVE program in order to streamline the verification process. Each executive office shall keep account of all applications submitted through its subdivisions and transfer back to its subdivisions any costs on an annual basis.

(h) Agencies or political subdivisions of the commonwealth may adopt variations of the requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individuals circumstances in which the verification procedures in the section would impose unusual hardship on a legal resident of the commonwealth; provided, that the variations shall be no less stringent than the requirements of this section, including provisions to timely execute notarized affidavits.

(i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a federal public benefit or state or local public benefit in violation of this section. Each agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the auditor and to the House and Senate chairs of the joint committee on state administration and regulatory oversight.

(j) Errors and significant delays by the SAVE program shall be reported to the United States Department of Homeland Security which monitors the SAVE program and its verification application errors and significant delays and report yearly on such errors and delays, to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of the State.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable."

Pending the question on adoption of the amendment, Mr. Sánchez of Boston moved to amend it by adding the following paragraph:

General Appropriation Bill.

“Section 4. Notwithstanding any special or general law to the contrary, the provisions of this chapter shall not take effect until such time as the executive office of health and human services has furnished a study of its impact on the state’s economy and revenue cost to the commonwealth, 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 house and senate committees on ways and means and the joint committee on health care financing and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”

Quorum.

Pending the question on adoption of the further amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum roll call,—yea and nay No. 371.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 154 members were recorded as being in attendance.

[See Yea and Nay No. 371 in Supplement.]

Therefore a quorum was present.

Further amendment adopted,—yea and nay No. 372.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Ms. Forry of Boston; and on the roll call 83 members voted in the affirmative and 75 in the negative.

[See Yea and Nay No. 372 in Supplement.]

Therefore the further amendment was adopted.

Statement of Mr. Basile of Boston.

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

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call it was my intention to vote in the negative. However, I now find that, for some inexplicable reason, I was recorded in the affirmative.

The amendment offered by Mr. Perry of Sandwich and other members of the House, as amended, then also was adopted. Mr. Sánchez moved that this vote be reconsidered; and the motion to reconsider was negated.

Mr. Puppolo of Springfield then moved to amend the bill by adding the following section:

“SECTION 56. Establishing a special Commission to investigate and study the manner in which municipalities and towns of the Commonwealth balance their fiscal year budgets, including the accounting methods utilized by said cities and towns. The Commission shall be appointed by the Governor and shall consist of 10 members as follows: the House and Senate chairmen of the Joint Committee on Municipalities who shall serve as co-chairs of this special commission, the House and Senate chairmen of the Committees on Ways and Means, or their designees, the Speaker of the House of Representatives or his designee, the President of the Senate or her designee, the State Auditor, or his designee, the Commissioner of the Department of Revenue or his designee, a representative of the Executive Office of Administration and Finance, and a representative of the Massachusetts Municipal

Association. The Commission shall report to the General Court the results of its study, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the House of Representatives on or before December 31, 2008.”

The amendment was rejected.

Mr. Puppolo of Springfield then moved to amend the bill by adding the following section:

“SECTION 56. Any municipality or town within the Commonwealth that is in detrimental financial trouble with its fiscal year budget as determined by but not limited to the Office of Administration and Finance or Department of Revenue which requires any subsequent action taken by the Legislature in the form of a Special Act and/or Special Legislation to assist said municipality or town in relieving or assisting the specific financial situation; shall be required to be under the immediate control of a five member control board of which its members shall be appointed by the Governor as part of the enabling legislation passed by the Legislature.”

The amendment was rejected.

Mr. Puppolo of Springfield then moved to amend the bill by adding the following section:

“SECTION 56. Notwithstanding the provisions of any general law, rule or regulation to the contrary, the department of revenue shall not certify the tax rate of any municipality or town whose budget is balanced predicated on the collection of outstanding taxes owed that have gone uncollected for the past 5 years or older. No uncollected tax liability shall be allowed to be carried on the books and listed as an asset if the community has not reached a payment plan agreement within 2 years after it is originally delinquent.

The department of revenue shall require communities that submit budgets balanced by the collection of outstanding taxes show progress on such collection of that outstanding liability in one year and each subsequent year the payment plan is in place. The department of revenue shall establish a method in determining what sort of progress communities have undertaken to reduce their outstanding taxes owed before allowing them to be included as an asset on their municipal or town tally sheet.

The department of revenue shall develop and establish an emergency response team (ERT) which will assist communities that have been placed on the DOR’s Watch List to review spending practices and offer assistance in managing financial operations of said community.”

The amendment was rejected.

Mr. Kocot of Northampton then moved to amend the bill by adding the following new section:

“SECTION 56. All casino and expanded gaming license holder shall assess a twenty dollar per ticket or admission cultural tourism and hospitality industry impact surcharge for all events held in any theatre, convention, assembly or entertainment venue within their licensed location, other than the primary gaming area, holding over three hundred attendees at one time, provided, that all proceeds from said surcharge shall be segregated and distributed as a separate cultural tourism and hospitality local aid line item on the annual Chery Sheet.

General
Appropriation
Bill.

municipal receipt distribution, on a per capita basis, to those communities within sixty miles of said license holder's venue that have adopted the local option meals tax increase as of January 1, 2011."

The amendment was rejected.

Mr. Brownsberger of Belmont then moved to amend the bill by adding the following section:

"SECTION 56. Any federal funds received by the Commonwealth from Section 511 of Title V of the Social Security Act for maternal, infant and early childhood visiting programs shall be administered by state agencies which currently administer maternal, infant and early childhood visiting programs, operate evidence based models, have been in existence for at least three years, and administer healthy families program."

The amendment was rejected.

Mr. Koutoujian of Waltham then moved to amend the bill by adding the following section:

"SECTION 56. Chapter 94 of the General Laws is amended by adding the following section:

Section 307D. (a) No person shall sell, distribute or offer for sale to consumers any tobacco product or any component part thereof that:

(1) has or produces a distinguishable flavor, taste or aroma (other than tobacco, menthol, wintergreen or mint) that can be readily perceived by a consumer or other person either prior to or during consumption; or

(2) does not have or produce such a distinguishable flavor taste or aroma but is nevertheless labeled, advertised or otherwise marketed as having or producing such a distinguishable flavor, taste or aroma.

(b) A tobacco product shall be deemed to be subject to this section if its labeling or advertising or a publicly disseminated official statement or formal claim by the manufacturer or importer, or by any person authorized or permitted by the manufacturer or importer to make such statements or claims concerning the tobacco product on its behalf, states that the tobacco product has or produces a flavor, taste, or aroma (other than tobacco, menthol, wintergreen or mint) either prior to or during consumption.

(c) A tobacco product shall not be subject to this section solely because it contains certain additives or flavorings or because it has certain additives or flavorings included in any ingredient list.

(e) For the purpose of this section 'tobacco product' includes any product containing tobacco or nicotine that is expected or intended for consumption except for:

(1) any cigarettes subject to the Special Rule for Cigarettes relating to characterizing flavors of the federal Family Smoking and Tobacco Prevention Act;

(2) any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

(f) The prohibitions in subsections (a) and (b) shall not apply to any tobacco product sold in a permanent retail sales outlet that does not admit any person under the age of 18, maintains a valid permit for the retail sale of tobacco products as required to be issued by the appro-

priate authority in the city or town where the establishment is located, is not required to possess a retail food permit and in which the sale of other tobacco products is merely incidental.

(g) The Department may issue regulations or rules as necessary or desired to facilitate the administration or enforcement of this section and promote the purposes of this section and Act.

(h) Nothing in this section shall preempt further limitation of the sale of tobacco products, or smoking, by the commonwealth or any department, agency or political subdivision of the commonwealth."

The amendment was rejected.

Ms. Malia of Boston then moved to amend the bill in section 2, in item 5046-0000, by adding the following "": provided further, that Program of Assertive Community Treatment (PACT) services provided by the department in fiscal year 2010 shall continue to be provided in fiscal year 2011"; and in item 5046-2000 by adding the words .services provided shall include community support and emergency psychiatric services".

The amendments were adopted.

Mr. Rush of Boston then moved to amend the bill in section 2 [A] by striking out item 5920-2000 and inserting in place thereof the following two items:

"5920-2000 For vendor-operated, community-based, residential adult services, including intensive individual supports; provided, that funds shall be expended towards compliance with the terms of the Rolland settlement agreement, dated June 16, 2008, Civil Action No. 98-30208-KPN, filed in the United States District Court of Massachusetts in order to provide services for class members; provided further, that annualized funding shall be expended for turning 22 clients who began receiving the services in fiscal year 2009 pursuant to item 5920-5000 of section 2 of chapter 182 of the acts of 2008; provided further, that funds shall be expended to comply with the terms of the Boulet v. Cellucci, 107 F.Supp. 2d 61 (D. MASS. 2000); provided further, that the commissioner of the department of developmental services shall transfer funds from this item to item 5920-2010, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of said funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days before any such transfer; provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2011; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item \$713,875,077;

5920-2010 For state-operated, community-based, residential services for adults, including community-based health services; provided, that the department shall maximize federal reimbursement, whenever

General Appropriation Bill.

possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item; and provided further, that funds shall be expended to comply with the terms of the Boulet v. Cellucci settlement agreement; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item \$147,876,409".

Pending the question on adoption of the amendment, the same member moved that it be amended by striking out the text of said amendment [at "A"] and inserting in place thereof the following "; in item 5920-2000, in line 9, by inserting after the following '(D.MASS.2000)' the following "; provided further, that the department shall submit to the House and Senate Committees on Ways and Means, a report detailing, if any, the transfer of beds from state-operated to vendor-operated homes on or before December 31, 2010 and again on March 1, 2011'."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Recess.

At one minute after six o'clock P.M. (Wednesday, April 28), on motion of Mr. Peterson of Grafton (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of seven o'clock; and at nine minutes after seven o'clock the House was called to order with Mr. Donato of Medford in the Chair.

Quorum.

Mr. Pedone of Worcester thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum roll call—yea and nay No. 373.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 142 members were recorded as being in attendance.

[See Yea and Nay No. 373 in Supplement.]

Therefore a quorum was present.

Representatives Gobi of Spencer and Pedone of Worcester then moved to amend the bill in section 2, in item 5930-1000, by adding the following [A] "; and provided further, that the department shall take no action to reduce the client population of any state residential-based facility for the mentally retarded, including intensive individual supports, for the purpose of closing said state institutions, and no steps shall be taken to close said institutions through attrition, layoffs or any other means until a study of any such reduction or closing shall be completed, and the general court shall have approved by law any such reductions or closing; provided further, that the secretary for administration and finance shall conduct said study, which shall examine the costs, benefits and quality of maintaining said institutions and shall identify alternative methods of providing the services currently provided by said institutions, and said secretary shall report in writing the findings and recommendations of said study or studies to the House and Senate Committees on Ways and Means not later than December 1, 2011'."

Pending the question on adoption of the amendment, the same members moved to amend it by striking out the proposed new text [at A] and inserting in place thereof the following "; and provided further, that the department shall take no action to reduce the client population of any state residential-based facility for the mentally retarded, including intensive individual supports, for the purpose of closing said state institutions, and no steps shall be taken to close said institutions through attrition, layoffs or any other means until a study of any such reduction or closing shall be completed; and provided further nothing in said language shall preclude an individual from exercising his or her rights to transfer to a community based residential-based facility either state or vendor operated provided further, that the secretary for administration and finance shall conduct said study, which shall examine the costs, benefits and quality of maintaining said residential-based facilities (ICFS/MR state and vendor operated), and said secretary shall report in writing the findings and recommendations of said study or studies to the House and Senate Committees on Ways and Means not later than December 1, 2011'."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill in section 2 by striking out item 4403-2000 and inserting in place thereof the following item:

[A]"4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2010 unless the department determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the amounts appropriated in this item; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under subsection (e) of section 110 of chapter 5 of the acts of 1995, or any successor statute, shall be 2.75 per cent below the otherwise applicable payment standard, in fiscal year 2011, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify parents under the age of 20 receiving benefits from the program of the requirements found in clause (2) of subsection (i)

General
Appropriation
Bill.

of said section 110 of said chapter 5 of the acts of 1995, or any successor statute; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a non-recurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September 2010; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September 2010; provided further, that benefits under this program shall not be available to those families in which a child has been removed from the household pursuant to a court order after a care and protection hearing under chapter 119 of the General Laws, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of children and families in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month the payments are to be made or within the 3 month period after the month of payment, and who, if the child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for the loss; provided further, that the department shall review its disability standards to determine the extent to which they reflect the current medical and vocational criteria and report on the proposed revisions by December 1, 2010, to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the results of that review before any changes to the standards are proposed; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits at the time of application

and on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits and transitional benefits; provided further, that the notice shall further advise recipients of the availability of supplemental nutrition assistance program benefits; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding any general or special law to the contrary, 90 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; provided further, that in fiscal year 2011, no such determination and report shall be filed prior to December 5, 2010 in order to allow sufficient review of any such proposals by no later than the third Wednesday in November of 2010 or prior to the conclusion of all formal business of the second annual session of the general court no later than the last day of July 2011; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families..... \$319,165,900";

By striking out item 4408-1000 and inserting in place thereof the following item:

[B]"4408-1000 For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for the aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the individual shall not be a subject to sponsor income deeming or related restrictions; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991;

General Appropriation Bill.

provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically-determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates such individuals' capacity to support themselves and which has been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that no person incarcerated in a correctional institution shall be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall adopt emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted in this item at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated in this item; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing in this item shall be construed as creating any right accruing to recipients of the former general relief program; provided

further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency aid to the elderly, disabled and children program or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available in this item shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available in this item; provided further, that, notwithstanding any general or special law to the contrary, 90 days before implementing any eligibility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes; and provided further, that in fiscal year 2011, no such determination and report shall be filed between December 5, 2010 in order to allow sufficient review of any such proposals by no later than the third Wednesday in November of 2010 or prior to the conclusion of all formal business of the second annual session of general court no later than the last day of July 2011..... \$84,658,966”;

In item 4510-0040, by adding the following “; and provided further, that not less than \$150,000 be expended for the Healthcare Industry Grant Corporation to provide career ladder job training for healthcare workers [C]”;

In item 4510-0100 by adding the following “; provided further, that not less than \$79,000 shall be expended for programs funded in item 4512-0200 in section 2 of chapter 182 of the acts of 2008 assisting with the Haitian earthquake relief efforts” and in said item by striking out the figures “\$17,920,655” and inserting in place thereof the figure “\$17,999,655”;

In item 4512-0200 by adding the following “; and provided further, that programs shall receive the amount of funding in fiscal year 2011 as received in fiscal year 2010”;

In item 4512-0500 by adding the following “; and provided further, that funds may be expended for the Forsyth Institute’s Center for Children’s Oral Health”; in item 4513-1111 by adding the following “; provided further that not less than \$100,000 shall be expended for brain aneurysm education, awareness and early detection [D]”;

In item 4580-1000, in lines 8 to 15, inclusive, by striking out the following “each health insurance carrier, as defined in chapter 176O of the General Laws, that conducts business in the commonwealth shall contribute to the total amount determined by the department to be sufficient to cover the costs of purchasing and distributing childhood vaccines for children in this item; and provided further, that the division of health care finance and policy, in consultation with the department, shall specify by regulation the method of calculating a proportional

General
Appropriation
Bill.

contribution and procedures for payment of the contribution to the General Fund” and inserting in place thereof the following “the costs of purchasing and distributing childhood vaccines for children in this item may be assessed on surcharge payers under section 38 of chapter 118G of the General Laws and may be collected in a manner consistent with said chapter 118G”;

In item 4590-0250 [E] by adding the following “; provided further, that the same percentage of funds shall be expended for school nurse programs as those expended in fiscal year 2010; and provided further that funds may be expended for the Massachusetts Model of Community Coalitions”;

In item 4590-0915 by adding the following “; provided further, that the Massachusetts Hospital School shall maintain not less than 75 beds for clients in its inpatient setting”;

In item 4590-1506 by adding the following “[F] ; provided further, that funds shall be expended for grants to the Massachusetts Alliance of Boys & Girls Clubs, YMCA and YWCA organizations, nonprofit community centers and youth development programs; and provided further, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization” and in said item by striking out the figures “\$1,500,000” and inserting in place thereof the figures “\$3,000,000”; by striking out item 4800-0015 and inserting in place thereof the following item:

“4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA and DD object class costs are paid from item 4800-1100 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit 8 employees; provided further, that the department shall not place a child or adolescent referred by, or discharged from, the care of the department of mental health until the latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is more appropriate for group care; provided further, that if placement of a child with someone other than a parent becomes necessary, the department shall place the highest priority on identifying a family resource within the child’s kinship or family circle and shall provide services and support to partner with the family resource in meeting the child’s needs; provided further, that the department, in consultation with the department of mental health, shall assist the latter department in making such assessments and recommendations; provided further, that unless otherwise authorized, all funds, including federal reimbursements received by the department, shall be credited to the General Fund; provided further, that the department and the department of early education and care shall provide standards for early education and care placements made through

the supportive child care program; provided further, that the department of children and families, in collaboration with the department of early education and care, shall maintain a centralized list detailing the number of children eligible for supportive child care services, the number of supportive slots filled and the number of supportive slots available; provided further, that notwithstanding any general or special law to the contrary, the department shall not reduce recoupment amounts recommended by the state auditor; provided further, that on or before October 1, 2010, the department shall issue draft revised regulations for public comment which ensure that the department maintains an independent, timely and fair administrative hearings system; provided further, that the department shall submit the final version of these regulations to the joint committee on children, families, and persons with disabilities by December 1, 2010; provided further, that on or before October 1, 2010, the department shall revise its procedures to ensure that newly requested administrative hearings are scheduled and decided on a timely basis; provided further, that the department shall submit a plan for the elimination of its backlog of administrative hearing requests to the joint committee on children, families, and persons with disabilities by October 1, 2010; provided further, that the plan shall identify the number of fair hearing requests that were pending as of July 1, 2010; provided further, that the department shall set quarterly benchmarks for the elimination of the backlog; provided further, that the department shall submit quarterly reports to the joint committee on children, families, and persons with disabilities on the status of the backlog; provided further, that the department shall employ not less than 1 full-time board-certified physician; provided further, that the department shall employ four to five full-time board certified or board eligible child psychiatrists to serve the area offices; provided further, that hiring and supervision shall be done in conjunction with the department of mental health; provided further, that such physicians shall collaborate with the department’s social workers; provided further, that not later than February 15 of the current fiscal year, the department shall provide to the house and senate committees on ways and means and the joint committee on children and families a report detailing the number of medical and psychiatric personnel currently employed by or under contract with the department; provided further, that the report shall include the number of foster care reviews conducted by the department and the average length of time in which each review is completed; provided further, that the report shall

contain the number of the department's contracts reviewed by the state auditor and the number of corrective action plans issued; provided further, that the report shall also include the number of corrective action plans entered into by the department; provided further, that the report shall include the number of social workers and supervisors who have earned a bachelors' or masters' degree in social work; provided further, that the report shall include the total number of social workers and the total number of social workers holding licensure, by level; provided further, that the department shall file a report on the first business day of each month to the senate and house committees on ways and means and the joint committee on children and families on the caseload of the department; provided further, that caseloads provided in this report shall include: residential placements, group care, foster care, therapeutic foster care, adoption, guardianship, 51A reports, substantiated 51A reports, the number of children who die in the care and custody of the department, the number of children currently eligible for supportive child care and the number of children presently receiving supportive child care, and the number of medical and psychiatric consultation requests made by the department's social workers; provided further, that the report shall include the number of approved foster care placements; provided further, that the report shall also include the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically-necessary; provided further, that the report shall include the number of children under the department of children and families care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; provided further, that the report shall also contain the number of children served by supervised visitation centers and the number of those children who are reunified with their families; provided further, that the report shall contain information on the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; provided further, that the report shall also contain the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then re-enter an out-of-home placement within 6 months; provided

further, that the report shall contain, for each area office, the number of kinship guardianship subsidies provided in the month covered by the report, and the number of kinship guardianship subsidies provided in that month for which federal reimbursement was received; provided further, that the report shall contain, for each area office, the total spending on services other than case management services provided to families for the purpose of keeping a child with his family or reunifying the child with his parents, spending by type of service and the unduplicated number of families that receive the services; provided further, that the report shall contain, for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where families are sheltered, the total cost and average cost per family of those shelters and a description of how the department determines who qualifies for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities; provided further, that not later than November 2, 2010, the department shall submit a report to the house and senate committees on ways and means and the chairs of the joint committee on children and families that includes any rules, regulations, or guidelines established by the department to carry out its duties pursuant to chapter 119, including, but not limited to (a) criteria used to determine whether a child has been abused or neglected; (b) guidelines for removal of a child from the home; and (c) standards to determine what reasonable efforts are made to keep a child in the home; provided further, that the commissioner of the department of children and families may transfer funds between items 4800-0038, and 4800-0041, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; and provided further, that not more than 5 per cent of any item shall be transferred in fiscal year 2011 ... \$65,067,732";

In item 4800-0016 by striking out the figures "\$500,000" and inserting in place thereof the figures "\$2,000,000";

By striking out item 4800-0038 and inserting in place thereof the following item:

"4800-0038 For guardianship, foster care, adoption, family preservation, and kinship services provided by the department of children and families; provided

General Appropriation Bill.

further, that services funded through this item shall include shelter services, substance abuse treatment, young parent programs, parent aides, education and counseling services, foster care, adoption and guardianship subsidies, tiered reimbursements used to promote the foster care placement of children with special medical and social needs, assessment of the appropriateness of adoption for children in the care of the department for more than 12 months, protective services provided by partnership agencies, targeted recruitment and retention of foster families, respite care services, post-adoption services, support services for foster, kinship and adoptive families and juvenile firesetter programs; provided further, that no less than \$298,000 be expended for alternative school students aged 14 to 16, inclusive, who are determined to be children in need of services or CHINS; provided further, that funding shall be expended on children's advocacy centers and services for child victims of sexual assault; and provided further, that funds may be expended on programs that received funding in fiscal year 2010 \$248,981,594";

By striking out item 5011-0100 and inserting in place thereof the following item:

"5011-0100 For the operation of the department; provided, that no consolidation of area offices shall be implemented prior to the completion of public hearings in each area office locality detailing the nature of the consolidation, the savings generated by the consolidation and the effects of the consolidation on consumers of services provided by the department \$27,180,636";

By striking out item 5055-0000 and inserting in place thereof the following item:

"5055-0000 For forensic services provided by the department; provided, that funds may be expended on juvenile court clinics \$8,081,928";

By striking out item 5095-0015 and inserting in place thereof the following item:

"5095-0015 For the operation of hospital facilities and community-based mental health services; provided, that in order to comply with the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close psychiatric hospitals managed by the department and shall endeavor within available resources to discharge clients residing in the inpatient facilities to residential services in the community when the following criteria are met: (a) the client is deemed clinically suited for a more integrated setting; (b) community residential service capacity and

resources available are sufficient to provide each client with an equal or improved level of service; and (c) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, under allocation plans submitted to the house and senate committees on ways and means 30 days before any transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities; provided further, that the department of mental health shall notify the joint committee on mental health and substance abuse and the house and senate committees on ways and means 60 days prior to the closure of any inpatient state hospital beds; [G] and provided further, that 90 days prior to the closures of the Corrigan Mental Health Center and the Pocasset Mental Health Center the department shall submit to the house and senate committees on ways and means a report detailing the associated cost savings of the closures and asserting that the closure will result in a net cost savings to the commonwealth \$133,974,213";

and by striking out item 5911-1003 and inserting in place thereof the following item:

"5911-1003 For the administration and operations of the department of developmental services; provided, that the department shall not charge user fees for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by the department or for applications of requests for transfer of guardianship; provided further, that all individuals with a diagnosis of Prader-willi syndrome who do not meet eligibility requirements to receive services provided by the department of developmental services due to definitions provided under 115 CMR 2.01, shall be eligible for such services; provided further, that the department shall provide a report of the number of all applicants with Prader-willi syndrome who do not meet eligibility requirements to receive departmental services due to definitions provided under 115 CMR 2.01 and the associated costs of those services to the house and senate committees on ways and means no later than January 3, 2011; and provided further, that the report shall include the number of individuals with a diagnosis of Prader-willi syndrome

General Appropriation Bill.

eligible for services provided by the department under 115 CMR 2.01, detailing the services by type \$57,155,673”;

and by adding the following four sections:

SECTION 56. The third paragraph of section 47C of chapter 175 of the General Laws, amended by section 83 of chapter 27 of the acts of 2009, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party and shall not require co-payments or deductibles.

SECTION 57. The third paragraph of section 8B of chapter 176A of the General Laws, amended by section 84 of said chapter 27, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party and shall not require co-payments or deductibles.

SECTION 58. The third paragraph of section 4C of chapter 176B of the General Laws, as amended by section 85 of said chapter 27, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party and shall not require co-payments or deductibles.

SECTION 59. The second paragraph of section 4 of chapter 176G of the General Laws, as amended by section 86 of said chapter 27, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party and shall not require co-payments or deductibles.”.

Pending the question on adoption of the amendments, Mr. Sullivan of Fall River moved to amend them [at “G”] by striking out the following “and provided further, that 90 days prior to the closures of the Corrigan Mental Health Center and the Pocasset Mental Health Center the department shall submit to the house and senate committees on ways and means a report detailing the associated cost savings of the closures and asserting that the closure will result in a net cost savings to the commonwealth” and inserting in place thereof the following “and provided further, that 90 days prior to any consolidation or closure the department shall submit to the house and senate committees on ways and means a report detailing any associated cost savings of such consolidation or closure and asserting that the consolidation or closure will result in a net cost savings to the commonwealth”.

After remarks the further amendment was adopted.

Mr. Murphy of Burlington then moved to amend the amendments by striking out [at “A”] proposed item 4403-2000 and inserting in place thereof the following item:

“4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional

aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2010 unless the department determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the amounts appropriated in this item; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under subsection (e) of section 110 of chapter 5 of the acts of 1995, or any successor statute, shall be 2.75 per cent below the otherwise applicable payment standard, in fiscal year 2011, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify parents under the age of 20 receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5 of the acts of 1995, or any successor statute; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a non-recurring children’s clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September 2010; provided further, that the children’s clothing allowance shall be included in the standard of need for the month of September 2010; provided further, that benefits under this program shall not be available to those families in which a child has been removed from the household pursuant to a court order after a care and protection hearing under chapter 119 of the General Laws, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of children and families in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month the payments are to be made or within the 3 month period after the month of payment, and who, if the child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to

General Appropriation Bill.

families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for the loss; provided further, that the department shall review its disability standards to determine the extent to which they reflect the current medical and vocational criteria and report on the proposed revisions by December 1, 2010, to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the results of that review before any changes to the standards are proposed; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits at the time of application and on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits and transitional benefits; provided further, that the notice shall further advise recipients of the availability of supplemental nutrition assistance program benefits; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding any general or special law to the contrary, 90 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; provided further, that in fiscal year 2011, no such determination and report shall be filed prior to December 5, 2010 in order to allow sufficient review of any such proposals by no later than the third Wednesday in November of 2011 or prior to the conclusion of all formal business of the second annual session of the general court no later than the last day of July 2012; and provided further, that the report shall state the

department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families \$319,165,900";

By striking out [at "B"] proposed item 4408-1000 and inserting the following item:

"4408-1000 For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for the aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or non-citizens otherwise permanently residing in the United States under color of law; provided further, that the individual shall not be a subject to sponsor income deeming or related restrictions; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically-determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates such individuals' capacity to support themselves and which has been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that no person incarcerated in a correctional institution shall be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall adopt emergency

General Appropriation Bill.

regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted in this item at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated in this item; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing in this item shall be construed as creating any right accruing to recipients of the former general relief program, provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency aid to the elderly, disabled and children program or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available in this item shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available in this item; provided further, that, notwithstanding any general or special law to the contrary, 90 days before implementing any eligibility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes; and provided further, that in fiscal year 2011, no such determination and report shall be filed before December 5, 2010 in order to allow sufficient review of any such proposals by no later than the third Wednesday in November of 2011 or prior to the conclusion of all formal business of the second annual session of general court no later than the last day of July 2012 \$84,658,966”;

At the end of the text proposed to be added to item 4510-0040, after the word “workers” [at “C”] by adding the following “; and in said item striking out the figures ‘\$421,493’ and inserting in place thereof the figures ‘\$571,493’ ”;

At the end of the text proposed to be added to item 4513-1111, after the word “detection” [at “D”] by adding the following “; and in said item striking the figures ‘\$6,124,484’ and inserting in place thereof the figures ‘\$6,224,484’ ”;

By striking out [at “E”] the following “by adding the following” and inserting in place thereof the following “; in line 15, by striking out the words ‘department of education’ and inserting after the word ‘with’ the following ‘department of elementary and secondary education; and provided further, that funding shall be expended to address the recommendations of the commission on gay, lesbian, bisexual and transgender youth, established in section 67 of chapter 3 of the General Laws, for the reduction of health disparities for gay, lesbian bisexual and transgendered youth, and by adding at the end of said item the following’ ”; and

By striking out [at “F”] the following “provided further, that funds shall be expended for grants to the Massachusetts Alliance of Boys & Girls Clubs, YMCA and YWCA organizations, nonprofit community centers and youth development programs; and provided further, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization” and inserting in place thereof the following “provided further that funds shall be expended for grants to the Massachusetts Alliance of Boys & Girls Clubs, and the Alliance of Massachusetts YMCAs and YWCA organizations, nonprofit community centers and youth development programs; and provided further, that the department of public health shall award the full amount of each grant to each organization previously included in the youth-at-risk grants, including the Massachusetts Alliance of Boys & Girls Clubs, the Alliance of YMCAs and YWCAs organizations, nonprofit community centers and youth development programs, upon commitment of matching funds from such organizations”.

The further amendments were adopted. After debate on the question on adoption of the amendments offered by Mr. Murphy of Burlington, et als, as amended, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 140 members voted in the affirmative and 18 in the negative.

[See Yeas and Nays No. 374 in Supplement.]

[Mr. Guyer of Dalton answered “Present” in response to his name.] Therefore the amendments, as amendment, were adopted.

The Chair (Mr. Donato of Medford) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o’clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 133 members voted in the affirmative and 26 in the negative.

[See Yeas and Nays No. 375 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Kaufman of Lexington and other members of the House then moved to amend the bill [A] in section 5, in line 20, after the word “subgrants”; by inserting the words “tax credits”.

Amendments adopted,—yea and nay No. 374.

Suspension of Rule 1A.

Rule 1A suspended,—yea and nay No. 375.

General
Appropriation
Bill.

Pending the question on adoption of the amendment, Mr. Kaufman moved to amend it by striking out the text of said amendment [at "A"] and inserting in place thereof the following "by striking out section 5 and inserting in place thereof the following section:—

SECTION 5. Chapter 7 of the General Laws is hereby amended by inserting after section 11 the following section:—

Section 14C. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Agency'; a commonwealth authority, board, bureau, commission, department, division, executive office, institution, institution of higher education, the secretary of state, the attorney general, the state treasurer, the state auditor, the administrative office of the trial courts, trial court departments, the supreme judicial court, the appeals court, the governor's office, lieutenant governor's office, the governor's council, the house of representatives and the senate.

'Funding source'; the agency and account from where the expenditure is appropriated.

'Recipient'; a business corporation, partnership, firm, unincorporated association or other legal business entity engaged in economic activity within the commonwealth, and any affiliate thereof, which is, or the members of which are, subject to taxation under chapter 62, 63, 64H or 64I. For the purposes of this section, recipient shall include an original grantee or an original contractor of a state award or a political subdivision. A recipient shall not include an individual recipient of state or federal assistance.

'Searchable website'; a website that allows the public at no cost to search for, obtain and aggregate the information identified in subsection (b).

'Secretary'; the secretary of administration and finance.

'State award' or 'award'; appropriations, expenditures, grants, subgrants, loans, purchase orders, infrastructure assistance and other forms of financial assistance.

(b) The secretary shall develop and operate a searchable website accessible by the public at no cost that includes:

(1) the name and location of a recipient or agency receiving a state award, the funding source of each award, the date of the award, the amount of funds appropriated and a brief description of the purpose of the award;

(2) local aid to cities and towns including amounts paid to individual municipal agencies;

(3) annual revenues, as determined by the secretary which shall include, but shall not be limited to:

(i) receipts or deposits by an agency into funds established within the state treasury;

(ii) agency earnings including, but not limited to, amounts collected by each agency for services performed and licenses and permits issued;

(iii) compensation for the purchase or lease of state-owned property and interest collected from state-issued loans; and

(iv) federal grants;

(4) a link to all state audits and reports relating to the receipt of state awards by an agency or recipient, including an audit or report issued by the inspector general, state auditor, special commission, legislative committee or executive body;

(5) the reports required by section 88 of chapter 62C; and

(6) any other relevant information specified by the secretary.

(c) The searchable website shall allow users to search electronically by field in a single search, aggregate the data, download information yielded by a search and, where possible, contain graphical representations of the data and a hyperlink to the actual grants issued.

(d) The searchable website shall include and retain information for each fiscal year for not less than 10 fiscal years.

(e) The secretary shall update the searchable website as new data becomes available. All agencies shall provide to the secretary all data that is required to be included in the searchable website not later than 30 days after the data becomes available to the agency. The secretary shall provide guidance to agency heads to ensure compliance with this section.

(f) This section shall not be construed to require the disclosure of: (i) information that is confidential under state or federal law; (ii) payments received by an individual or entity as interest paid by the issuer of any bonds or other public debt.

(g) The secretary shall not be considered in compliance with this section if the data required for the searchable website is not available in a searchable and aggregate manner or if the public is redirected by the searchable website to other government websites, unless each of those websites complies with the requirements of this section."

After remarks on the question on adoption of the further amendment offered by Mr. Kaufman of Lexington, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 157 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 376 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Kaufman and other members of the House then moved to amend the bill by [A] inserting after section 11 the following section:

"SECTION 11A. (A) Section 1 of chapter 62C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting before the definition of 'Building contractor' the following definition:—

'Administering agency head', the agency head responsible for administering the applicable state tax credit program. For the brownfields tax credit and the film tax credit the administering agency head is the department of revenue. For the medical device tax credit, the administering agency head is the Massachusetts life sciences center.

(B) Said section 1 of chapter 62C, as so appearing, is hereby further amended by 'Secretary', the secretary of administration and finance.

(C) Said section 1 of chapter 62C, as so appearing, is hereby further amended by inserting after the definition of 'Show' the following definition:—

Further
amendment
adopted,—
yea and nay
No. 376.

General
Appropriation
Bill.

'Tax credit program', one of the following credits against the state income tax to stimulate economic development and other policy goals: the brownfields tax credit in section 38Q of chapter 63 and subsection (j) of section 6 of chapter 62; the dairy farmer tax credit in section 38Z of chapter 63 and subsection (o) of section 6 of chapter 62; the FDA user fees credit in section 31M of chapter 63 and subsection (n) of section 6 of chapter 62; the film tax credit in subsection (b) of section 38X of chapter 63 and subsection (l) of section 6 of chapter 62; the historic rehabilitation tax credit in section 38R of chapter 63 and section 6J of chapter 62; the life sciences investment tax credit in section 38U of chapter 63 and subsection (m) of section 6 of chapter 62; the low-income housing tax credit in section 31H of chapter 63 and section 6I of chapter 62; the medical device tax credit in section 31L of chapter 63 and section 6½ of chapter 62; the refundable research credit in subsection (j) of section 38M of chapter 63; and the economic development incentive program in section 6 subsection (g) of chapter 62 and section 38N of chapter 63; and any refundable credits under chapter 62 and 63 established after January 1, 2011.

(D) Said chapter 62C is hereby further amended by adding the following section:—

Section 88. (a)(1) On or before May 15 each year, the administering agency head of each tax credit program shall submit a report to the commissioner on each tax credit program authorized for the previous calendar year only, in this section called the report, which shall be a public record. For purposes of this report no information will be used pertaining to credits, exemptions, or deductions awarded or claimed prior to January 1, 2011.

(2) The report shall contain the following information: (i) the identity of each taxpayer authorized by the administering agency head to receive a tax credit; (ii) the amount of tax credit awarded and issued tax credit for each taxpayer and each project, if applicable; (iii) the date of the tax credit award or issued tax credit for each taxpayer and each project; and (iv) additional data and criteria that the secretary determines to be relevant for analyzing the effectiveness of that tax credit program.

(b)(1) On or before February 15 of every year, each taxpayer receiving an authorized tax credit from the administering agency head in the previous calendar year shall submit data and analysis reasonably determined by the Secretary to be relevant to analyzing the effectiveness of the tax credit program.

(2) On or before May 15 of each year, or by another date that the secretary determines to be practicable, the administering agency head shall submit to the commissioner, in a form prescribed by the commissioner, copies of any data and analysis required by paragraph (1), with the report required by subsection (a). The commissioner shall provide this information on a government internet website for public disclosure.

(E) The commissioner shall provide this information on the search-able website created in Section 5 of this bill.

(F) This section shall take effect on January 1, 2011."

Pending the question on adoption of the amendment, Mr. Kaufman moved to amend it by striking out the text of said amendment [at "A"]

and inserting in place thereof the following "adding the following five sections:—

SECTION 60. Section 1 of chapter 62C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting before the definition of 'Building contractor' the following 2 definitions:—

'Administering agency head', the agency head responsible for administering the applicable state tax credit program. For the brownfields tax credit and the film tax credit the administering agency head is the commissioner. For the medical device tax credit, the administering agency head is the Massachusetts life sciences center.

'Authorized tax credit', a tax credit granted pursuant to a tax credit program.

SECTION 61. Said section 1 of said chapter 62C, as so appearing, is hereby further amended by inserting after the definition of 'Promoter' the following definition:—

'Secretary', the secretary of administration and finance.

SECTION 62. Said section 1 of chapter 62C, as so appearing, is hereby further amended by inserting after the definition of 'Show' the following definition:—

"Tax credit program", 1 of the following credits against the state income tax to stimulate economic development and other policy goals: the brownfields tax credit in section 38Q of chapter 63 and subsection (j) of section 6 of chapter 62; the dairy farmer tax credit in section 38Z of chapter 63 and subsection (o) of section 6 of chapter 62; the FDA user fees credit in section 31M of chapter 63 and subsection (n) of section 6 of chapter 62; the film tax credit in subsection (b) of section 38X of chapter 63 and subsection (l) of section 6 of chapter 62; the historic rehabilitation tax credit in section 38R of chapter 63 and section 6J of chapter 62; the life sciences investment tax credit in section 38U of chapter 63 and subsection (m) of section 6 of chapter 62; the low-income housing tax credit in section 31H of chapter 63 and section 6I of chapter 62; the medical device tax credit in section 31L of chapter 63 and section 6½ of chapter 62; the refundable research credit in subsection (j) of section 38M of chapter 63; and the economic development incentive program in section 6 subsection (g) of chapter 62 and section 38N of chapter 63; and any refundable credits under chapter 62 and 63 established after January 1, 2011.

SECTION 63. Said chapter 62C is hereby further amended by adding the following section:—

Section 88. (a)(1) Annually on or before May 15, the administering agency head of each tax credit program shall submit a report to the commissioner on each tax credit program authorized for the previous calendar year, in this section called the report, which shall be a public record. For purposes of this report no information shall be used pertaining to credits, exemptions or deductions awarded or claimed prior to January 1, 2011.

(2) The report shall contain the following information: (i) the identity of each taxpayer receiving an authorized tax credit and from which tax credit program the credit was received; (ii) the amount of the authorized tax credit awarded and issued for each taxpayer and each project, if applicable; and (iii) the date that the authorized tax credit is awarded and issued for each taxpayer and each project.

SECTION 64. Sections 60 to 63, inclusive, shall take effect on January 1, 2011.”

After remarks on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 130 members voted in the affirmative and 27 in the negative.

[See Yea and Nay No. 377 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Messrs. Straus of Mattapoisett and Peterson of Grafton then moved to amend the bill in section 2, in item 2310-0200, by striking out the figures “\$9,006,199” and inserting in place thereof the figures “\$9,506,199”.

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. Straus; and on the roll call 157 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 378 in Supplement.]

Therefore the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 11 the following six sections:

“SECTION 11A. Section 5 of chapter 32 of the General Laws, as most recently amended by chapter 21 of the Acts of 2009, is hereby further amended by inserting at the end thereof the following subdivision:

(5) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 11B. Section 10 of chapter 32 of the General Laws, as most recently amended by chapter 21 of the Acts of 2009, is hereby further amended by inserting at the end thereof the following subdivision:

(5) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 11C. Section 26 of chapter 32 of the General Laws as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following subdivision:

(6) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 11D. Section 28M of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:

Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 11E. Section 28N of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:

Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 11F. Chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after section 65J the following section:

Section 65K. Payments to a member retired under the provisions of sections 65A to 65J, inclusive, who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member’s incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.”

The amendment was adopted.

Mr. Jones and other members of the House then moved to amend the bill by inserting after section 47A (inserted by amendment) the following section:

“SECTION 47B. Notwithstanding any general or special law to the contrary, there shall be a special commission to investigate and study the expenditure of funds received through the American Reinvestment and Recovery Act. The commission shall specifically investigate the possibility that said funds have been spent on or through non-domestic entities, including, but not limited to, the purchase of raw materials, contracting of labor or any transaction of business with companies located, based or incorporated in a foreign country. The commission shall consist of 11 members, as follows: the chairs of the joint committee on federal stimulus oversight, who shall chair the commission; 1 designee appointed by the governor; the house chair of ways and means, or his designee; the senate chair of ways and means, or his designee; the secretary of administration and finance, or his designee; the attorney general, or his designee; the treasurer of the commonwealth, or his designee; the auditor of the commonwealth, or his designee; the comptroller of the commonwealth, or his designee; the minority leader of the senate, or his designee; the minority leader of the house of representatives, or his designee. The commission shall report its findings and recommendations to the clerk of the senate, the clerk of the house of representatives, the house minority leader and the senate minority leader no later than January 30th, 2011.”

Further amendment adopted, — yeas and nays No. 377.

Amendment adopted, — yeas and nays No. 378.

Amendment adopted,—yea and nay No. 379.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Hill of Ipswich; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 379 in Supplement.]

Therefore the amendment was adopted.

Subsequently a statement of Ms. Walz of Boston was spread upon the records, as follows:

Statement of Ms. Walz of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber during the previous roll call due to working on the education consolidated amendment in another part of the State House. Had I been present, I would have voted in the affirmative.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill in section 2, in item 0810-0338, in lines 4 and 5, and also in item 0810-0399, in lines 4 and 5, by striking out, in each instance, the words "and the associated fringe benefits costs for personnel paid from this item";

In item 2310-0316 by striking out the figures "\$500,000" and inserting in place thereof the figures "\$1,000,000";

In item 2511-0100, by adding the following "; provided further, that funds may be expended for the statewide 4-H program"; and

In item 2800-0101, by adding the following "; provided further, that the department shall continue to make payments pursuant to chapter 616 of the acts of 1957, as amended by section 89 of chapter 801 of the acts of 1963; and provided further, that the department shall continue to make payments pursuant to chapter 307 of the acts of 1987 for the use of certain land";

In section 2E by striking out item 1595-6368 and inserting in place thereof the following item:

"1595-6368 To provide for an operating transfer to the Massachusetts Transportation Trust Fund, established under section 4 of chapter 6C of the General Laws; provided, that the road known as Paul X. Tivnan Drive, located in the towns of Boylston and West Boylston, be placed under the authority of the Massachusetts Department of Transportation for all Maintenance \$200,126,756";

In section 47, in line 413, by inserting after the words "president of the senate" the following "; 1 member of the house of representatives appointed by the house minority leader; 1 member of the senate appointed by the senate minority leader"; and

By adding the following three sections:

"SECTION 65. Subsection (a) of section 7 of chapter 236 of the acts of 1988 is hereby amended by adding at the end of the fourth sentence the following:— ; provided, however, that any monies or interest thereon received by the Trust Fund pursuant to section 287 of chapter 110 of the acts of 1993 shall be subject to appropriation.

SECTION 66. Section 23 of chapter 21 of the acts of 2009 is hereby amended by adding the following 2 sentences:— The retirement allowance of any retired member which included in the calculation of such allowance amounts paid as clothing allowance upon which contribu-

tions were made shall not be reduced, modified or changed because of the inclusion of such clothing allowance payments. Notwithstanding any special or general law to the contrary, any amount paid to an active member for clothing allowance upon which contributions were made and included in any applicable collective bargaining agreement or individual contract for employment in effect on May 1, 2009, shall continue to be included in the definition of 'regular compensation' during the term of that collective bargaining agreement or contract; provided, however, that any such amount, benefit or payment received after June 30, 2012 shall not be considered regular compensation.

SECTION 67. Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the District Local Technical Assistance Fund, established in section 2XXX of chapter 29 of the General Laws."

The amendments were adopted.

Recess.

At twenty-eight minutes after ten o'clock P.M. (Wednesday, April 28), on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed until the following day at ten o'clock A.M.; and at that time the House was called to order with Mr. Donato in the Chair.

Recess.

Thursday, April 29, 2010 (at 10:00 o'clock A.M.).

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

Eternal God, Lord of Creation, we turn our thoughts and affections to You in humble and thoughtful prayer. We look to You for assistance and guidance as we grapple with the economic and public policy issues which are before us this week. In Your goodness, help us to make decisions and choices which are right, fair and appropriate for the unusual times and circumstances. At the same time, teach us to be grateful for all blessings as citizens of this country, mindful of our responsibilities and open to You and Your spiritual ways for daily living. Inspire us to work together in strengthening our confidence and trust in You, each other and in our basic traditional institutions. Grant us patience and fair-mindedness in dealing with people and sensitive policy issues. May we continue to build our country and society on the principles of truth, justice, civility and integrity.

Prayer.

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

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of allegiance.

Resolutions.

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

Consul's Ball. Resolutions (filed by Mr. Flynn of Bridgewater) recognizing the United Nations Association of Greater Boston on the occasion of the Consul's Ball; and

Railroad Street Youth Project. Resolutions (filed by Mr. Pignatelli of Lenox) celebrating the tenth anniversary of the Railroad Street Youth Project;

Mr. Binienda of Worcester, 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. Pignatelli, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

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

James Case. Resolutions (filed by Mrs. Poirier of North Attleborough) congratulating James Case on receiving the Eagle Scout Award of the Boy Scouts of America;

Paul Follett. Resolutions (filed by Mrs. Poirier of North Attleborough) congratulating Paul Follett on the occasion of his being honored at a District 9 testimonial;

Joel Sitte. Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and D'Amico of Seekonk) congratulating Joel Sitte on receiving the Eagle Scout Award of the Boy Scouts of America;

Mr. Binienda of Worcester, 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 Mrs. Poirier, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

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

Neil Maynard Horton, Jr. Resolutions (filed by Mrs. Haddad of Somerset) congratulating Neil Maynard Horton, Jr. on receiving the Eagle Award of the Boy Scouts of America; and

Multiple Sclerosis Week. Resolutions (filed by Representative Grant and other members of the House) recognizing Multiple Sclerosis Week May 1st-7th 2010;

Mr. Binienda of Worcester, 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 Mrs. Haddad, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Recess.

Recess. At ten minutes after ten o'clock A.M. (Thursday, April 29), on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair) the House recessed until half past ten o'clock; and at ten minutes after eleven o'clock the House was called to order with Mr. Donato in the Chair.

Papers from the Senate.

Bullying in schools. A report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendment (striking out

all after the enacting clause and inserting in place thereof the text contained in House document numbered 4571) of the Senate Bill relative to bullying in schools (Senate, No. 2323), a Bill relative to bullying in schools (Senate, No. 2404) (having been approved by the committees on Bills in the Third Reading of the two branches, acting jointly), came from the Senate with the endorsement that it had been accepted by said branch.

Under suspension of the rules, on motion of Ms. Walz of Boston, the report was considered forthwith.

After remarks on the question on acceptance of the report, in concurrence, the sense of the House was taken by yeas and nays at the request of Ms. Walz; and on the roll call (the Speaker having been in the Chair) 159 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 380 in Supplement.]

Therefore the report was accepted, in concurrence.

Conference committee report accepted,—yea and nay No. 380.

The House Bill authorizing the city of Methuen to lease a building to the head start program of the Greater Lawrence Community Action Council (House, No. 4261) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2347.

Methuen,—building lease.

Under suspension of Rule 35, on motion of Ms. Campbell of Methuen, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

By Ms. Stanley of West Newbury, for the committee on Health Care Financing, that the Bill to protect nursing home residents (House, No. 4270) ought to pass with an amendment substituting therefore a bill with the same title (House, No. 4637). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Nursing home residents.

By Ms. Stanley of West Newbury, for the committee on Health Care Financing, on House, Nos. 2119, 2175, 2178, 2241, 2350, 2400, 2484, 2517, 3559, 3584, 3585, 3597, 3887, 3923, 4091, 4138, 4199, 4451, 4481, 4499, 4533, 4534, 4590 and 4605, an Order relative to authorizing the committee on Health Care Financing to make an investigation and study of certain House documents concerning health care and other related matters (House, No. 4638).

Health Care Financing,—study.

Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Binienda of Worcester, for said committees, reported, asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules.

Under Rule 42, the report was considered forthwith; and it was accepted.

Engrossed Bills.

Bills enacted.
 Engrossed bills
 Relative to bullying in schools (see Senate, No. 2404) (which originated in the Senate); and
 Establishing a regional wastewater district for the towns of Mansfield, Foxborough, and Norton (see House, No. 4307, amended) (which originated in the House);
 Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Paper from the Senate.

Bullying in schools.
 The engrossed Bill relative to bullying in schools (see Senate, No. 2404) came from the Senate with the endorsement that it had been amended by said branch 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 forthwith for the prevention of bullying in schools therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."
 Mr. Petrolati of Ludlow having been in the Chair,— under suspension of the rules, on motion of Mr. Donato of Medford, the amendment was considered forthwith; and it was adopted, in concurrence.

Emergency Measure.

Bullying in schools.
 The engrossed Bill relative to bullying in schools (see Senate, No. 2404), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.
 A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 29 to 0. Sent to the Senate for concurrence.
Bill enacted.
 Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and Sent to the Senate.

Orders of the Day.

General Appropriation Bill.
 The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.
 Pending the question on passing the bill, as amended, to be engrossed, Mr. Perry of Sandwich and other members of the House moved to amend it by adding the following section:
 "SECTION 68. The department of public utilities shall, within 120 days after the effective date of this act, complete a cost analysis report evaluating all technically-feasible supply and demand proposals capable of ensuring electricity reliability on Cape Cod. The analysis

shall include proposals which will reduce or eliminate existing uplift charges imposed upon ratepayers in the Southeastern Massachusetts Reliability Region as defined by ISO New England Inc. The report shall include, but not be limited to, a cost comparison of any technically-feasible proposal including transmission improvements, demand-side management programs, the health and environmental impacts of energy alternatives, repowering of existing power generation units in the Southeastern Massachusetts Reliability Region or the development of new peaking generation facilities."

The amendment was rejected.

At ten minutes after twelve o'clock noon (Thursday, April 29), on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at fourteen minutes after one o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair. Recess.

Ms. Walz of Boston and other members of the House then moved to amend the bill in section 2, in item 7010-0005, by adding the following "": provided further, that not less than \$100,000 shall be allocated for the purposes of offering a no-cost method to schools and districts for professional development to build the skills of all staff members, including but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify, and respond to bullying; provided further, that the content of such professional development shall include, but not be limited to developmentally appropriate strategies to prevent bullying incidents; developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents; information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying; research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment; information on the incidence and nature of cyber-bullying; and internet safety issues as they relate to cyber-bullying; and provided further that said no-cost method may also include a 'train-the-trainer' model, so-called, with demonstrated success"; and in said item by striking out the figures "\$13,031,114" and inserting in place thereof the figures "\$13,131,114".

The amendments were adopted.

Mr. Murphy of Lowell and other members of the House then moved to amend the bill by adding the following section:

"SECTION 68. Notwithstanding any general or special law to the contrary the department of children and family services shall not make special education placement decisions and shall adhere to the current individualized education plan until it is altered by the team process pursuant to applicable law. Furthermore, the department of elementary and secondary education shall consider a special education day school operated by an educational collaborative or other public entity as a different program type than one operated by a private entity. A school district shall only be responsible for their portion of the costs associated with a private residential placement pursuant to a valid individualized education plan."

After remarks the amendment was rejected.

General
Appropriation
Bill.

Mr. Falzone of Saugus then moved to amend the bill in section 2, in item 7000-9101, by adding the following “; provided further, that the board shall grant temporary certification to Saugus upon receipt of a preliminary report showing compliance with the requirement of a materials expenditure of 13% of its budget during fiscal year 2011 and showing that the library has and will maintain open hours of at least 59 hours per week; provided further, that the board may revoke certification to Saugus if said minimum standards are not met after temporary certification is granted; provided further that the employment of a permanent library director shall not be required of Saugus until at least July 1, 2011”.

The amendment was adopted.

Mr. Kocot of Northampton then moved to amend the bill by adding the following section:

“SECTION 68. Chapter 55 of the General Laws is hereby amended.

Section 6C. No candidate or his or her candidates committee may accept, nor shall any applicant for or holder of a casino license, nor any holding, intermediary or subsidiary company thereof, nor any officer, director, casino key employee or principal employee of an applicant for or holder of a casino license or of any holding, intermediary or subsidiary company thereof nor any person or agent on behalf of any such applicant, holder, company or person, directly or indirectly, pay or contribute any money or thing of value to any candidate for nomination or election to any public office in the Commonwealth, or to any committee of any political party, or to any group, committee or association organized in support of any such candidate or political party; except that the provisions of this section shall not be construed in a way that is contrary to law regarding expenditures or self-funding. Violation of any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars.”

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 27 the following section:

“SECTION 27A. Section 150 of chapter 127 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words ‘expires on’, in line 1, the following:— Saturday.”

The amendment was adopted.

Mr. Jones and other members of the House then moved to amend the bill by inserting after section 10 the following two sections:

“SECTION 10A. Subsection (c) of section 29F of chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended in lines 52 and 53 by striking the following words: ‘Debarment may be imposed for the following causes; but, debarment shall be imposed in all causes where debarment is required by law’ and inserting in place thereof the following:— Debarment shall be imposed for the following causes.

SECTION 10B. Subdivision (1) of subsection (c) of section 29F of chapter 29, as so appearing, is hereby amended by inserting, in line 72, after the words ‘environment; or’ the following:— (x) a violation of federal law prohibiting the employment of unauthorized aliens; or.”

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 27A (inserted by amendment) the following section:

“SECTION 27B. Section 118 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word ‘individual’ the following words:— , who is a resident of the Commonwealth of Massachusetts.”

The amendment was adopted.

Mr. Ross of Wrentham and other members of the House then moved to amend the bill by inserting after section 23 the following section:

“SECTION 23A. Section 2 of chapter 118G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after the second paragraph contained in the lines 13 to 28, inclusive:— The division shall make available actual costs of health care services, as supplied by each provider, to the general public in a conspicuous manner on the division’s official website.”

After remarks the amendment was adopted.

Mr. Scaccia of Boston then moved to amend the bill by adding the following section:

“SECTION 68. Section 20(c) of Chapter 28 of the Acts of 2009 is amended in the fifth sentence, by adding after ‘the Attorney General’ the following language:— and a duplicate copy of said notice shall be filed with the regulations division of the state secretary’s office.”

The amendment was adopted.

Mr. Nangle of Lowell then moved to amend the bill by adding the following section:

“SECTION 69. The date for compliance with subsection (b) of section 38j of Chapter 148 of the General Laws, as set forth in section 9 of Chapter 453 of the Acts of 2008, is hereby extended from July 1, 2010, until December 31, 2010.”

The amendment was adopted.

Ms. Sandlin of Agawam then moved to amend the bill by adding the following section:

“SECTION 70. Section 8G of chapter 26 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

There shall be in the division of insurance an auto damage appraiser licensing board, hereinafter called the board, consisting of four persons to be appointed by the Governor, two of whom shall be affiliated with the auto body repair industry, and two of whom shall be affiliated with insurance companies writing casualty insurance within the commonwealth, and one person to be appointed by the commissioner of insurance who shall not be affiliated with either the auto body industry or the insurance industry and who shall be the chairman of the board, and one person who shall be appointed by the Speaker of the House and one person appointed by the Senate President who shall not be affiliated with either the auto body industry or the insurance industry and represent the consumer and the general public. A vacancy on the board shall be filled within 60 days from the date of said vacancy.”

The amendment was adopted.

General
Appropriation
Bill.

Mr. Keenan of Salem and other members of the House then moved to amend the bill by adding the following section:

“SECTION 71. Section 14 of chapter 23A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended, in line 3, by striking out the word ‘those’ and inserting in place thereof the words ‘the following thirteen’.

Section 14 is further amended, in lines 12 through 19, by striking the text after the word ‘Commerce’.

Section 14 is further amended by striking the sentence in lines 33 and 34, and inserting in place thereof ‘No funds may be spent for entertainment under this section’.

Section 14 is further amended, in line 53, by inserting after the word ‘means’ the words:— and Joint Committee on Tourism Arts and Cultural Development.”.

The amendment was adopted.

Ms. Story of Amherst then moved to amend the by adding the following section:

“SECTION 72. Section 9A of chapter 118E of the General Laws is hereby amended by inserting in the following subsections under subsection (2):—

(j) Children who are deemed eligible for medical benefits pursuant to clause (a) of subsection 2 shall continue to be eligible for assistance for a period of 12 months, until the child’s annual eligibility review, if the child would otherwise be determined ineligible due to excess countable income but otherwise remains eligible.

(k) Children who are deemed eligible for medical benefits pursuant to clause (b) of subsection 2 shall continue to be eligible for assistance for a period of 12 months, until the child’s annual eligibility review, if the child would otherwise be determined ineligible due to excess countable income but otherwise remains eligible.

(l) Children who are deemed eligible for medical benefits pursuant to clause (c) of subsection 2 shall continue to be eligible for assistance for a period of 12 months, until the child’s annual eligibility review, if the child would otherwise be determined ineligible due to excess countable income but otherwise remains eligible.”.

The amendment was adopted.

Messrs. O’Day of West Boylston and Walsh of Boston then moved to amend the bill by adding the following section:

“SECTION 73. Paragraph (d) of section 7 of chapter 150E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting in the first paragraph after the third clause which ends ‘pursuant to Chapter 48;’ by inserting the following:— any general or special law pertaining to appointment, transfer or removal of any employee or employees who meet the definition of ‘employee’ or ‘public employee’ as defined in section one of this chapter.”.

The amendment was rejected.

Representatives Hill of Ipswich and L’Italien of Andover then moved to amend the bill by adding the following section:

“SECTION 73. Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

‘Safe drinking water’ is defined as water meeting or exceeding all primary and secondary standards, and recommended guidelines for drinking water as defined by the Massachusetts Department of Environmental Protection.

‘I-95 Corridor’ as used herein is defined as the area within the Town of Boxford located approximately 1,500 feet from any portion of Interstate Highway 95.

Section 2. The Massachusetts Department of Transportation (Mass DOT) shall conduct a comprehensive study to determine the cumulative and immediate effects of deicing chemical storage and deicing operations on the groundwater aquifer(s) and bedrock fissures within the I-95 Corridor. Specifically: the study shall determine how and why deicing chemicals applied to Interstate 95 have infiltrated the ground water aquifers and bedrock and what measures need to be taken to prevent it from occurring in the future. The study shall provide recommendations as to: (i) the proximate cause(s) of deicing chemicals, including sodium and chloride, infiltration into the groundwater aquifer(s) and bedrock fissures within the I-95 Corridor; (ii) short-term and long-term remedial action(s) necessary to restore groundwater quality to a Safe Drinking Water standard within the I-95 Corridor; (iii) a plan to modify highway drainage systems so as to prevent storm water run-off and highway drainage from adversely impacting aquifers, bedrock and adjacent wetland resource areas; and (iv) an alternative means to provide a reliable and adequate safe drinking water supply to the residents located within the I-95 Corridor meeting all state and local requirements.

Section 3. The Department of Transportation shall conduct said study utilizing an independent consultant. The development of the study scope of work, the selection of the independent consultant, and review of study recommendations, shall all be conducted jointly by DOT and a Committee to be appointed by the Boxford Board of Selectmen and the Boxford Board of Health. Within one year of the passage of this act, the Department of Transportation shall file a report of its activities and the developed recommendations with the governor and the clerks of the House of Representatives and the Senate who shall forward the same to the House and Senate committees on ways and means and other committees as appropriate. To the extent the report provides for disbursement of appropriations or other moneys authorized by the general court, the plan shall be subject to the approval of the secretary of transportation and the secretary of administration and finance.”.

The amendment was adopted.

Mr. Madden of Nantucket then moved to amend the bill by adding the following section:

“SECTION 74. The General Laws are hereby amended in line 65, Section 4c of Chapter 21A by inserting after the words ‘Martha’s Vineyard Commission,’ the words:— 1 of whom shall be a representative of the Nantucket Planning and Economic Development Commission.”.

The amendment was adopted.

General
Appropriation
Bill.

Mr. Madden then moved to amend the bill by adding the following section:

“SECTION 75. The General Laws are hereby amended in Section 15 of Chapter 132A, line 17, by striking the words ‘may review’ and inserting in place thereof the following words: ‘shall define’; and further, in line 18, by inserting after the word ‘facilities’ the following words: ‘and review them’; and further, in lines 19-22 inclusive, by striking the rest of the sentence after the word ‘review’, and inserting in place thereof the following words:— of a regional planning agency’s decision on the applicant’s proposed development of regional impact.”

The amendment was adopted.

Subsequently Mr. Murphy of Burlington moved that this vote be reconsidered; and the motion to reconsider prevailed.

Pending the recurring question on adoption of the amendment, the same member moved to amend it by striking out proposed section 75 and inserting in place thereof the following section:

“SECTION 75. The second paragraph of section 15 of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following:—

(iii) in municipalities where regional planning agencies have regulatory authority, a regional planning agency shall define the appropriate scale of offshore renewable energy facilities, and review such facilities as developments of regional impact, and the applicant may seek review of the regional planning agency’s development of regional impact determination, but not its determination of appropriate scale, pursuant to the authority of the energy facilities siting board to issue certificates of environmental impact and public interest pursuant to sections 69K through 69O of chapter 164.”

The further amendment was adopted, thus precluding a vote on the pending amendment offered by Mr. Madden of Nantucket.

Mr. Costello of Newburyport then moved to amend the bill by adding the following two sections:

“SECTION 76. Section 18H of chapter 6A of the General Laws, as amended by section 8 of chapter 223 of the Acts of 2008, is hereby further amended by striking out the first sentence in subsection (d) and inserting in place thereof the following:—

(d) Each communication service provider shall remit the surcharge revenues collected from its subscribers or end users to the state treasurer for deposit in the Enhanced 911 Fund; provided however that the department shall promulgate regulations establishing collection of the surcharge on prepaid wireless services from consumers at the retail point of sale and that the surcharge on prepaid wireless services shall be remitted by the retailer of the prepaid wireless services to the department of revenue; and provided further that the department of revenue shall promulgate regulations for collection, remittance, audits, and enforcement of the collection and remittance of the surcharge on prepaid wireless services consistent with the tax imposed under chapter 64H of the General Laws.

SECTION 77. Said chapter 223 is hereby further amended by striking out section 19 and inserting in place thereof the following section:—

Section 19. The regulations required to be adopted under subsections (a) and (d) of section 18H of chapter 6A of the General Laws by the state 911 department and the department of revenue shall take effect on July 1, 2010, and the retailers of prepaid wireless service shall be subject to said section 18H of said chapter 6A, except for subsection (g) of said section 18H of said chapter 6A on and after July 1, 2010. Subsection (g) of said section 18H of said chapter 6A shall take effect on the effective date of this act.”

The amendment was adopted.

Mr. Galvin of Canton and other members of the House then moved to amend the bill by adding the following section:

“SECTION 78. The Massachusetts general laws are hereby amended by striking Chapter 111, Section 62K and inserting in place thereof the following section:—

Chapter 111: Section 62K. Trustees; corporation; additional powers and duties; grants; devises; gifts; trusts.

Section 62K. The trustees shall be a corporation for the purpose of taking and holding, by them and their successors, in the name of the commonwealth, and in accordance with the terms thereof, any grant or devise of land, bequest of personal property or money or other funds, whether income or principal and whether acquired by gift or contribution or otherwise made, or generated by the trustees for the use or benefit of the school, its students, former students or graduates or any association thereof. Consistent with said purpose, the trustees shall have all the powers permitted a nonprofit corporation under Massachusetts law and an exempt organization described in section 501(c) 3 of the IRS Code, including among others, the power to employ such agencies as they may from time to time determine to be wise and proper for the administration of said funds, and from funds received or the income thereof, to pay such expenses as may be necessary for said administration, or may, with notification to the governor or council, delegate any powers conferred by this section upon any such company or corporation. In the use, management and administration of such funds, the trustees or their agents shall in their discretion so act as most effectively to benefit the school, its students or graduates or any association thereof. No trustee shall be answerable for the default or neglect of any co-trustee, or of any agent employed hereunder, or of any corporation to which power is delegated or transferred as herein authorized.”

The amendment was adopted.

Ms. Polito of Shrewsbury then moved to amend the bill by adding the following two sections:

“SECTION 79. Section 33 of chapter 138 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended in line 12 by striking the words ‘12:00 noon in any county other than Suffolk’ and inserting in place thereof the following:— ten o’clock ante meridian.

SECTION 80. Section 33b of chapter 138 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the words ‘eleven o’clock ante meridian’ and inserting in place thereof the following:— ten o’clock ante meridian.”

After remarks the amendment was adopted.

General
Appropriation
Bill.

Ms. Peisch of Wellesley then moved to amend the bill by inserting after section 3 the following section:

"SECTION 3A. Chapter 6A of the General Laws is hereby amended by inserting after section 7 the following section:—

Section 7A. Each secretary may, notwithstanding any general or special law to the contrary, identify information technology related activities and related supporting financial functions common to the state agencies within the executive office and may designate such functions as core information technology functions. To improve administrative efficiency and preserve fiscal resources, the secretary may direct that core information technology functions be performed by the executive office or by 1 or more state agencies designated by the secretary to perform those functions. The secretary may delegate the secretary's signature authority for such functions to an officer or employee of an agency within the executive office. Nothing in this section shall waive the responsibility of each agency head to certify obligations and expenditures for appropriations and other legally available funds of the agency pursuant to section 3 of chapter 7A, the responsibilities of an agency head pursuant to state finance law including but not limited to sections 19, 20, 24, 26 and 27 of chapter 29, and the responsibility of an agency head to certify work by employees of the agency pursuant to section 31 of chapter 29. The executive office or any state agencies designated to perform core information technology functions may charge the state agencies that receive such services for the reasonable costs of providing the services. Any employee transfers that occur in connection with the consolidation of core information technology functions within the executive office or state agencies shall not: (a) impair the civil service status of any such transferred employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 or has tenure in a position by reason of section 9A of chapter 30; or (b) impair or change an employee's status, rights, or benefits under chapter 150E."

The amendment was adopted.

Mr. Bradley of Hingham then moved to amend the bill by adding the following section:

"SECTION 81. Chapter 211B of the Massachusetts General Laws is amended by adding a new Section 21 to read as follows:—

Chapter 211B: Section 21. Notices

Section 21. Whenever a department established under this chapter is required to publish a notice in a newspaper by any Massachusetts General Law, order, rule or judgment of any court, said department shall be deemed as having met all notice requirements by publishing in a newspaper which by its title page purports to be printed or published in such town, city, or county, or having a circulation therein. For purposes of this section, the definition of newspaper shall include legal newspapers."

The amendment was adopted.

Mr. Koutoujian of Waltham then moved to amend the bill by adding the following two sections:

"SECTION 82. Section 9(b) of chapter 94C of the General Laws is hereby amended in the third paragraph by inserting at the end thereof the following:— This section shall not be construed to prohibit a

physician or an optometrist from the in-office dispensing and sale of a vision correction device, including contact lenses that contain a controlled substance component, provided that the controlled substance is within the profession's designated scope of practice.

SECTION 83. Section 66b of Chapter 122 of the General Laws is hereby amended after the third paragraph by inserting the following:— This section shall not be construed to prohibit an optometrist from the in-office dispensing and sale of a vision correction device, including contact lenses that contain a controlled substance component, provided that the controlled substance is within the profession's designated scope of practice."

The amendment was rejected.

Mr. Donelan of Orange then moved to amend the bill by adding the following nine sections:

"SECTION 83. The secretary of energy and environmental affairs shall transfer from the department of conservation and recreation to the department of agricultural resources the service forestry unit and the forest products marketing and utilization unit. All personnel of such units at the department of conservation and recreation at the time of this transfer shall remain in their respective collective bargaining units at the department of agricultural resources.

SECTION 84. Amend Chapter 61 §8 in paragraph 10 by deleting 'commissioner of department of conservation and recreation' and replacing it with the following: ', commissioner of the department of agricultural resources'.

Amend Chapter 61A §14 in paragraph 10 by deleting 'commissioner of department of conservation and recreation' and replacing it with the following: ', commissioner of the department of agricultural resources'.

Amend Chapter 61B §9 in paragraph 10 by deleting 'commissioner of department of conservation and recreation' and replacing it with the following: ', commissioner of the department of agricultural resources'.

SECTION 85. Amend Chapter 4 §7 by deleting the forty-seventh clause and replacing it with the following: 'Forester' and 'state forester' shall mean the commissioner of agricultural resources or his designee, adding, after the fifty-eighth clause, the following:— Fifty-ninth, 'state fire warden' shall mean the commissioner of conservation and recreation or his designee.

SECTION 86. Amend Chapter 21 §2F by deleting the first paragraph and inserting in its place the following:—

The directors of the divisions of state parks and recreation and urban parks and recreation shall work in cooperation with the director of the division of fisheries and wildlife within the department of fish and game to establish coordinated management guidelines for sustainable forestry practices on public forest lands within the departments of conservation and recreation. Said guidelines for public forest lands shall include agreements on equipment, personnel transfers, operational costs, and assignment of specific management responsibilities.

SECTION 87. Amend MGL Chapter 132 as follows: Delete §1 and insert in its place the following:—

Section 1. The state forester, defined for the purposes of this chapter pursuant to Chapter 4 §7, shall promote the perpetuation, extension and proper management of the public and private forest lands of the

General
Appropriation
Bill.

commonwealth; shall give such a course of instruction to the students of the University of Massachusetts on the art and science of forestry as may be arranged by the trustees of the university and the forester; and shall perform such other duties as may be imposed upon him by the governor.

Delete §31 and insert in its place the following: 'Lands acquired under section thirty or thirty-three shall be known as state forests, and shall be under the control and management of the commissioner. Lands acquired by purchase for experiment and illustration in forest management and for reforestation under the provisions of chapter four hundred and seventy-eight of the acts of nineteen hundred and eight and amendments thereof, or of the corresponding provisions of later laws, as to which the period limited for repurchase by their original owners, or their heirs or assigns, in accordance with said provisions shall have expired without such repurchase, shall also be known as state forests and shall be under the control and management of the commissioner to the same extent as if acquired under section thirty. He shall reforest and develop such lands, and may, make all reasonable regulations which in his opinion will tend to increase the public enjoyment and benefit therefrom and to protect and conserve the water supplies of the commonwealth'.

Delete §32 and insert in its place the following: 'The commissioner may expend such sums as are annually appropriated for the necessary expenses incurred under section thirty-one.

In §35 delete the word 'forester' and insert in its place the following: 'commissioner'.

Delete §41 and insert in its place the following: 'The governor shall appoint a state forestry committee, to consist of eight members representing, respectively: forest land owners; primary wood using industries; licensed timber harvesters; consulting foresters; environmental organizations; water supply agencies; fisheries and wildlife; and one member representing the public at large. The state forester shall be an ex officio member of the committee and shall vote only in case of a tie. In the initial appointments of said committee members, three shall be appointed for a one year term, three for a two year term, and two for a three year term. Thereafter, as the term of a committee member expires, his successor, with like qualifications as his predecessor, shall be appointed for a term of three years. Said committee shall select its own chairman. The members of said committee shall serve without pay, but shall be reimbursed for actual travelling expenses within the commonwealth, when approved by the state forester.

The state forestry committee, with recommendations of such other advisory committees as the director in his discretion may appoint, shall prepare tentative minimum forest cutting practices and guidelines. Before recommending any forest practices, said committee shall hold hearings, with due notice being given, in conformance with chapter thirty A, in at least three places conveniently located throughout the commonwealth. Said committee may thereafter recommend such practices or modifications thereof and submit them to the state forester. The state forester may thereupon adopt the practices and place them in effect, by posting in all city and town halls in the region affected and by publication in at least one daily newspaper in every county affected.

Such approved practices may be amended at any time by said committee in the same manner, on its own motion or upon the petition of not less than twenty-five forest owners or licensed timber harvesters of the commonwealth or upon petition of any person authorized under section four of chapter thirty A.'

In §42 delete all instances of 'director' and insert in its place the following: 'state forester'.

In §43 delete all instances of 'director' and 'director's' and insert in its place the following: 'state forester' and 'state forester's' respectively.

In §45 delete all instances of 'director' and insert in its place the following: 'state forester'.

In §46 delete all instances of 'director' and insert in its place the following: 'state forester'.

In §49 delete 'director of the division of forests and parks' and insert in its place the following: 'state forester' and delete all remaining instances of 'director' and insert in its place the following 'state forester'.

Delete §50 and insert in its place the following: 'There is hereby established a forester licensing committee, consisting of nine members, one of whom shall be the state forester, who shall act as chairman, one of whom shall be the chairman of the state forestry committee established in section forty-one or his designee, one of whom shall be the chief forester of the department of conservation and recreation, and six persons to be appointed by the governor, one of whom shall be a person nominated by the Massachusetts Association of Professional Foresters, one of whom shall be a licensed timber harvester, one of whom shall be an owner of classified forestland, one of whom shall be a representative of the executive office of consumer affairs, one of whom shall be a representative of the executive office of energy and environmental affairs, and one of whom shall be a representative of an environmental organization. The forester licensing committee shall recommend qualifications and procedures for the licensing of foresters and shall assist the director in the preparation of rules and regulations for such licensing. Members of said commission shall serve without compensation.'

Amend §51 by deleting in paragraph 1 'the department of environmental management, the metropolitan district commission' and inserting in its place the following: 'the department of conservation and recreation, the department of agricultural resources' and by deleting in the second paragraph 'the chief forester of the department of environmental management, the chief forester of the metropolitan district commission,' and inserting in its place the following 'the chief forester at the department of conservation and recreation, the state forester'.

SECTION 88. Insert after chapter 128 §115 a new section, §116 as follows:—

Section 116. Powers and duties of the Division of Forest Services.

The director of the division of forest services shall, any other law notwithstanding, have such duties and powers as established under the general laws and accorded to the state forester. The director at all times shall maintain strong coordination with; the chief forester at the department of fish and game, the chief forester at the department of conser-

General Appropriation Bill.

vation and recreation, the director of the natural heritage and endangered species program and the directors of the regional offices of the department of environmental protection. In carrying out the duties and powers of the state forester said director shall:

- 1. Protect the soil and water resources of the forests;
- 2. Protect the forest productivity, ecosystem integrity and health of the forests;
- 3. Foster locally grown forest products from carefully conducted harvests;
- 4. Foster an ethic of integrity and respect among the public for forest resources, fish and wildlife resources and the biological conservation of forests;
- 5. Foster the restoration and conservation of our forests;
- 6. Protect forest land for future generations, by purchasing conservation restrictions on prime forest land;
- 7. Foster the climate mitigation and adaptation values of our forests.

SECTION 89. The Memorandum of Understanding in effect between the department of environmental management and department of environmental protection regarding forest cutting plans shall remain in full force and effect during this transfer and all such duties and obligations shall, until such agreement is amended or canceled by the department of agricultural resources and the department of environmental protection, continue as if between the department of agricultural resources and the department of environmental protection.

SECTION 90. There shall be a Forestry Transfer Oversight Committee within the Executive Office of Energy and Environmental Affairs that shall exist for not more than five (5) years following passage of this legislation. The Committee shall make recommendations to the secretary of energy and environmental affairs relative to the transfer of the service forestry and forest products marketing and utilization units from the department of conservation and recreation to the department of agricultural resources. Said recommendations shall be for the purposes of evaluating such transfer and making improvements to the regulation and promotion of the services and products provided by forest lands. Said committee shall meet at the call of the chair and not less than once per year. Said committee shall be made up of the secretary of energy and environmental affairs or his designee who shall be chair, the commissioner of the department of environmental protection or her designee, the commissioner of the department of agricultural resources or his designee, and 2 members of the public who shall be appointed by the secretary of energy and the environmental affairs one who shall represent the environmental community and one who shall be a owner of forest land in the commonwealth managed for commercial purposes. The state conservationist from the United States Department of Agricultural Resources and the Dean of the College of Natural Sciences and Mathematics at UMass Amherst or their designees shall serve as non-voting members.

SECTION 91. The secretary energy and environmental affairs shall direct such interdepartmental agreements concerning the transfer of vehicles, computers, and other such assets as well as the use of office space and federal grant revenues between the department of agricultural resources and the department of conservation and recreation as he

shall determine is necessary to carry out the transfer from the department of conservation and recreation to the department of agricultural resources the service forestry unit and the forest products marketing and utilization unit.”

The amendment was rejected.

Messrs. O’Day of West Boylston and Pedone of Worcester then moved to amend the bill by adding the following section:

“SECTION 82. Section 44 of chapter 75 of the General Laws is hereby amended in line 2 by striking out the word ‘shall’ and inserting in place thereof the following word:— ‘may’”.

The amendment was adopted.

Mr. Finegold of Andover then moved to amend the bill in section 2 by inserting after item 1102-3224 the following item:

“1102-3225	For the cost of utilities and management services provided by the division of capital asset management, including the payment of electrical, fuel oil and natural gas purchases that are centrally billed to the commonwealth and the purchase, delivery, handling of and contracting for supplies, postage and related equipment and other incidental expenses provided under section 51 of chapter 30 of the General Laws; provided, that any unspent balance at the close of fiscal year 2011 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Intergovernmental Service Fund and may be expended for this item in fiscal year 2012 for the purposes of energy efficiency projects; and provided further, that the division in consultation with the department of energy resources, the operational services division and the executive office for administration and finance shall implement a program for centralized energy management by July 1, 2011	\$255,500,000
	Intragovernmental	
	Service Fund.....100%”;	

and by adding the following four sections:

“SECTION 83. Section 1 of chapter 23J of the General Laws, as amended by sections 2 and 3 of chapter 158 of the acts of 2009, is hereby further amended by inserting after the definition of ‘Director’ the following 2 definitions:—

‘Division director’, the director appointed to head the [commonwealth energy solutions division] under section 12.

‘Energy resources’, electricity, natural gas, heating fuels, transportation fuels, demand response, efficiency, and energy management services as defined in section 3 of chapter 25A.

SECTION 84. Said section 1 of chapter 23J, as so amended, is hereby further amended by inserting after the definition of ‘Fund’ the following 2 definitions:—

‘Local government body’, a city, town, municipal aggregation as set forth in section 134 of chapter 164, district, regional school district or county, or an agency or authority thereof, including a housing authority, board, commission, department or instrumentality of a city, town district, regional school district or county.

General
Appropriation
Bill.

'Commonwealth energy solutions division', the division established under section 12.

SECTION 85. Said section 1 of chapter 23J, as so amended, is hereby further amended by inserting after the definition of 'Revenue' the following 2 definitions:—

'State energy resource contracts', contracts executed under section 12 by the division.

'State entities', state agencies, state authorities, quasi-public entities, state higher education facilities, and building authorities.

SECTION 86. Said chapter 23J of the General Laws is hereby further amended by adding the following section:—

Section 12. (a) There shall be within the center a division to be known as the commonwealth energy solutions division. The division shall be headed by a division director who shall be appointed by the executive director of the center and who shall be a person of skill and experience in the field of energy procurement. The division director shall serve at the pleasure of the executive director, and the executive director shall fix the division director's compensation and terms of employment. The division director shall devote full time during business hours to the duties of the office. The division director may, subject to the general supervision of the executive director, employ other employees, consultants, agents, and advisors, and shall attend meetings of the board.

(b) The division shall promote and advance the commonwealth's public interests by acting as the commonwealth's lead agency, in collaboration with the clean energy center, the executive office of energy and environmental affairs, the executive office of administration and finance, and the department of energy resources, to reduce energy costs and greenhouse gas emissions for all state entities by: (i) establishment of a state-wide procurement process for energy resources; (ii) management of a state-wide energy monitoring and analysis system to optimize energy usage in state-owned facilities; and (iii) recommending energy-related capital investments. The division shall manage these duties so as to obtain adequate, reliable, efficient, environmentally sustainable and cost-effective energy resources.

(c) There shall be an advisory committee consisting of 9 individuals with an interest and knowledge in matters related to energy procurement. The board shall consult with the advisory committee in matters related to the division and in the implementation of this section. The advisory committee shall develop objectives and procurement strategies and recommend financial controls. The advisory committee shall include: the secretary of the executive office of administration and finance, who shall serve as chair; the secretary of the executive office of energy and environmental affairs; the commissioner of the department of energy resources; the commissioner of the operational services division; a member appointed by the secretary of administration and finance from a participating executive branch agency; 1 member appointed by the secretary of administration and finance representing participating quasi-public entities; 1 member appointed by the secretary of administration and finance who is an expert on energy procurement; 1 representative appointed by the Massachusetts Municipal Association; and 1 member appointed by the secretary of energy and

environmental affairs who is an expert on energy procurement. The members of the advisory committee shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee may meet as often as the members shall decide, but it shall meet at least quarterly. Members of the advisory committee may appoint a designee to represent them at any such meeting.

(d) All state entities shall procure energy resources from state energy resource contracts negotiated by the division and executed subject to this section unless granted a waiver by the division. Local governmental bodies shall have the option to procure energy resources from these state energy resource contracts by notifying the division in writing. Notwithstanding this subsection, state entities or local governmental bodies served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level shall not procure energy resources from state energy resource contracts.

(e) The division, in consultation with the board and the advisory committee, will establish procedures and criteria to enable each state entity, in consultation with the division, to evaluate the costs and benefits of any then current contractual obligations for energy resources applicable to that state entity. Following the termination date of these contracts, the state entity shall utilize the state energy resource contracts executed under this section unless granted a waiver by the director of the division. The director shall consult with the board or other applicable governing body of the state entity, and subject to criteria established under this subsection, may grant a waiver if the costs and benefits of maintaining separate procurements for the state entity provides the best value or is in the best interests of the entity. If a waiver is granted, the state entity may conduct separate procurements for these energy resources subject to all applicable procurement laws of the commonwealth. Any entity procuring energy resources through a state energy resource contract shall execute all necessary contract documents to complete the procurement for the state entity.

(f) To increase efficiencies in conducting energy resource procurements for state entities and local governmental bodies, the division shall: (i) establish state-wide procurement for energy resources for such entities; (ii) register as a load-serving entity with ISO-NE to participate in wholesale electricity market; (iii) consolidate all eligible state accounts, and if it elects, accounts from participating local governmental bodies, into a single electricity and natural gas load profile, and (iv) enable small accounts, as determined by the division, to participate in wholesale market purchases.

(g) To streamline energy billing for state entities which have executed contracts under this section, the division, in consultation with the department of energy resources, the executive office for administration and finance and participating state entities, shall: (i) create a centralized billing system to receive all utility bills, audit for errors, and provide billing to individual state agencies and accounts and (ii) provide the division and the department of energy resources with such billing information, as they may request.

General
Appropriation
Bill.

(h) To improve energy usage and management for state entities and achieve state energy policy objectives, the division shall: (i) utilize an energy management system to monitor and analyze consumption in facilities of state entities under state energy resource contracts; (ii) utilize data from such an energy management system, energy audits and other sources to identify energy efficiency investment opportunities; (iii) identify all existing state-owned energy generation assets and develop a plan to optimize their value and (iv) establish equitable means to distribute energy savings to state entities. The division may develop a similar energy usage and management program for participating local governmental bodies and may utilize the systems and methods set forth in this paragraph in consultation with the green communities division of the department of energy resources.

(i) To identify appropriate capital investments in the state facility energy infrastructure, the division, in consultation with the executive office for administration and finance, shall develop recommendations that: (i) establish economic criteria to be applied in making capital investments in identified energy efficiency opportunities; (ii) identify capital resources, either through existing bonding authority or other sureties or resources to fund energy efficiency improvements and distributed energy generation and (iii) utilize energy cost savings to finance, in whole or in part, such capital improvements.

(j) To secure energy resources, the division shall have the authority to procure electric utility services, including the purchase, generation, transmission, transformation and distribution of the supplies of electricity at the lowest reasonable cost consistent with the provision of this section. The division shall be classified as a domestic electric utility pursuant to chapter 164A solely for the purpose of purchasing electricity and becoming a member of the New England power pool. In addition, the division shall have the following powers:

(a) to purchase electric power, energy, and other products of electric power at wholesale or retail from other utilities, public and private, at wholesale or retail, within and without the commonwealth, political subdivisions, and the New England power pool, including, without limiting the generality of the foregoing, all or a portion of the capacity and output of one or more specific electric power facilities, and steam whether or not produced by an electric power facility; provided, however, that nothing in this section shall be construed to authorize resale of electric power and energy so purchased except as otherwise authorized by this section;

(b) to contract for the use of transmission and distribution facilities owned by others for the delivery to the state entities and local governmental bodies, and any such owner is hereby authorized to enter into such contracts with the division;

(c) to contract with respect to the purchase, sale, delivery, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy and to otherwise participate in the New England power pool, as defined by section 1 of chapter 164A, and;

(d) to do all things necessary, convenient or desirable to carry out the purposes of providing electricity in connection with this section.

(k) The division, not later than July 1, 2010, shall adopt rules and procedures to carry out this section.

(l) The center shall report annually on January 1 to the center's board, the clerks of the senate and house of representatives, the governor, and the participating state entities on the operations of the division. The annual report shall include, but not be limited to, a description of the performance of the procurement program and contracts executed pursuant to this section. The first annual report shall be filed not later than January 1, 2012."

The amendments were rejected.

Mr. Falzone of Saugus then moved to amend the bill by adding the following section:

"SECTION 83. Section 16B of Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the first sentence of the first paragraph and replacing it with the following sentences:— Notwithstanding any general or special law to the contrary, the regional district school committee, by a two-thirds vote of all its members, shall annually determine the amounts necessary to be raised, after deducting the amount of aid such district is to receive pursuant to section sixteen D, to maintain and operate the district school or schools during the next fiscal year, and amounts required for payment of debt and interest incurred by the district which will be due in the said year, and shall apportion the amount so determined among the several municipalities by finding an amount per pupil by dividing the amount by the number of children who attended a school in the district in that fiscal year, and assigning each municipality a contribution equal to the amount per pupil multiplied by the number of children from that municipality attending a school in the district in fiscal year."

The amendment was rejected.

Mr. Falzone then moved to amend the bill by adding the following section:

"SECTION 83. (a) There shall be a special commission to study the contributions required by member municipalities to vocational school districts by the provisions in Chapter 70 of the Massachusetts General Laws.

(b) The commission shall consist of the secretary of education, who shall chair the commission, the commissioner of education or his designee, the commissioner of early education or her designee, the commissioner of higher education or his designee, the secretary of administration and finance or his designee, the house and senate chairs of the joint committee on education, the house and senate chairs of the joint committee on higher education, the chairs of the house and senate committees on ways and means or their designees, a representative chosen by the speaker of the house of representatives, a representative chosen by the president of the senate, a representative chosen by the house minority leader, a representative chosen by the senate minority leader, a representative of each of the following organizations: Massachusetts Municipal Association, Massachusetts Teachers Association, Massachusetts Federation of Teachers, Massachusetts Association of School Superintendents, Massachusetts Association of School Committees, the Suburban Coalition, the Massachusetts Budget and Policy Center, the Massachusetts Taxpayers Foundation, the Massachusetts Business Alliance for Education, and 7 members to be selected by the governor.

General
Appropriation
Bill.

(c) The commission's study shall include, but not be limited to, a review of the budgets provided to vocational school districts, a review of the discrepancies in member municipality contributions, alternative ways to determine member contributions, the impact of setting equal contributions per student for every member municipality, a review of successful educational programs in schools and school districts that achieve their success at relatively lower per pupil costs when compared with school districts serving student populations with similar academic and socio-economic characteristics and an assessment of the possibility of replicating such programs in other schools and school districts, and any other issues identified as important by the commission.

(d) The commission shall report its conclusions in writing not later than December 1, 2010 to the governor, the secretary of administration and finance, the speaker of the house of representatives, the president of the senate, and the house and senate chairs of the joint committee on education. The report shall include a list of items requiring further study and evaluation through a contracted adequacy study or other academic and statistical research; a recommendation about the scope, goals, recommended budget and preferred methodology of any further study; Any such additional study shall be completed no later than December 1, 2011."

The amendment was rejected.

Mr. Webster of Pembroke then moved to amend the bill by adding the following section:

"SECTION 83. Section 69 of Chapter 130 of the General Laws is hereby amended by inserting the following new paragraph:

Parties who have obtained a commercial aquaculture permit issued in accordance with 322 CMR 15.4 may harvest farm raised seed oyster regardless of size."

The amendment was adopted.

Mr. Sciortino of Medford then moved to amend the bill by adding the following two sections:

"SECTION 84. Chapter 111 of the General Laws is hereby amended by inserting after section 121A the following sections:—

Section 121B. Notwithstanding any general or special law to the contrary, a physician, physician assistant, nurse practitioner or certified nurse mid-wife who is authorized under Chapter 94C to prescribe and dispense prescription drugs, and who diagnoses infection due to Chlamydia trachomatis in an individual patient, may prescribe and dispense such prescription drugs to the patient's sexual partner or partners for the presumptive treatment of chlamydia infection without an examination of the patient's sexual partner or partners. Further, the department may authorize a physician, physician assistant, nurse practitioner or certified nurse mid-wife, who is authorized under Chapter 94C to prescribe and dispense prescription drugs, and who diagnoses an infectious disease dangerous to the public health, to prescribe and dispense prescription drugs to the patient's at-risk contact or contacts for presumptive treatment to prevent infection in such contact or contacts without an examination of the patient's contact or contacts.

SECTION 85. The department of public health shall adopt regulations to implement this act."

The amendment was adopted.

Mr. Donato of Medford and other members of the House then moved to amend the bill in section 6 [A] by inserting after the following "following sentence:—" the words "For fiscal year 2011".

Pending the question on adoption of the amendment, Mr. Donato moved to amend it by striking out the text of said amendment [at "A"] and inserting in place thereof the following "; in line 2, by striking out the word 'No' and inserting in place thereof the following 'For fiscal year 2011, no' " and by adding at the end of said section the following "provided further the department of higher education, by February 15, 2011, shall report to the house and senate committees on ways and means and the joint committee on higher education on the number of students applying for, eligible for, and receiving tuition and fee waivers under the program authorized in said eighth paragraph as well as on the cost and sustainability of the program in both recent and coming years".

The further amendments were adopted, thus precluding a vote on the pending amendment.

Mr. Kane of Holyoke then moved to amend the bill by adding the following section:

"SECTION 86. The inspector general shall review and comment, within 30 days of enactment of this Act, any award, transfer or procurement by the Executive Office of Health and Human Services of any of the services currently being provided under the Customer Services Contract responsible for 'The Provision of Key Operations Services to the Mass Health Member and Provider Communities', to private vendor or to any Department of the Commonwealth as defined by 815 CMR 6.02."

The amendment was adopted.

Subsequently Ms. Sandlin of Agawam thereupon 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 152 members were recorded as being in attendance.

[See Yea and Nay No. 381 in Supplement.]

Therefore a quorum was present.

Mr. Cabral of New Bedford then moved to amend the bill in section 2, in item 7027-1004, by striking out the figures "\$361,000" and inserting in place thereof the figures "\$397,937"; and the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill [A] in section 2, in item 1233-2350, by striking out the figures "\$898,980,293" and inserting in place thereof the figures "\$936,437,803"; and in item 7061-0008, by striking out the figures "\$3,851,193,043" and inserting in place thereof the figures "\$4,048,324,258"; and by striking out section 3 and inserting in place thereof the following section:

"SECTION 3. Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2011 the distribution to cities and towns of the balance of the State Lottery Fund, as paid from the General Fund in accordance with clause (c) of the second para-

Quorum.

Quorum
roll call,—
yea and nay
No. 381.

General
Appropriation
Bill.

graph of section 35 of chapter 10 of the General Laws, and additional funds from the General Fund shall be \$936,437,803, and shall be apportioned to the cities and towns in accordance with this section.

Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2011 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists. The specified amounts to be distributed from said item 7061-0008 of said section 2 shall be in full satisfaction of the amounts due under chapter 70 of the General Laws.

The foundation budget categories for each district shall be calculated in the same manner as in fiscal year 2010. The target local share shall be calculated using the same methodology used in fiscal year 2010. Preliminary local contribution shall be the municipality's fiscal year 2010 minimum required local contribution, increased or decreased by the municipal revenue growth factor; provided, that if a municipality's preliminary contribution as a percentage of foundation is more than 5 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 1 percentage point; provided further, that if a municipality's preliminary contribution as a percentage of foundation is more than 10 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 2 percentage points. Minimum required local contribution for fiscal year 2011 shall be, for any municipality with a fiscal year 2011 preliminary contribution greater than its fiscal year 2011 target contribution, the preliminary local contribution reduced by 30 per cent of the gap between the preliminary local contribution and the target local contribution. Required local contribution shall be allocated among the districts to which a municipality belongs in direct proportion to the foundation budgets for the municipality's pupils at each of those districts. No non-operating district shall receive chapter 70 aid in an amount greater than the district's foundation budget. If there is a conflict between the language of this section and the distribution listed below, the distribution below shall control.

The department of elementary and secondary education shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994. No payments to cities, towns or counties maintaining an agricultural school pursuant to this section shall be made after November 30 of the fiscal year until the commissioner of revenue certifies acceptance of the prior fiscal year's annual financial reports submitted under section 43 of chapter 44 of the General Laws. Advance payments shall be made for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of the executive office for administration and finance, pursuant to guidelines established by the secretary.

**Unrestricted
General
Government
Aid**

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
ABINGTON	7,652,405	1,733,200
ACTON	5,480,709	1,232,453
ACUSHNET	6,380,293	1,335,880
ADAMS	0	2,062,686
AGAWAM	17,539,465	3,245,836
ALFORD	0	12,364
AMESBURY	8,897,607	1,714,037
AMHERST	6,141,373	7,417,544
ANDOVER	7,318,616	1,574,331
AQUINNAH	0	2,058
ARLINGTON	7,043,540	6,684,280
ASHBURNHAM	6,255	700,522
ASHBY	18,467	385,788
ASHFIELD	97,305	163,569
ASHLAND	4,781,435	1,191,467
ATHOL	0	2,332,579
ATTLEBORO	30,385,681	5,026,357
AUBURN	6,569,399	1,508,896
AVON	862,748	610,660
AYER	4,168,122	666,985
BARNSTABLE	7,589,756	1,853,262
BARRE	0	792,398
BECKET	79,753	80,012
BEDFORD	2,964,642	1,011,392
BELCHERTOWN	13,786,977	1,499,115
BELLINGHAM	8,480,883	1,495,008
BELMONT	5,885,398	1,989,365
BERKLEY	5,426,422	536,079
BERLIN	528,296	177,633
BERNARDSTON	11,779	256,255
BEVERLY	7,109,675	5,145,188
BILLERICA	18,355,098	5,130,485
BLACKSTONE	84,251	1,205,953
BLANDFORD	44,506	111,873
BOLTON	0	173,954
BOSTON	216,994,382	166,924,272
BOURNE	4,948,115	1,291,562
BOXBOROUGH	1,366,966	222,247
BOXFORD	1,620,806	428,303
BOYLSTON	454,815	301,792
BRAINTREE	12,178,034	5,041,694
BREWSTER	937,937	347,881
BRIDGEWATER	36,107	3,208,997
BRIMFIELD	1,167,152	343,508
BROCKTON	132,925,358	18,447,819
BROOKFIELD	1,342,588	435,019
BROOKLINE	7,323,679	5,593,780

General
Appropriation
Bill.

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid	<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
BUCKLAND	6,177	269,777	EVERETT	38,785,854	6,086,937
BURLINGTON	5,413,900	2,307,358	FAIRHAVEN	7,624,868	1,986,773
CAMBRIDGE	9,130,367	18,927,802	FALL RIVER	94,236,411	20,996,063
CANTON	3,749,132	1,889,388	FALMOUTH	5,119,922	1,221,483
CARLISLE	834,776	193,277	FITCHBURG	41,279,263	7,518,871
CARVER	10,112,726	1,287,097	FLORIDA	555,379	43,854
CHARLEMONT	96,287	154,007	FOXBOROUGH	8,819,356	1,312,346
CHARLTON	7,572	1,276,459	FRAMINGHAM	19,926,983	8,765,666
CHATHAM	685,125	132,598	FRANKLIN	28,371,695	2,177,055
CHELMSFORD	10,437,871	4,471,873	FREETOWN	1,515,957	836,625
CHELSEA	52,458,822	7,236,122	GARDNER	18,880,829	3,733,532
CHESHIRE	310,513	541,244	GEORGETOWN	5,382,244	631,160
CHESTER	130,782	158,623	GILL	0	214,306
CHESTERFIELD	126,627	121,644	GLOUCESTER	6,080,047	3,518,850
CHICOPEE	52,093,967	10,145,648	GOSHEN	100,116	70,485
CHILMARK	0	3,304	GOSNOLD	17,098	1,848
CLARKSBURG	1,848,479	320,512	GRAFTON	9,042,180	1,377,602
CLINTON	11,054,176	2,074,041	GRANBY	4,706,746	777,937
COHASSET	1,753,039	453,294	GRANVILLE	1,317,791	141,258
COLRAIN	0	254,283	GREAT BARRINGTON	0	668,654
CONCORD	2,111,688	1,022,124	GREENFIELD	9,842,539	2,797,191
CONWAY	625,958	157,462	GROTON	3,193	682,494
CUMMINGTON	69,156	73,500	GROVELAND	0	641,340
DALTON	214,226	1,002,426	HADLEY	774,541	399,872
DANVERS	4,509,672	2,509,394	HALIFAX	2,794,152	799,790
DARTMOUTH	9,490,011	2,221,020	HAMILTON	0	591,950
DEDHAM	3,857,099	2,881,188	HAMPDEN	0	606,171
DEERFIELD	1,084,466	423,174	HANCOCK	201,197	49,744
DENNIS	0	479,831	HANOVER	6,303,926	1,866,403
DEVENS	321,440	0	HANSON	31,542	1,128,264
DIGHTON	0	681,269	HARDWICK	0	410,173
DOUGLAS	8,705,118	642,969	HARVARD	1,815,511	1,304,791
DOVER	635,447	169,484	HARWICH	1,833,840	379,514
DRACUT	18,712,673	3,086,981	HATFIELD	795,778	274,914
DUDLEY	0	1,574,194	HAVERHILL	36,406,776	8,659,369
DUNSTABLE	4,350	216,702	HAWLEY	28,203	38,130
DUXBURY	4,635,251	780,978	HEATH	0	73,717
EAST BRIDGEWATER	10,678,301	1,318,811	HINGHAM	5,719,073	1,390,494
EAST BROOKFIELD	60,179	255,524	HINSDALE	109,045	196,174
EAST LONGMEADOW	9,031,158	1,275,317	HOLBROOK	4,856,980	1,300,008
EASTHAM	333,725	131,264	HOLDEN	0	1,684,514
EASTHAMPTON	7,995,345	2,476,469	HOLLAND	940,324	177,832
EASTON	9,710,751	1,929,409	HOLLISTON	6,915,753	1,364,400
EDGARTOWN	446,517	58,689	HOLYOKE	68,360,690	8,948,084
EGREMONT	0	55,591	HOPEDALE	6,143,124	574,519
ERVING	431,682	59,218	HOPKINTON	5,780,513	692,119
ESSEX	0	215,716	HUBBARDSTON	0	396,881

General
Appropriation
Bill.

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
HUDSON	9,366,339	1,756,926
HULL	3,814,006	1,867,191
HUNTINGTON	214,502	303,650
IPSWICH	2,703,789	1,414,298
KINGSTON	3,999,499	845,678
LAKEVILLE	2,389,045	720,901
LANCASTER	0	842,194
LANESBOROUGH	844,664	303,923
LAWRENCE	140,980,506	17,299,359
LEE	2,026,303	548,705
LEICESTER	9,713,210	1,529,786
LENOX	1,194,985	469,623
LEOMINSTER	41,865,920	5,042,529
LEVERETT	282,057	157,266
LEXINGTON	7,449,035	1,350,288
LEYDEN	0	72,543
LINCOLN	759,016	599,811
LITTLETON	3,701,138	626,288
LONGMEADOW	4,340,920	1,230,949
LOWELL	121,179,148	22,192,157
LUDLOW	13,523,564	2,691,527
LUNENBURG	4,777,497	931,718
LYNN	118,839,864	19,726,507
LYNNFIELD	4,013,888	916,325
MALDEN	41,915,092	11,053,793
MANCHESTER	0	195,936
MANSFIELD	18,773,984	1,965,294
MARBLEHEAD	4,805,402	1,003,303
MARION	456,004	198,801
MARLBOROUGH	13,277,522	4,796,158
MARSHFIELD	14,331,875	1,908,668
MASHPEE	4,437,308	324,158
MATTAPOISETT	556,663	357,094
MAYNARD	3,660,967	1,384,183
MEDFIELD	5,937,045	1,277,175
MEDFORD	11,447,701	10,687,177
MEDWAY	10,456,517	1,074,910
MELROSE	7,708,250	4,518,499
MENDON	27,220	360,053
MERRIMAC	0	741,313
METHUEN	41,012,456	4,790,482
MIDDLEBOROUGH	17,441,157	2,172,248
MIDDLEFIELD	18,032	46,839
MIDDLETON	1,566,978	482,077
MILFORD	15,878,931	2,691,116
MILLBURY	6,937,152	1,560,179
MILLIS	4,212,398	922,449

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
MILLVILLE	42,330	358,883
MILTON	5,814,582	2,831,002
MONROE	87,282	16,200
MONSON	7,669,114	1,150,120
MONTAGUE	0	1,262,696
MONTEREY	0	40,736
MONTGOMERY	21,919	76,463
MOUNT WASHINGTON	34,142	26,411
NAHANT	465,587	332,902
NANTUCKET	1,409,385	69,809
NATICK	7,460,123	3,357,406
NEEDHAM	6,999,890	1,538,073
NEW ASHFORD	179,384	17,896
NEW BEDFORD	112,708,032	20,267,970
NEW BRAINTREE	0	116,309
NEW MARLBOROUGH	0	51,599
NEW SALEM	0	91,415
NEWBURY	0	456,295
NEWBURYPORT	3,320,352	2,247,087
NEWTON	14,171,395	5,177,738
NORFOLK	3,417,236	844,929
NORTH ADAMS	14,175,431	3,908,849
NORTH ANDOVER	6,470,012	1,805,628
NORTH ATTLEBOROUGH	20,629,686	2,534,823
NORTH BROOKFIELD	4,362,572	702,057
NORTH READING	6,823,391	1,564,395
NORTHAMPTON	7,228,831	3,872,525
NORTHBOROUGH	3,497,837	982,781
NORTHBRIDGE	14,271,099	1,859,798
NORTHFIELD	0	318,327
NORTON	12,832,725	1,831,209
NORWELL	3,177,994	944,497
NORWOOD	5,079,889	4,098,202
OAK 64,077	BLUFFS	648,233
OAKHAM	124,262	169,039
ORANGE	5,406,413	1,423,887
ORLEANS	251,039	151,342
OTIS	0	32,047
OXFORD	9,618,608	1,811,699
PALMER	11,112,247	1,766,962
PAXTON	0	476,772
PEABODY	19,715,730	6,360,014
PELHAM	228,505	140,247
PEMBROKE	13,516,289	1,481,057
PEPPERELL	0	1,315,005
PERU	84,251	100,623

General
Appropriation
Bill.

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid	<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
PETERSHAM	442,349	101,008	SPRINGFIELD	272,396,465	33,354,581
PHILLIPSTON	0	162,522	STERLING	0	610,830
PITTSFIELD	37,355,373	7,607,092	STOCKBRIDGE	0	87,826
PLAINFIELD	53,150	44,202	STONEHAM	3,515,493	3,274,505
PLAINVILLE	2,661,189	668,424	STOUGHTON	12,923,139	2,821,431
PLYMOUTH	22,859,189	3,452,391	STOW	0	370,906
PLYMPTON	582,449	209,025	STURBRIDGE	2,363,162	682,609
PRINCETON	0	260,866	SUDBURY	4,444,105	1,233,349
PROVINCETOWN	272,588	121,870	SUNDERLAND	873,519	445,329
QUINCY	20,125,137	16,823,747	SUTTON	5,390,120	687,780
RANDOLPH	11,941,876	4,579,658	SWAMPSCOTT	2,709,030	1,140,460
RAYNHAM	0	1,001,882	SWANSEA	4,981,848	1,654,825
READING	10,023,063	2,856,335	TAUNTON	46,564,560	7,410,543
REHOBOTH	0	918,432	TEMPLETON	0	1,228,627
REVERE	38,595,789	9,063,334	TEWKSBURY	13,011,879	2,452,240
RICHMOND	349,151	95,322	TISBURY	402,050	86,395
ROCHESTER	1,801,969	374,209	TOLLAND	0	16,284
ROCKLAND	10,541,378	2,329,177	TOPSFIELD	1,083,775	540,420
ROCKPORT	1,343,494	385,530	TOWNSEND	0	1,157,942
ROWE	71,465	3,471	TRURO	259,303	26,506
ROWLEY	0	475,805	TYNGSBOROUGH	7,352,623	851,475
ROYALSTON	0	158,399	TYRINGHAM	37,209	11,186
RUSSELL	175,484	217,604	UPTON	25,670	469,089
RUTLAND	0	815,043	UXBRIDGE	9,453,474	1,212,326
SALEM	17,228,409	6,077,873	WAKEFIELD	5,065,190	2,968,230
SALISBURY	0	556,700	WALES	703,010	208,107
SANDSFIELD	0	30,531	WALPOLE	7,507,494	2,245,510
SANDWICH	6,735,852	993,063	WALTHAM	7,466,622	8,460,794
SAUGUS	4,107,595	3,232,413	WARE	8,202,692	1,521,125
SAVOY	527,171	102,086	WAREHAM	12,914,328	1,743,225
SCITUATE	5,104,541	1,772,437	WARREN	0	797,143
SEEKONK	4,512,952	1,084,202	WARWICK	0	112,054
SHARON	6,831,805	1,233,375	WASHINGTON	11,705	83,219
SHEFFIELD	14,465	214,648	WATERTOWN	3,416,570	5,876,962
SHELburne	4,400	230,412	WAYLAND	3,322,155	796,429
SHERBORN	528,026	190,846	WEBSTER	10,046,365	2,181,494
SHIRLEY	4,394,883	1,155,974	WELLESLEY	7,608,031	1,141,372
SHREWSBURY	19,555,188	2,454,350	WELLFLEET	154,572	51,499
SHUTESBURY	604,124	149,413	WENDELL	0	153,551
SOMERSET	5,272,614	1,351,356	WENHAM	0	377,404
SOMERVILLE	20,185,320	22,199,513	WEST BOYLSTON	2,962,652	702,001
SOUTH HADLEY	7,972,049	2,301,106	WEST BRIDGEWATER	2,359,519	576,156
SOUTHAMPTON	2,561,807	561,406	WEST BROOKFIELD	209,737	429,141
SOUTHBOROUGH	2,804,288	385,362	WEST NEWBURY	0	261,065
SOUTHBRIDGE	15,992,431	3,099,657	WEST SPRINGFIELD	18,940,208	3,157,733
SOUTHWICK	0	1,111,391	WEST STOCKBRIDGE	0	85,667
SPENCER	8,070	1,992,823	WEST TISBURY	0	163,654

General
Appropriation
Bill.

<i>Municipality</i>	Chapter 70	Unrestricted General Government Aid
WESTBOROUGH	4,443,157	1,021,005
WESTFIELD	34,381,447	5,546,600
WESTFORD	16,755,562	1,872,441
WESTHAMPTON	467,361	127,674
WESTMINSTER	0	576,774
WESTON	2,556,275	329,574
WESTPORT	4,388,806	1,071,932
WESTWOOD	3,990,013	642,792
WEYMOUTH	23,839,936	7,682,608
WHATELY	250,063	118,242
WHITMAN	117,046	2,133,498
WILBRAHAM	0	1,289,488
WILLIAMSBURG	430,604	266,748
WILLIAMSTOWN	945,841	841,200
WILMINGTON	10,304,346	2,190,871
WINCHENDON	11,741,882	1,482,275
WINCHESTER	5,927,107	1,303,615
WINDSOR	48,143	91,497
WINTHROP	5,080,860	3,714,357
WOBURN	6,573,988	5,274,775
WORCESTER	192,784,395	36,614,610
WORTHINGTON	60,179	110,672
WRENTHAM	3,738,425	821,444
YARMOUTH	4,765	1,112,429
Total Municipal Aid	3,407,863,689	936,437,803

<i>Regional School District</i>	Chapter 70
ACTON BOXBOROUGH	7,362,007
ADAMS CHESHIRE	10,258,874
AMHERST PELHAM	9,685,959
ASHBURNHAM WESTMINSTER	10,495,815
ASSABET VALLEY	2,934,442
ATHOL ROYALSTON	17,928,042
BERKSHIRE HILLS	2,807,290
BERLIN BOYLSTON	921,023
BLACKSTONE MILLVILLE	11,104,016
BLACKSTONE VALLEY	7,631,018
BLUE HILLS	4,035,092
BRIDGEWATER RAYNHAM	21,180,680
BRISTOL COUNTY	3,115,501
BRISTOL PLYMOUTH	9,934,837
CAPE COD	2,134,684
CENTRAL BERKSHIRE	8,805,818
CHESTERFIELD GOSHEN	757,346

<i>Regional School District</i>	Chapter 70
CONCORD CARLISLE	1,886,888
DENNIS YARMOUTH	6,764,640
DIGHTON REHOBOTH	12,880,094
DOVER SHERBORN	1,436,198
DUDLEY CHARLTON	24,811,105
ESSEX COUNTY	4,228,553
FARMINGTON RIVER	405,970
FRANKLIN COUNTY	3,453,126
FREETOWN LAKEVILLE	7,413,773
FRONTIER	2,857,269
GATEWAY	5,866,604
GILL MONTAGUE	6,304,363
GREATER FALL RIVER	14,264,378
GREATER LAWRENCE	20,988,571
GREATER LOWELL	21,164,073
GREATER NEW BEDFORD	22,754,068
GROTON DUNSTABLE	10,858,434
HAMILTON WENHAM	3,436,056
HAMPDEN WILBRAHAM	11,731,872
HAMPSHIRE	3,256,745
HAWLEMONT	637,772
KING PHILIP	7,421,505
LINCOLN SUDBURY	2,655,570
MANCHESTER ESSEX	1,684,043
MARTHAS VINEYARD	2,843,504
MASCONOMET	4,951,222
MENDON UPTON	12,525,437
MINUTEMAN	2,249,201
MOHAWK TRAIL	6,136,890
MONTACHUSETT	12,752,207
MOUNT GREYLOCK	1,741,351
NARRAGANSETT	10,148,997
NASHOBA	6,473,631
NASHOBA VALLEY	3,268,772
NAUSET	3,384,747
NEW SALEM WENDELL	656,374
NORFOLK COUNTY	1,029,044
NORTH MIDDLESEX	20,604,743
NORTH SHORE	1,616,769
NORTHAMPTON SMITH	935,567
NORTHBORO SOUTHBORO	2,874,614
NORTHEAST METROPOLITAN	8,270,551
NORTHERN BERKSHIRE	4,432,287
OLD COLONY	3,337,927
OLD ROCHESTER	2,070,404
PATHFINDER	5,011,306
PENTUCKET	13,226,986
PIONEER	4,195,800
QUABBIN	16,979,189
QUABOAG	8,335,277

General
Appropriation
Bill.

<i>Regional School District</i>	Chapter 70	
RALPH C MAHAR	5,551,073	
SHAWSHEEN VALLEY	5,804,741	
SILVER LAKE	6,955,469	
SOUTH MIDDLESEX	2,548,930	
SOUTH SHORE	3,742,793	
SOUTHEASTERN	12,752,612	
SOUTHERN BERKSHIRE	1,900,305	
SOUTHERN WORCESTER	9,511,006	
SOUTHWICK TOLLAND	8,645,326	
SPENCER EAST BROOKFIELD	13,983,163	
TANTASQUA	7,904,757	
TRI COUNTY	5,319,115	
TRITON	8,568,933	
UPISLAND	825,674	
UPPER CAPE COD	3,008,736	
WACHUSETT	22,543,957	
WHITMAN HANSON	24,106,626	
WHITTIER	6,480,442	
Total Regional Aid	640,460,569	
Total Municipal and Regional Aid	4,048,324,258	936,437,803

Pending the question on adoption of the amendments, Mr. Murphy of Burlington moved to amend them by striking out the text of said amendments [at "A"] and inserting in place thereof the following "by adding the following section:—

SECTION 87. (a) The state treasurer shall furnish a study regarding the impact of increasing the appropriation for line item 1233-2350 in section 2 for fiscal year 2011 from \$898,980,293 to \$936,437,803 and item 7061-0008 from \$3,851,193,043 to \$4,048,324,258. The study shall include the effect of the increase on school aid, the impact on taxpayers of varying income levels, any anticipated change in employment and the cost and benefit to the commonwealth and its cities and towns. The treasurer shall report to the house and senate committees on ways and means and the joint committee on education not later than November 1, 2010.

(b) Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2011 the distribution to cities and towns of the balance of the State Lottery Fund, as paid from the General Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, and additional funds from the General Fund shall be \$936,437,803, and shall be apportioned to the cities and towns in accordance with this section. Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2011 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists. The specified amounts to be distributed from said item 7061-0008 of

said section 2 shall be in full satisfaction of the amounts due under chapter 70 of the General Laws.

(c) The provisions of subsection (b) shall not take effect until such time as the state treasurer has furnished a study of its impact on cities and towns in the commonwealth, including, but not limited to, an analysis showing the impact on the amounts to be distributed to each city and town in accordance with subsection (b) to the house and senate committees on ways and means and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution."

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 114 members voted in the affirmative and 44 in the negative.

[See Ye and Nay No. 382 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendments offered by Mr. Jones of North Reading and other members of the House.

Mr. Quinn of Dartmouth and other members of the House then moved that the bill be amended [A] in section 2, in item 7070-0065, in line 3, by striking out the following "or independent"; and in said item by striking out the figures "\$87,837,028" and inserting in place thereof the figures "\$67,837,028".

Pending the question on adoption of the amendments, Mr. Quinn moved to amend them by striking out the text of said amendments [at "A"] and inserting in place thereof the following "by adding the following section:—

SECTION 88. Notwithstanding any general or special law to the contrary, there shall be a 5 member commission to study and make recommendations regarding the appropriation of public funds directly or indirectly to private higher education institutions. The commission shall review all direct and indirect state funding to private higher education institutions and make recommendations regarding the commonwealth's ability to continue to fund these private entities. The commission shall be comprised of 5 members, 2 of whom shall be appointed by the speaker of the house of representatives, 2 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the governor. The report shall be filed with the house and senate committees on ways and means no later than November 1, 2010."

The further amendment was adopted, thus precluding a vote on the pending amendments.

Mr. Quinn of Dartmouth and other members of the House then moved to amend the bill [A] in section 2, in item 7100-0200, by adding the following "; provided further, that the University of Massachusetts campuses located at Amherst, Boston, Dartmouth and Lowell shall be allocated funds based on an equivalent per pupil basis notwithstanding any general or special law to the contrary or any internal University of Massachusetts regulation".

Pending the question on adoption of the amendment, Mr. Quinn moved to amend it by striking out the text of said amendment [at "A"] and inserting in place thereof the following "by adding the following section:—

Further
amendment
adopted,—
yea and nay
No. 382.

General Appropriation Bill.

SECTION 89. Notwithstanding any general or special law to the contrary, there shall be a 5 member commission to study and make recommendations regarding the allocation of public funds to the University of Massachusetts campuses located at Amherst, Boston, Dartmouth and Lowell on a per pupil basis. The commission shall report on the equity in funding on a pupil basis. The commission shall be comprised of 5 members, 2 of whom shall be appointed by the speaker of the house of representatives, 2 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the governor. The report shall be filed with the house and senate committees on ways and means no later than November 1, 2010."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Sánchez of Boston then moved to amend the bill by adding the following section:

"SECTION 90. Section 6 of chapter 118G of the of the General Laws, as most recently amended by section 77 of chapter 27 of the Acts of 2009, is hereby amended by inserting after the sixth paragraph the following paragraph:—

If a private health care payer fails to submit required data to the division on a timely basis, the division shall provide written notice to the payer. A payer that fails, without just cause, to provide the required information within two weeks following receipt of the written notice may be required to pay a penalty of \$1,000 for each week of delay; provided, however, that the maximum annual penalty under this section shall be \$50,000."

The amendment was adopted.

Mr. Alicea of Charlton and other members of the House then moved to amend the bill by adding the following section:

"SECTION 91. Section 2D of Chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following section:—

The registrar is hereby authorized and empowered to design, issue and regulate the use of temporary registration plates. Such temporary plates may be issued to persons who are temporarily visiting, employed or residing within the Commonwealth but are not legal residents of the state. Upon application and payment of the fees prescribed in this section, said plates may be issued by the registry, and shall be valid for not more than 30 days. The temporary registration plate may be renewed up to two times for an additional 30-day period, after which the applicant shall apply for a permanent registration if there is a further need to remain in this state. The fee for the 30-day temporary registration plate shall be \$25, and an additional \$25 fee shall be applied for each subsequent 30-day renewal."

The amendment was rejected.

Mr. Alicea and other members of the House then moved to amend the bill by adding the following section:

"SECTION 91. Chapter 6C of the General Laws is hereby amended by inserting after section 6C the following section:—

Section 56A. (a) The administrator shall, prior to a decision made by the registrar to close or move the location of a branch, site or office which serves the public, he shall notify the city or town in which the

branch, site or office is located, no less than 60 days prior to said decision by certified mail return receipt requested.

(b) Said administrator shall also hold a public hearing no less than 60 days after the proposed closing or moving of said branch, site or office. Said hearing shall be held in the city or town in which the branch, site or office is located. The registry of motor vehicles shall notify the city or town no less than 30 days prior to said public hearing by certified mail by return receipt requested and advertise in a local newspaper the time and the location of the scheduled public hearing no less than 4 weeks prior to said public hearing. Notification of said public hearing shall appear no less than 1 time each week for such 4 week time period."

The amendment was rejected.

Ms. Khan of Newton and other members of the House then moved to amend the bill in section 2, in item 0321-2100, by striking out the figures "\$840,000" and inserting in place thereof the figures "\$902,016".

The amendment was adopted.

Subsequently 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 144 members were recorded as being in attendance.

[See Yea and Nay No. 383 in Supplement.]

Therefore a quorum was present.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 91. Chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 5G the following section:

Section 5H. Notwithstanding any general or special law to the contrary, the comptroller shall, on or before July 31st, transfer 50 per cent of the tax revenue amount that exceeds the latest revenue estimate made by the commissioner for the preceding fiscal year, as promulgated by the sixth paragraph of section 5B, to the General Fund; provided, the amount of the transfer shall be distributed to cities and towns in accordance with clause (c) of the second paragraph of section 35 of chapter 10; provided, the distribution shall be reported in a conspicuous manner on the official website of the division of local services."

Pending the question on adoption of the amendment, Mr. Kulik of Worthington moved to amend it by adding the following paragraph:

"The provisions of this section shall not take effect until such time as the state treasurer has furnished a study of its impact on cities and towns in the commonwealth, including, but not limited to, an analysis showing the impact on the amounts to be distributed to each city and town in accordance with subsection (a), and the department of revenue has furnished study of its impact on the state's economy and 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 anti-

Quorum.

Quorum roll call,— yea and nay No. 383.

pated change in employment and ancillary economic activity to the house and senate committees on ways and means and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art II of the Constitution.”

Quorum. After debate on the question on adoption of the further 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.

Quorum roll call—yea and nay No. 384. Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

[See Yea and Nay No. 384 in Supplement.]

Therefore a quorum was present.

Further amendment adopted,—yea and nay No. 385. After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 102 members voted in the affirmative and 56 in the negative.

[See Yea and Nay No. 385 in Supplement.]

Therefore the further amendment was adopted.

Subsequently a statement of Mr. Atsalis of Barnstable was spread upon the records, as follows:

Statement of Mr. Atsalis of Barnstable. “MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber during the previous roll call due to official business outside of the State House. Had I been present, I would have voted in the affirmative.”

The amendment, as amended, then also was adopted.

Suspension of Rule 1A. The Chair (Mr. Petrolati of Ludlow) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 129 members voted in the affirmative and 29 in the negative.

[See Yea and Nay No. 386 in Supplement.]

Therefore Rule 1A was suspended.

Rule 1A suspended,—yea and nay No. 386. After remarks Ms. Polito of Shrewsbury moved to amend the bill by adding the following section:

“SECTION 92. Notwithstanding any general or special law to the contrary, in the event that all taxable revenue of the commonwealth which is available for appropriation or supplemental appropriation for the fiscal year ending June 30, 2011 exceeds \$19,050,000, as certified by the treasurer and the comptroller, not less than 75 percent of such excess taxable revenue up to a total of \$234,000,000 shall be used in addition to the balance of the state lottery fund for distribution to cities and towns in accordance with the provisions of clause (c) of section 35 of chapter 10; provided, that that the treasurer shall notify the clerks of the House of Representatives and the Senate and the commissioner of administration of any such distribution not more than 30 days after it occurs; and provided further, that for purposes of this section, the term ‘excess taxable revenue’ shall not include any funds payable to or received by the commonwealth which are directly attributable to any

change in general or special law enacted after January 1, 2010 and which enhance taxable revenue of the commonwealth.”

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the lady from Shrewsbury was improperly before the House for the reason that the House had previously addressed the subject-matter contained in the amendment offered by Ms. Polito when it adopted an amendment offered by Mr. Jones of North Reading (adding section 91).

Point of order.

The Chair (Mr. Petrolati of Ludlow) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Frost of Auburn thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Perry of Sandwich.

Appeal from decision of Chair.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”

Mr. Perry thereupon 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.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 157 members were recorded as being in attendance.

Quorum roll call,—yea and nay No. 387.

[See Yea and Nay No. 387 in Supplement.]

Therefore a quorum was present.

After remarks on the appeal from the decision of the Chair, the sense of the sense of the House was taken by yeas and nays, at the request of Mr. Frost of Auburn; and on the roll call 141 members voted in the affirmative and 16 in the negative.

Decision of Chair sustained,—yea and nay No. 388.

[See Yea and Nay No. 388 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Hargraves of Groton then moved to amend the bill by adding the following section:

“SECTION 92. Chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 12CC the following section:—

Section 12DD. As used in this section, long-term antibiotic therapy shall be the administration of oral, intramuscular or intravenous antibiotics singly or in combination, for periods of time in excess of 4 weeks. Lyme disease is the clinical diagnosis by a physician licensed under section 2 of chapter 112 of the presence in a patient of signs or symptoms compatible with acute infection with *Borrelia burgdorferi* or with late stage or persistent or chronic infection with *Borrelia burgdorferi* or with complications related to such infection or with such other strains of *Borrelia* that after adoption of this bill, are recognized by the national Centers for Disease Control and Prevention (CDC) as a cause of Lyme disease. Lyme disease includes an infection that meets the surveillance criteria set forth by said CDC, and it also includes a clinical diagnosis of Lyme disease that does not meet the CDC surveillance criteria but includes other acute and chronic signs and/or symptoms of Lyme disease as determined by the treating physician. Such clinical diagnosis is based on knowledge obtained through medical history and physical examination alone, or in conjunction with testing that provides supportive data for such clinical diagnosis.

General
Appropriation
Bill.

A licensed physician may prescribe, administer or dispense long-term antibiotic therapy for a therapeutic purpose that eliminates such infection or controls a patient's symptoms upon making a clinical diagnosis that such patient has Lyme disease or displays symptoms consistent with a clinical diagnosis of Lyme disease, provided such clinical diagnosis and treatment are documented in the patient's medical record by such licensed physician."

The amendment was adopted.

Mr. Webster of Pembroke then moved to amend the bill by adding the following section:

"SECTION 93. Section 3 of chapter 176Q of the General Laws is hereby amended by inserting after subsection (t) the following paragraph:—

Nothing in this section shall be construed as to authorize the Connector to actively solicit potential participants in their health insurance plans if such participants already have coverage for such plans from private companies."

The amendment was adopted.

Mr. Wagner of Chicopee then moved to amend the bill by adding the following section:

"SECTION 94. The department of revenue shall submit a report to the house and senate committees on ways and means on the planned encrypted digital tax stamp system, to be implemented pursuant to section 7B of chapter 64C and section 3A of chapter 64H of the general laws, prior to the implementation of said section. The report shall include a detailed analysis of the department's financing plan for the encrypted digital tax stamp system which shall include, but not be limited to, the department's estimates of the cost of the acquisition and installation of the new equipment and the ongoing costs of maintaining and operating the equipment, including any annual service contract required. The report shall also include the estimated net revenue increase projected to be realized by the commonwealth as a result of the new encrypted digital tax stamp system, a study of any prepayment by or credit to the wholesalers under said chapter 3A of Chapter 64H, and a report by the department in the area of tobacco tax enforcement."

The amendment was adopted.

Mr. Torrisi of North Andover then moved to amend the bill in section 30, in line 222, by inserting after the word "inclusive" the following "; provided that the Commonwealth Health Insurance Connector Authority, the Executive Office of Health and Human Services, and the Office of Administration and Finance make all reasonable efforts that said health insurance plan or plans authorized by this section offer patient access to those acute care hospitals, related physicians, and health centers that have historically served a large proportion of this patient population prior to fiscal year 2010".

The amendment was adopted.

Mr. Peterson of Grafton and other members of the House then moved to amend the bill by adding the following section:

"SECTION 95. Subsection (b) of section 188 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:— Any employee who has

health care coverage via a qualifying health insurance plan from a spouse, parent, veteran's plan, Medicare, Medicaid or a plan or plans due to the disability or retirement shall not be included in the calculation for the fair share employer contribution."

The amendment was adopted.

Mr. Donato of Medford being in the Chair,— Mrs. Poirier of North Attleborough and other members of the House then moved to amend the bill by adding the following section:

"SECTION 96. Chapter 127 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after section 48A, the following section:—

Section 48B. The sheriffs for the various counties may institute a schedule of fees and assess said fees to inmates in their custody as follows:— A daily cost of custodial care fee not to exceed \$5; A medical sick call visit fee not related to a condition pre-existing at the time of incarceration not to exceed \$5; A dental sick call visit fee not to exceed \$5; A pair of prescription eyeglasses fee not to exceed \$5; A pharmacy prescription fee not to exceed \$3 per prescription. Any penal facility assessing fees shall establish a procedure for inmates to appeal any such assessment. Notwithstanding the above, the following services shall be exempt from fee assessment: admission health screening, 14 day health assessment, emergency health care, hospitalization or infirmary care, prenatal care, lab and diagnostic care, follow-up visits approved by health services, contagious disease care and chronic disease care. No inmate shall be denied access to medical or dental care because of an inability to pay any fee. Indigent inmates shall have the above fees and costs assessed and debited against the inmate's money account which, if not paid, shall remain due and payable as a charge to the inmate after his release from custody. If the inmate is not incarcerated within 2 years of his release from custody, this debt shall be forgiven. This section shall not apply to federal inmates, detainees or regional lock-up inmates. The commissioner and the sheriffs of the various counties shall promulgate rules and regulations for the implementation of this section.

However this section shall not take effect until the sheriff prepares a report indicating financial feasibility of said fee and the secretary of public safety verifies said finding in writing to the sheriff."

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. Cabral of New Bedford; and on the roll call 106 members voted in the affirmative and 51 in the negative.

[See Yea and Nay No. 389 in Supplement.]

Therefore the amendment was adopted.

Recess.

At eight minutes before eleven o'clock P.M. (Thursday, April 29), on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until the following day at twelve o'clock noon; and at twenty-two minutes after twelve o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Amendment
adopted,—
yea and nay
No. 389.

Recess.

Friday, April 30, 2010 (at 12:00 o'clock noon).

Pledge of allegiance.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Guest of the House.

Former Representative Chandler H. Stevens, Jr.

Mr. Flynn of Bridgewater then took the Chair for the purpose of introducing former Representative Chandler H. Stevens, Jr., a member of the House from 1965 to 1968, inclusive. Mr. Stevens, who was seated in the side-aisle to the right of the rostrum, had been elected to the House twice as an "Independent" from the town of Bedford. Representative Flynn remarked that Mr. Stevens was a graduate of M.I.T. and that he had been a very skilled debater during his tenure in the House.

Report of a Committee.

Brookline,—retired employees.

Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Health Care Financing to make an investigation and study of certain House documents concerning health care (House, No. 4638) reported, in part, a Bill relative to health insurance coverage for retired employees of the town of Brookline (House, No. 4451) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Orders of the Day.

General Appropriation Bill.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Swan of Springfield moved that the vote be reconsidered by which the House, at the previous session, adopted an amendment (offered by Mrs. Poirier of North Attleborough and other members of the House) adding section 96; and the motion to reconsider prevailed.

Quorum.

After remarks on the recurring question on adoption of the amendment, Mr. Bradley of Hingham 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.

Quorum roll call,—yea and nay No. 390.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 390 in Supplement.]

Therefore a quorum was present.

Amendment adopted,—

After debate on the recurring question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request

of Mr. Kaufman of Lexington; and on the roll call 94 members voted in the affirmative and 63 in the negative.

yea and nay No. 391.

[See Yea and Nay No. 391 in Supplement.]

Therefore the amendment was adopted.

Mr. Donato of Medford being in the Chair,— Mr. Murphy of Burlington and other members then moved to amend the bill in section 2

In item 0340-1100 by adding the following “; and provided further, that funds shall be expended for the operation and management of the Berkshire County Drug Task Force”;

In item 0330-0300, in line 15, by inserting after the word “services” the following “; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall submit a report to the joint committee on the judiciary and the house and senate committees on ways and means 120 days prior to the temporary closure or temporary relocation of courthouses; and provided further, that said report shall include, but not be limited to, the transfer of personnel, the reallocation of resources, the impact on other courthouses resulting from the temporary closure of said court and other factors that may affect implementation of said temporary closure”;

By inserting after item 1599-7104 the following item:

“1599-1701 For a reserve for the state share of costs to certain municipalities and municipal lighting plants as identified by the Federal Emergency Management Agency for Emergency Declaration 3296 relating to the December 2008 severe winter storm, for the counties of Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk and Worcester \$6,300,000”;

By striking out item 8324-0000 and inserting in place thereof the following item:

“8324-0000 For the administration of the department of fire services, including the state fire marshal’s office, the hazardous materials emergency response program, the board of fire prevention regulations established by section 4 of chapter 22D of the General Laws, the expenses of the fire safety commission, and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that the amount allocated for programs providing information about the fire risks caused by smoking, regional dispatch centers, critical incident stress intervention programs, and fire department training academies listed in this item in chapter 182 of the acts of 2008 shall be allocated to each program in fiscal year 2011; provided further, that the amount allocated for hazardous material response teams specifically

General Appropriation Bill.

listed in this item in chapter 27 of the acts of 2009 shall be allocated to each program in fiscal year 2011; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office and the Massachusetts firefighting academy, shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; and provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program \$16,661,169";

By striking out item 8800-0200 and inserting in place thereof the following item:

"8800-0200 For the Radiological Emergency Response Program; provided, that the cost of the program, including associated fringe benefits and indirect costs, shall be assessed on electric companies in the commonwealth which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950, include communities located within the commonwealth and shall be credited to the General Fund; provided further, that the amount allocated to a program or its successor listed in this item as appearing in section 2 of chapter 27 of the acts of 2009 shall be allocated to the program or its successor again and shall not be reduced by more than 25 per cent in fiscal year 2011; provided further, that the department of public utilities shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; and provided further, that for the purposes of this item, electric companies, shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the man-

ufacture and sale or distribution and sale of electricity within the commonwealth, but shall not include municipalities or municipal light plants ... \$337,003";

By striking out item 8900-0001 and inserting in place thereof the following item:

"8900-0001 For the operation of the commonwealth's department of correction; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate committees on ways and means and public safety before January 1 of each year the point score compiled by the department of corrections' objective classification system for all prisoners confined in each prison operated by the department; provided further, that not less than \$200,000 shall be expended for the Aid to Incarcerated Mothers Program; and provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level \$505,239,805";

By inserting after item 8910-0445 the following two items:

"8910-0446 For the Berkshire sheriff's department which may expend an amount not to exceed \$1,000,000 from revenues collected from the city of Pittsfield public school system; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the sheriff's office may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system; and provided further, that expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system \$1,000,000;

8910-0447 For the Berkshire sheriff's department which may expend an amount not to exceed \$50,000 to match revenues collected from the city of Pittsfield public school system for the operation of the Juvenile Resource Center; provided, that notwith-

General Appropriation Bill.

standing any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the sheriff's office may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system; and provided further, that expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system \$50,000";

In item 8910-1000, by striking out the figures "\$1,844,458" and inserting in place thereof the figures "\$2,005,423";

And in item 8910-1112, by striking the figures "\$175,000" and inserting in the place thereof the figures "\$250,000";

And by adding the following three sections:

"SECTION 97. Section 3 of chapter 32, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words 'district attorneys', in line 300, the following words:— ; provided, however, that district attorneys elected on or after July 1, 2010 shall be employed in such capacity for 10 years or more.

SECTION 98. Section 65D of said chapter 32, as so appearing, is hereby amended by inserting after the word 'office', in line 5, the following words:— and a chief justice or any associate justice of the supreme judicial court.

SECTION 99. Notwithstanding any general or special law to the contrary the administrative office of the trial court shall terminate the property lease at Two Center Plaza, Tremont street in the city of Boston, effective January 1, 2011, and shall be relocated to the Charlestown division of the Boston municipal court; provided, that no funding may be expended for lease costs at Two Center Plaza, Tremont street, in the city of Boston after January 31, 2011 from any item of appropriation in the department of the trial court. The division of capital asset management shall oversee the relocation and refurbishing of the premises at Charlestown district court to accommodate offices of the administrative office of the trial court."

The amendments were adopted. Mr. Rush of Boston moved that this vote be reconsidered; and the motion to reconsider was negated.

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

"SECTION 100. The executive office of health and human services shall report to the general court on the implementation of chapter 257 of the acts of 2008. The report shall include information regarding: (i) how current rates for social service programs, as defined in section 22N of chapter 7 of the General Laws, reflect the various factors that the secretary of health and human services shall take into account when setting the rates pursuant to section 2A of chapter 118G of the General Laws; (ii) how the executive office has complied with said chapter 257; (iii) how the executive office determines inflation costs; (iv) the steps that the executive office is taking to set adequate rates for social service programs; (v) how the executive office has addressed the

concerns raised in the executive office of health and human services report dated October 2007, entitled Financial Health of Providers in the Massachusetts Human Service System; and (vi) what regulatory changes have been or could be instituted by the executive office that would reduce costs related to the administration of social service programs. The executive office shall submit its report to the clerks of the house and senate, the house and senate committees on ways and means, the joint committee on health care financing and the joint committee on children, families and persons with disabilities not later than September 1, 2010."

The amendment was adopted.

Mr. Murphy of Burlington then moved that the vote be reconsidered by which the House, at the previous session, adopted an amendment (offered by Mr. Torrisi of North Andover) in section 30, in line 222, by inserting after the word "inclusive" the following "; provided that the Commonwealth Health Insurance Connector Authority, the Executive Office of Health and Human Services, and the Office of Administration and Finance make all reasonable efforts that said health insurance plan or plans authorized by this section offer patient access to those acute care hospitals, related physicians, and health centers that have historically served a large proportion of this patient population prior to fiscal year 2010".

The motion to reconsider prevailed; and, on the recurring question, the amendment was rejected.

Mr. Hill of Ipswich and other members of the House then moved to amend the bill [A] in section 3, by inserting after the third paragraph (as printed) the following paragraph:

"Notwithstanding any general or special law to the contrary, for fiscal year 2011 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be at a minimum 17.5 percent of their Foundation Budget; provided further, that said funds distributed shall be represented in a separate column on the cherry sheet produced by the department of revenue."

Pending the question on adoption of the amendment, Mrs. Haddad of Somerset moved to amend it by striking out the text of said amendment [at "A"] and inserting in place thereof the following "by adding at the end thereof the following two sections:

SECTION 101. Clause (1) of section 16 of chapter 12 of the acts of 2010 is hereby amended by inserting after the words 'pursuant to chapter 70' the following:— including a projection of costs associated with bringing all districts currently below their target aid levels up to those targets at equal increments and a proposed schedule to bring all districts to those target aid levels.

SECTION 102. Said section 16 of said chapter 12, as so appearing, is hereby further amended by striking out the word 'December', and inserting in place thereof the following word:— March."

After debate the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill in section 2, in item 1775-0100, by adding the following "; provided further, that not later than December 31, 2010, the division shall submit a report to the house and senate committees

General Appropriation Bill.

on ways and means and the joint committee on education on the policies, procedures and activities of the division associated with the recoupment of funds or reduction of future prices paid to approved private school programs as a result of administrative reviews conducted by the division; provided further, that the report shall include, but not be limited to the following (i) a description of the circumstances under which the department has most commonly exercised its authority to so recoup and reduce, (ii) the correlation of recouping and reducing with the imposition of price freezes imposed on programs in recent years, (iii) the impact of recoupment actions and reductions on the efforts and ability of programs to effectively manage their budgets and maintain fiscal viability during periods of price freezes and other periods of fiscal stress, and (iv) the relationship between recoupment and price reduction activities of the division and the programmatic monitoring activities and program oversight activities of the department of elementary and secondary education”;

In item 3000-2000, by adding the following “; and provided further that voucher management, information and referral, and enhanced consumer education shall be provided by the same agency”;

In item 3000-3050, in line 9, by inserting after the word “exist” the following “; provided further, that funds may be used to provide services during a transition period of 6 months for families upon closure of their case”;

In item 3000-3050, by striking out the figures “\$90,286,814” and inserting in place thereof the figures “\$89,786,814”;

In item 3000-6075, by striking out the figures “\$500,000” and inserting in place thereof the figures “\$1,000,000”;

By striking out item 3000-7050 and inserting in place thereof the following item:

“3000-7050 For grants to programs that improve the early literacy, school readiness and parenting skills of participants in early education and care programs in the commonwealth, including, but not limited to, the Parent-Child Home Program and Reach Out and Read; provided, that the department shall distribute the grants no later than August 31, 2010, in order to allow a full year of service for families involved in these programs; and provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through items 3000-6000 and 3000-7000 in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department \$5,000,000”;

In item 7000-9401, by adding the following “; and provided further, that said section 19C of said chapter 78 shall not apply to a municipality with more than 500,000 residents during fiscal year 2011 unless such municipality funds and maintains operations for all branch libraries in service as of January 1, 2010 and funds and maintains staffing levels at its central library as such staffing levels existed on January 1, 2010”;

In item 7000-9401, by adding the following “; and provided further, that the board of library commissioners shall provide funds for the continued operation of no fewer than two regional library systems to serve the different geographic regions of the Commonwealth, one of which shall serve eastern Massachusetts and one which shall serve the western Massachusetts regional library system”;

In item 7000-9501, in line 16, by inserting after the word “program” the following “; provided further that said section 19A of said chapter 78 shall not apply to a municipality with more than 500,000 residents during fiscal year 2011 unless such municipality funds and maintains operations for all branch libraries in service as of January 1, 2010 and funds and maintains staffing levels at its central library as such staffing levels existed on January 1, 2010”;

In item 7006-0140, by adding the following “; and provided further that said section 18D of said chapter 58 shall not apply to a municipality with more than 500,000 residents during fiscal year 2011 unless such municipality funds and maintains operations for all branch libraries in service as of January 1, 2010 and funds and maintains staffing levels at its central library as such staffing levels existed on January 1, 2010”;

In item 7009-6379, by striking out the figures “\$643,603” and inserting in place thereof the figures “\$742,923”;

In item 7010-0005, by adding the following “; and provided further, that the department, in collaboration with the commission on gay and lesbian youth established by section 67 of chapter 3 of the General Laws, may allocate funds for programming to ensure public schools’ compliance with the board of elementary and secondary education’s recommendations which take into account the commission’s recommendations, for the support and safety of gay and lesbian students and the implementation of related suicide and violence prevention efforts and reduction of health disparities for GLBT youth”;

In item 7010-0033, by striking out the figures “\$3,097,940” and inserting in place thereof the figures “\$2,347,940”;

By inserting after item 7010-0033 the following item:

“7030-1005 For Reading Recovery, a one-to-one, early intervention, individual tutorial literacy program designed as a pre-special education referral and short-term intervention for children who are at risk of failing to read in the first grade; provided, that said program shall provide ongoing documentation and evaluation of results..... \$750,000”;

By inserting after item 7061-9612 the following item:

“7061-9614 For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws; provided, that the commissioner shall allocate funds for both subsections (a) and (b) of said section 1N of said chapter 69; and provided further, that no funds shall be expended for personnel costs \$200,000”;

In item 7061-0012, in lines 13, 14 and 15, by striking out the words “that the department shall make funds available to the department of developmental services for the voluntary residential placement preven-

General
Appropriation
Bill.

tion program administered by that department” and inserting in place thereof the following “that the department shall make no less than \$6,500,000 available to the department of developmental services for the voluntary residential placement program administered by the department”; and in said item, in lines 21 and 22, by striking out the words “for the cost of borrowing audio textbooks by special education students” and inserting in place thereof the following “for the costs of borrowing human speech audio textbooks by special education students in schools identified for improvement, corrective action or restructuring”;

In item 7061-9010, by striking out the figures “\$74,082,992” and inserting in place thereof the figures “\$71,554,914”;

In item 7061-9408, in line 84, by inserting after the word “months” the following “; provided further, that in carrying out the provisions of this item, the department may contract with vendors that have an established record of working with schools to target and enhance middle school academic support services; provided further, that the department shall give priority to programs that have the capacity to serve not less than 25 per cent of a district’s middle school population, make available documentation of a minimum of \$1 in private sector local or federal funds for every \$1 in state funds and extend the learning day for students on site in the same building where students attend school during the day by a minimum of 10 hours per school week; provided further, that said programs shall have conducted at least 1 independent longitudinal study demonstrating gains in student performance in any of the following areas: MCAS scores, school attendance, student grades or long-term high school graduation rates, teach students in groups with ratios no larger than 1 teacher to 18 students or integrate an extended school faculty which includes an on-site leader; provided further, that said program shall develop data sharing agreements and memoranda of understanding with middle schools to ensure the timely and effective sharing of grade progress and other formative or diagnostic measurements of student progress”;

In item 7061-9412, in line 31, by striking out the word “evaluate” and inserting in place thereof the word “support”;

In item 7061-9600, in line 7, by inserting after the word “and” the following “; in the case of students ages 18 to 19, will be limited to students with severe disabilities who”; in said item, in line 36, by inserting after the word “personnel” the following “employed by the department of elementary and secondary education”;

In item 7066-0009, by striking out the figures “\$346,245” and inserting in place thereof the figures “\$367,500”;

In item 7077-0023, in lines 2, 3 and 4, by striking out the words “under the Massachusetts resident veterinary tuition remission plan submitted January 8, 1998,” and in said item by adding the words “in consultation with Massachusetts emergency authorities”; and

In item 7100-0200, in line 9, by inserting after the word “maintenance” the words “[A]”; provided further, that the University of Massachusetts shall expend funds for the operation of the department of higher education’s commonwealth college honors program at the University of Massachusetts Amherst, for capital lease payments from the University of Massachusetts to the Massachusetts Development Finance

Agency and for annual operations of the advanced technology and manufacturing center in Fall River and for the operation of the Future of Work Research Initiative at the University of Massachusetts Labor Centers at Amherst, Boston, Dartmouth and Lowell campuses” [B];

And by adding the following three sections:
“SECTION 103. Chapter 773 of acts of 1960 is hereby amended by inserting after section 17 the following section:—

Section 17A. The Authority may indemnify and defend present and past members, officers and employees of the Authority against liabilities, claims, actions, suits, demands, judgments, reasonable costs and expenses, including reasonable legal expenses, in connection with an actual or threatened suit or proceeding, including any compromise or settlement thereof approved by the Authority, arising by reason of any act or omission of such person within the scope of such person’s employment, official duties or responsibilities for the Authority; provided, however, that no indemnification shall be provided concerning a matter as to which such person acted with: (1) malice; (2) without a reasonable good faith belief that such person’s conduct was in the best interest of the Authority; or (3) with the knowledge that such person’s conduct was unlawful. The Authority may procure insurance for itself and for its members, officers and employees against liabilities, losses and expenses which may be incurred by virtue of this section or otherwise.

SECTION 104. Notwithstanding any general of special law to the contrary, the department of elementary and secondary education shall develop a plan for any city or town that has enrolled more than 25 new Haitian students since January 2010 due to the crisis in Haiti. The report shall include, but not be limited to, the per pupil cost and the per pupil cost of counseling and interpretive services; provided further, that no later than December 31, 2010, the plan shall be submitted to the speaker of the house of representatives, the president of the senate, the house and senate committees on ways and means and the joint committee on education.

SECTION 105. Notwithstanding any general or special law to the contrary, Framingham State College, with the approval of the executive office for administration and finance and the board of higher education, may borrow an amount not to exceed \$10,000,000 through the Massachusetts Health and Educational Facilities Authority or any other authorized funding source for support of the division of capital asset and management-studied upgrade of science and academic facilities project [C].”

Pending the question on adoption of the amendments, Mr. Murphy of Burlington moved to amend them in item 7100-0200, by striking out [at “A.”] the following words “provided further, that the University of Massachusetts shall expend funds for the operation of the department of higher education’s commonwealth college honors program at the University of Massachusetts Amherst” and inserting in place thereof the following words “provided further, that the department of higher education’s commonwealth college honors program at the University of Massachusetts Amherst shall be operated at a funding level not less than the funding level at which it operated in fiscal year 2010”; and in item 7100-0200, by striking out [at “B.”] the word “; and” and inserting

General Appropriation Bill.

in place thereof the following "and also in said item by striking out the figures '\$418,671,908' and inserting in place thereof the figures \$419,171,908; and".

The further amendments were adopted.

Mr. Falzone of Saugus then moved that the amendments be amended by adding at the end of proposed section 105 by inserting after the word "project" [at "C"] the following "; provided further, that the house of representatives shall commission a study by the Legislature Library Caucus to assess the costs, benefits, and impact of changes in regional library systems in the commonwealth and to provide a recommendation on the role of the library of last recourse with regards to funding, jurisdiction and purpose".

The further amendment was adopted; and the pending amendments, as amended, then also were adopted.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill in section 2, in item 7002-0200, by striking out the figures "\$1,648,127" and inserting in place thereof the figures "\$1,770,497";

In item 7002-0201, by striking out the figures "\$252,850" and inserting in place thereof the figures "\$452,850";

By striking out item 7003-0702 and inserting in place thereof the following item:

"[A]7003-0702 For State Service Corps grants to be administered by the Massachusetts Service Alliance; provided, that not less than \$135,000 shall be expended for Just-A-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed, underemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$125,000 shall be expended for the Center for Women and Enterprise; provided further, that not less than \$250,000 shall be expended for the North Shore Alliance for Economic Development; and provided further, that not less than \$100,000 shall be expended for the Massachusetts Latino Chamber of Commerce in western Massachusetts \$1,360,000";

In item 7004-0099, by adding the following "; and provided further, that the department shall, on or before September 1, 2010, promulgate regulations clarifying that a household that otherwise qualifies for any preference or priority for state subsidized housing or rental assistance based on homeless or at-risk status shall retain that preference or priority notwithstanding receipt of rental assistance that is intended to be temporary, including, but not limited to, temporary or bridge subsidies provided with state funds";

By striking out item 7004-0101 and inserting in place thereof the following item:

"7004-0101 For certain expenses of the emergency assistance program as follows: (i) contracted family shelters; (ii) transitional housing that may include temporary rental assistance and stabilization ser-

vices to bridge families to permanent housing at a lesser cost than shelter; (iii) short term housing assistance; and (iv) programs to reduce or prevent homelessness; provided, that eligibility shall be limited to families with income at or below 115 per cent of the 2009 or later-issued higher federal poverty level; provided, however, that any family whose income exceeds 115 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 115 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow a portion of their income; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further, that the family may withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that eligible households shall be placed in shelters as close as possible to their home community unless a household requests otherwise; provided further, that if the closest available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date unless the household requests otherwise; provided further, that eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any non-shelter benefit; provided further, that the department shall make every effort to ensure that children receiving services from this item shall continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that should a family with a child under the age of 4 be placed in a hotel or motel, the department of housing and community development shall ensure that the hotel or motel provides a crib for each child under the age of 4 that meets all state and federal safety codes; provided further, that notwithstanding any other general or special law to the contrary, the department shall immediately

General Appropriation Bill.

provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department; provided further, that shelter benefits received under the preceding proviso shall not render a family ineligible under any regulation providing that a family who previously received shelter is ineligible for shelter benefits for a period of 12 months; provided further, that families receiving such shelter benefits who are found not to be eligible for continuing shelter benefits shall be eligible for aid pending a timely appeal pursuant to chapter 23B of the General Laws; provided further, that the department shall not impose unreasonable requirements for third-party verification and shall accept verifications from the family whenever reasonable; provided further, that in promulgating, amending or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated in this item; provided further, that notwithstanding any general or special law to the contrary, 90 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of the executive office of housing and economic development that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that in fiscal year 2011, no such determination and report shall be filed prior to December 5, 2010; provided further, that all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the emergency assistance family shelter program; provided further, that the report shall contain the same data required in item 4403-2120 of section 2 of chapter 139 of the acts of 2006 and in addition shall include the number of families served with transitional housing or short term housing assistance, the nature of such assistance provided, the average, minimum and maximum cost of such assistance, how many of the families so served required further assistance at a later

date, the type of assistance later required and provided, and the current housing stability of each family who received transitional housing or short term housing assistance within the prior 18 months; and provided further, the Department of Housing and Community Development shall notify local school departments of the placement of a family in its district within seven days of placement \$112,910,773”;

By striking out item 7004-0102 and inserting in place thereof the following item:

“7004-0102 For the department of housing and community development; provided, that the department shall, in consultation with the interagency council on housing and homelessness and 3 agencies funded under this item in fiscal year 2010 that provide services in eastern, central and western Massachusetts, respectively, conduct a study and develop recommendations to standardize shelter contract rates across each of said geographic regions to effectively combat the differences in operating requirements across the commonwealth; provided further, that the report shall be provided to the secretary of administration and finance and the chairs of the house and senate committees on ways and means no later than September 30, 2010; provided further, that funds may be expended for the continued operation of the homeless resource center; provided further, that programs that currently provide shelter may renegotiate how they will use their shelter fund, with the agreement of the department and the host cities or towns, to provide alternative services that have proven to be effective including housing first models, transitional housing and diversion away from shelters; and provided further, that funds may be expended for a 16-bed year-round nonprofit men’s shelter program for the chronically mentally ill homeless that provides individualized case management, including job search assistance \$37,643,335”;

In item 7004-0105, in line 7, by inserting after the word “shelters” the following “; including hotels and motels.”;

In item 7006-0040, by adding the following “; and provided further, that the division shall maintain and staff an office in the city of Springfield”; and

In item 7007-1000, by striking out the figures “\$2,250,000” and inserting in place thereof the figures “\$2,500,000”; and

By adding the following section:
 “SECTION 106. Chapter 111 of the General Laws is hereby amended by inserting after section 5A the following section:—

Section 5A½. There is hereby established and set up on the books of the commonwealth a separate trust fund to be known as the Emergency Stockpile Trust Fund for the purpose of effectively facilitating emergency management and pandemic preparedness in accordance with

General Appropriation Bill.

section 5A. The fund shall consist of monies collected from cities, counties and other entities pursuant to this section and any income derived from the investing of amounts credited to the fund. The department shall accept funds provided by municipalities, counties, health-care facilities and other entities for the purpose of participating in federal contracts under 42 U.S.C. §247d-6b and made available to states under 42 U.S.C. §247d-3a. All monies deposited into the trust fund shall be expended on behalf of the contributing municipalities, counties or healthcare facilities for the purchase of health care products and supplies needed for the purposes set forth in the commonwealth's comprehensive emergency management plan and made available under contracts accessible to the commonwealth under 42 U.S.C. §247d-3a. All monies deposited into the fund shall be expended exclusively for the purposes set forth in this section."

Pending the question on adoption of the amendments, Mr. Murphy of Burlington moved to amend them by striking out [at "A"] proposed item 7003-0702 and inserting in place thereof the following item:

"7003-0702 For State Service Corps grants to be administered by the Massachusetts Service Alliance; provided, that not less than \$135,000 shall be expended for Just-A-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed, underemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$125,000 shall be expended for the Center for Women and Enterprise; provided further, that not less than \$400,000 shall be expended for a competitive grant program to promote the 8 regional economic development corporations, councils and partnerships across the commonwealth; provided further, that not less than \$85,000 shall be expended to the Cleantech InnoVenture Center to support biotech incubator space; and provided further, that not less than \$100,000 shall be expended for the Massachusetts Latino Chamber of Commerce in western Massachusetts \$1,595,000".

The further amendment was adopted; and the pending amendments, as amended, then also were adopted.

Mr. Miceli of Wilmington then moved to amend the bill by adding the following [A] four sections:

"SECTION 107. Chapter 265 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 2 the following new section:—

Section 2A. In all cases of murder in the first degree in which the penalty of death may be authorized under section 2 of this chapter, and in which the commonwealth seeks to impose the penalty of death, the indictment or indictments shall specify which of the aggravating circumstances set forth in section 69 of chapter 279 are alleged to be present. Only so much of the indictment as alleges the offense of murder in the first degree, and not the aggravating circumstances, shall be presented to the jury during their deliberation

as to the guilt or innocence of the defendant. That portion of the indictment which sets forth the aggravating circumstances shall be presented to the jury only during the presentencing proceedings in accord with section 68 of chapter 279.

SECTION 108. Chapter 279 of the General Laws, as so appearing, is hereby amended by striking section 60 and inserting in place thereof the following section:—

Section 60. The punishment of death shall be inflicted by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until such prisoner is dead.

SECTION 109. Chapter 211D of the General Laws, as so appearing, is hereby amended by adding the following new section:—

Section 17. (a) The commonwealth shall provide legal services to:

(1) any persons who are indigent and who have been charged with an offense for which capital punishment is sought; and

(2) any persons who are indigent, have been sentenced to death and who seek appellate or collateral review.

(b) The committee for public counsel services shall be the appointing authority and shall appoint staff attorneys, members of the private bar or both.

(c) The appointing authority shall:

(1) solicit applications from all attorneys qualified to be appointed in the proceedings specified in subsection (a).

(2) draft and at such times as it may deem necessary, but at least annually, publish rosters of all applicants determined to be qualified attorneys.

(3) draft and at such times as it may deem necessary, but at least annually, publish procedures by which attorneys shall be appointed and standards governing the qualifications and performance of such appointed counsel. Such standards of qualification and performance shall include, but need not be limited to:

(A) membership in the bar of the commonwealth or admission to practice pro hac vice;

(B) knowledge and understanding of pertinent legal authorities regarding the issues in capital cases in general and any case to which an attorney may be appointed in particular;

(C) skills in the management and conduct of negotiations and litigation in homicide cases;

(D) skills in the investigation of homicide cases, the background of clients, and the psychiatric history and current condition of clients;

(E) skills in trial advocacy, including the interrogation of defense witnesses, cross examination, and jury arguments

(F) skills in legal research and in the writing of legal petitions, briefs, and memoranda; and

(G) skills in the analysis of legal issues bearing on capital cases;

(4) Periodically review the rosters, monitor the performance of all attorneys appointed, and delete the name of any attorney who:

(A) fails satisfactorily to complete regular training programs on the representation of clients in capital cases;

General
Appropriation
Bill.

(B) fails to meet performance standards in a case to which the attorney has been appointed; or

(C) fails otherwise to demonstrate continuing competency to represent clients in capital cases;

(5) conduct or sponsor specialized training programs for attorneys representing clients in capital cases;

(6) appoint two attorneys, lead counsel and co-counsel, to represent a client in a capital case after the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant state court; and

(7) report such appointment or the client's failure to accept counsel in writing to the court requesting the appointment.

(d) Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline that appointment, and whether the individual has knowingly and intelligently declined it.

(e) (1) The appointing authority shall maintain 2 rosters of attorneys: one roster listing attorneys qualified to be appointed for the trial and sentencing stages of capital cases, the other listing attorneys qualified to be appointed for the appellate or collateral review stages. Each of the rosters shall be divided into two parts, one listing attorneys qualified to be appointed as lead counsel, the other listing attorneys qualified to be appointed as co-counsel.

(2) An attorney qualified to be appointed lead counsel at the trial or sentencing stages shall

(A) be a trial practitioner with at least 5 years of experience in the representation of criminal defendants in felony cases;

(B) have served as lead counsel or co-counsel at the trial or sentencing stages in at least two homicide cases tried to a jury;

(C) be familiar with the law and practice in capital cases and with the trial and sentencing procedures in the commonwealth;

(D) have completed such training or refresher courses in current developments in the representation of capital defendants at the trial or sentencing stages as the appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to providing legal services in capital cases.

(3) An attorney qualified to be appointed co-counsel at the trial or sentencing stages shall:

(A) be a trial practitioner with at least 3 years of experience in the representation of criminal defendants in felony cases; and

(B) meet the standards in paragraphs (2)(C), (D) and (E) for lead counsel at the trial or sentencing stages.

(4) An attorney qualified to be appointed lead counsel at the appellate or collateral review stages shall:

(A) be an appellate practitioner with at least 5 years of experience in the representation of criminal clients in felony cases at the appellate or collateral review stages;

(B) have served as lead counsel or co-counsel at the appellate or collateral review stages in at least 3 cases in which the client had been convicted of a felony offense;

(C) be familiar with the law and practice in capital cases and with the appellate and collateral review procedures in the courts of the commonwealth and in federal court;

(D) have completed such training or refresher courses in current developments in the representation of capital clients at the appellate and collateral review stages as the state appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to providing legal services in capital cases.

(5) An attorney qualified to be appointed co-counsel at the appellate, collateral or unitary review stages shall:

(A) be an appellate practitioner with at least 3 years of experience in the representation of criminal clients in felony cases at the appellate or collateral review stages; and

(B) meet the standards in paragraphs (4)(C), (D) and (E) for lead counsel at the appellate or collateral review stages.

(f) (1) Attorneys appointed from the private bar shall be:

(A) compensated for actual time and service, computed on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases;

(B) reimbursed for expenses reasonably incurred in the representation of the client including the costs of law clerks and paralegals reasonably needed in the representation of the client; and

(C) reimbursed for the costs of investigators and experts whose services have been approved in advance by the court and are reasonably needed in the representation of the client.

(2) Payments under subsection (f)(1):

(A) with respect to law clerks and paralegal, shall be computed on an hourly basis reflecting the local market for such services; and

(B) with respect to investigators and experts, shall be commensurate with the schedule of fees paid by state authorities for such services.

(g) Appointed attorneys from the private bar shall receive prompt payment for legal services and reimbursement for expenses and support services upon the submission of periodic bills, receipts, or other appropriate documentation to the appointing authority or other appropriate state agency. The appointing authority shall promptly resolve any disputes with respect to such bills.

SECTION 110, Chapter 279 of the General Laws, as so appearing, is hereby amended by striking sections 68 through 71 and inserting the following new sections:—

Section 68. Upon a plea or verdict of guilty of murder committed with deliberately premeditated malice aforethought or murder with extreme atrocity or cruelty by an individual who has attained the age of 18 years at the time of the murder and who is not convicted under the provisions of the felony murder rule, in cases where the common-

General
Appropriation
Bill.

wealth has alleged in its indictment or indictments the presence of one or more of the aggravating circumstances set forth in section 69 of this chapter, a presentence hearing shall be conducted before the jury before which the case was tried; provided, however, that if in the opinion of the judge presiding at the presentence hearing, it is impossible or impracticable for the trial jury to sit at the presentence hearing, or if the matter of guilt was determined by a plea of guilty rather than by a jury, a new jury shall be impaneled to sit at the presentencing hearing. The selection of that jury shall be according to the laws and rules governing the selection of a jury for the trial of a capital case. A presentence hearing need not be conducted if the commonwealth determines either that it cannot prove beyond a reasonable doubt the existence of one or more of the aggravating circumstances set forth in section 69 of this chapter, or that the penalty of death should not be imposed, in which case the court shall impose the sentence of imprisonment for life as provided in section 2 of chapter 265.

During the presentence hearing, the only issue shall be the determination of the punishment to be imposed. During such hearing the jury shall hear all additional relevant evidence in mitigation of punishment including evidence relevant to any statutory mitigating circumstance set forth in paragraph (b) of section 69 of this chapter, and evidence relevant to any other aspect of the defendant's character or record or any of the circumstances of the offense that the defendant or the commonwealth may proffer as a basis for a sentence less than death, regardless of its admissibility under the rules governing the admission of evidence at criminal trials. During such hearing, the jury shall also hear such evidence in aggravation of punishment as is relevant to any statutory aggravating circumstance set forth in paragraph (a) of said section 69, and which is alleged in the indictment; provided, however, that only such evidence in aggravation of punishment as the commonwealth has made known to the defendant prior to his trial shall be admissible, and provided further, that said evidence is otherwise admissible according to the rules governing the admission of evidence at criminal trials. The jury shall also hear arguments by the defendant or his counsel or both and by the commonwealth regarding the punishment to be imposed. The commonwealth and the defendant or his counsel shall be allowed to make opening statements and closing arguments at the presentence hearing. The order of those statements and arguments and the order of presentation of evidence shall be the same as at trial.

Upon the conclusion of evidence and arguments at the presentence hearing, the court shall instruct the jury orally as to, and shall provide to the jury in writing copies of, any statutory aggravating circumstance or circumstances which are set forth in the indictment and which it determines to be warranted by the evidence. The court shall instruct the jury that it may choose to find that the penalty of death shall be imposed upon the defendant, or it may choose not to find that the penalty of death be imposed on the defendant, but that it may not find that the penalty of death shall be imposed unless it shall first make a unanimous determination of the existence of one or more of the aggravating circumstances set forth in section 69 of this chapter and the indictment, beyond a reasonable doubt. The jury shall further be

instructed that if it finds the existence of such an aggravating circumstance beyond a reasonable doubt, it must then consider all of the evidence presented to it relevant to any of the mitigating circumstances set forth in paragraph (b) of section 69 of this chapter, or to any other mitigating circumstance and determine whether, in view of all the relevant circumstances of the offense and of the defendant, the sentence shall be life imprisonment or death. The jury shall further be instructed that the penalty of death may not be imposed unless it unanimously finds after a review of all of the evidence of mitigation proffered as a basis for a sentence less than death, that the penalty of death should be imposed. If the jury is unable to reach a unanimous verdict, the court shall impose the sentence of imprisonment for life as provided in section 2 of chapter 265.

If its unanimous verdict is to impose the penalty of death, the jury shall designate in writing, signed by the foreperson of the jury, the statutory aggravating circumstance or circumstances which it unanimously found existed beyond a reasonable doubt, and that the jury after consideration of all of the evidence of mitigation relevant to the circumstances of the defendant and the offense proffered as a basis for a sentence less than death, unanimously found that the death penalty should be imposed.

After the jury has made its findings, the court shall set a sentence in accordance with section 70.

The declaration of a mistrial during the course of the presentence hearing or any error in the presentence hearing determined or otherwise shall not affect the validity of the conviction.

Section 69. (a) In all cases in which the death penalty may be authorized, the statutory aggravating circumstances are:

(1) the murder was knowingly committed on a victim because of his position as, or while engaged in the performance of his official duties as one or more of the following police officer, special police officer, parole officer, probation officer, state or federal law enforcement officer, court officer, firefighter, officer or employee of the department of correction, officer or employee of a sheriff's department, officer or employee of a jail or officer or employee of a house of correction;

(2) the murder was committed by a defendant who was at the time incarcerated in a jail, or a correctional or penal institution, or the Massachusetts Treatment Center for the Sexually Dangerous or a facility used for the housing or treatment or housing and treatment of prisoners; or while on escape, furlough or work release from such jail, correctional or penal institution or facility;

(3) the murder was knowingly committed on a victim because of his position as, or while engaged in the performance of his official duties as a judge, prosecuting attorney, juror, or witness;

(4) the murder was committed by a defendant who had previously been convicted of murder in the first or second degree, or of an offense in any other federal, state or territorial jurisdiction of the United States which is the same as or necessarily includes the elements of the offense of murder in the first or second degree;

(5) the murder was committed by a defendant who had previously been convicted of two or more federal or state offenses, com-

General
Appropriation
Bill.

mitted on different occasions, for which a sentence of life in prison or death was authorized by statute;

(6) the murder involved torture to the victim or the intentional infliction of extreme pain prior to death demonstrating a total disregard to the suffering of the victim;

(7) the murder was committed by means of a destructive device, bomb, or explosive planted, hidden, mailed, delivered, or concealed in any place, area, dwelling, building or structure by the defendant; or the murder was committed by means such that the defendant knew or reasonably should have known that his act or acts would create a grave risk of death or serious bodily injury to more than one person; or the murder was committed by means of a machine gun or other automatic weapon;

(8) the murder occurred during the commission of or in furtherance of a violation of the drug trafficking laws of the commonwealth as set forth in section 32E of chapter 94C, or during the commission of or in furtherance of an attempt or conspiracy to violate said drug trafficking laws;

(9) the murder was committed as an act of political terrorism, which include murders committed for the purpose of attacking the government of the United States or any political subdivision thereof;

(10) the murder was knowingly committed on a victim because of his position as, or while engaged in the performance of his official duties as one of the following governor or governor-elect, lieutenant governor or lieutenant governor elect, secretary of the commonwealth, treasurer of the commonwealth, attorney general, member of the governor's council, district attorney, representative or senator in the general court or mayor;

(11) the murder was committed by means of a biological, chemical or nuclear agent or device, including but not limited to an act of terrorism

(b) In all cases in which the death penalty may be authorized, the mitigating circumstances shall be any factors proffered by the defendant or the commonwealth which are relevant in determining whether to impose a sentence less than death, including, but not limited to, any aspect of the defendant's character, propensities, or record and any of the circumstances of the murder, including but not limited to the following

(1) the defendant has no significant history of prior criminal convictions;

(2) the victim was a co-conspirator or willing participant in the defendant's homicidal conduct, or in the criminal conduct which resulted in the murder;

(3) the murder was committed while the defendant was under extreme duress or under the domination or control of another which was insufficient to establish a defense to the murder but which substantially affected his judgment;

(4) the offense was committed while the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was impaired as a result of: (a) a mental disease or defect; (b) organic brain damage; (c) emotional illness brought on by stress or prescribed medication; or (d) intoxication,

or legal or illegal drug use by the defendant; which was insufficient to establish a defense to the murder but which substantially affected his judgment;

(5) the defendant was over the age of 75 at the time of the murder, or any other relevant consideration regarding the age of the defendant at the time of the murder;

(6) the defendant was battered or otherwise physically or sexually abused by the victim in connection with or prior to the murder for which the defendant was convicted and such abuse was a contributing factor in the murder;

(7) the defendant was experiencing post-traumatic stress syndrome caused by military service during a declared or undeclared war.

Section 70. Where a person is convicted or pleads guilty to a crime which is punishable by death, a sentence of death shall not be imposed unless findings in accordance with section 68 are made. Further, such a sentence shall not be imposed unless the jury finds that there is conclusive scientific evidence, including physical or other associative evidence, enabling it to reach a high level of scientific certainty connecting the defendant to the crime. Physical or other associative evidence may include any tangible image, object, or item that can be independently examined for the purpose of obtaining pertinent investigative information. The jury may use the scientific, physical or other associative, evidence to corroborate the defendant's guilt and need not rely entirely on human evidence and testimony. Where such findings are made and the jury finds that the death penalty shall be imposed, the court shall sentence the defendant to death unless the court determines that a sentence of death should not be imposed under section 71. Where such findings are not made or not unanimously made or where a sentence of death is not a unanimous finding by the jury, the court shall sentence the defendant to life imprisonment as provided in section two of chapter 265.

Section 71. (a) The supreme judicial court shall establish, by rule, such reports or checklists to be utilized by the trial court, the prosecuting attorney, and defense counsel prior to, during, and after the trial of cases in which the death penalty is sought, as it deems necessary to ensure that all possible matters which could be raised in defense have been considered by the defendant and defense counsel and either asserted in a timely and correct manner or waived in accordance with applicable legal requirements, so that, for purposes of any pretrial review and the trial and post-trial review, the record and transcript of proceedings will be as complete as possible for a review by the sentencing court and the supreme judicial court of challenges to the trial, conviction, sentence and detention of the defendant.

(b) In any case in which the sentence of death has been imposed, the trial judge shall conduct a review of the entire record and shall report to the supreme judicial court any observations which it deems pertinent to the question of the appropriateness of the sentence, including the credibility and effectiveness of mitigation evidence offered by the defense; the strength of the commonwealth's case on the merits including observations with respect to its reliance on circumstantial or eyewitness testimony and on the possibility, if any, of innocence being subsequently established, and the possibility of passion or prejudice having affected the jury's sentencing decision. If, based on the trial

General
Appropriation
Bill.

court's review of the record, the court determines that despite findings by the jury, the death penalty should not be imposed, the judge may set aside the sentence of death and impose a sentence of life imprisonment without parole. In such case the judges shall set forth in writing the findings and reasons which support such determination. The commonwealth shall have a right to appeal to the supreme judicial court any such determination, and the supreme judicial court may set aside said determination if it is unsupported by the record of the case, and may thereafter reimpose the penalty of death.

(c) In any case in which a sentence of death has been imposed, the trial judge may suspend for a period of time or set aside the penalty of death and impose in its place a sentence of life in prison without possibility of parole at any time, upon a showing that there is newly discovered evidence that casts substantial doubt on the justice of the conviction, or raises the substantial possibility of innocence being subsequently established, even though said evidence is not then sufficient to grant a new trial.

(d) Nothing in this section shall limit or restrict review, rights or remedies available through the procedures under Rule 30 of the Massachusetts Rules of Criminal Procedure.

Section 72. (a) In addition to a unified review procedure administered by the supreme judicial court, the court shall conduct a formal process to ensure the independent scientific review of all scientific, physical or other associative, evidence in every capital case in which a sentence of capital punishment is imposed.

(b) The court shall create an Independent Scientific Review (ISR) Advisory Committee which shall draft policies, processes, and criterion for the ISR Panel for reviewing scientific evidence used in each capital case in which a sentence of capital punishment is imposed.

(c) Members of the ISR Advisory Committee shall be appointed by the court from a list of nominees submitted by the governor and shall be recognized experts in the evaluation of forensic evidence. If any appointed member of the committee is employed by a commonwealth crime laboratory, said member shall not participate in the review of any capital case in which said member's laboratory had involvement. The members of the committee shall appoint an independent expert panel to review each forensic-science sub-discipline relevant to each case.

(d) At the conclusion of any capital trial in which the defendant has been convicted and a sentence of capital punishment has been imposed, the ISR Committee shall appoint an ISR Panel which shall include independent members from each forensic-science sub-discipline relevant to the particular case. Members of said panel shall be selected from among recognized and accredited experts not employed by the commonwealth's state or city crime laboratories.

(e) Once selected, the ISR Panel shall conduct a thorough review of the collection, handling, evaluation, analysis, preservation, and interpretation of, and testimony and all other matters relating to scientific evidence used in the particular case. This review shall be conducted pursuant to the policies drafted and adopted by the ISR Advisory Committee. The panel review shall include, but not be limited to, an examination of the following:

(1) whether the integrity of the evidence was sufficient to allow for consideration of subsequent procedures

(2) whether appropriate guidelines and standards of practice were followed during crime scene and autopsy procedures; the recognition, documentation, recovery, packaging, and preservation of evidence; the examination and comparison of evidence; the interpretation and reporting of results; and the reconstruction by experts relying on other examinations or reports

(3) whether any new research or novel science played a role in the particular case and whether it was appropriately documented and provided for review under the relevant legal standard

(4) whether the ISR process revealed any specific scientific or technical issues requiring additional information, or suggesting that errors may have been made.

(f) A copy of the ISR Panel's report shall be provided, upon completion, to the trial judge, prosecutor, defense attorney, and the supreme judicial court.

(g) If, based on panel's review of the record, the court determines that despite findings by the jury, the death penalty should not be imposed, the judge may set aside the sentence of death and impose a sentence of life imprisonment without parole. In such case, the judges shall set forth in writing the findings and reasons which support such determination.

Section 73. In addition to a review of the entire case pursuant to section 33E of chapter 278, and section 71 of chapter 279, the supreme Judicial court shall review the sentence of death imposed pursuant to sections 68, 69, and 70 of chapter 279. If the supreme Judicial court determines that (1) the sentence of death was imposed under the influence of passion, prejudice or any other arbitrary factor; or (2) the evidence does not support the jury's finding of a statutory aggravating circumstance or circumstances as defined in section sixty-nine; or (3) the evidence of mitigation warranted the imposition of a life sentence rather than a sentence of death; or (4) the weight of the evidence does not warrant a sentence of death the court shall (1) reverse the sentence of death and remand for a new presentence hearing pursuant to section 68 of chapter 279; or (2) reverse the sentence of death and remand to the superior court department of the trial court for sentence of imprisonment in the state prison for life. The court shall also have the authority to affirm the sentence of death."

Pending the question on adoption of the amendment, Mr. Bradley of Hingham moved to amend it by adding the following section:

"SECTION 111. Notwithstanding any special or general law to the contrary, the provisions of sections 107 to 110, inclusive, of this act shall not take effect until such time as the executive office of public safety and the department of corrections has furnished a study of its impact on the state's economy and revenue cost to the commonwealth, including, but not limited to, a distributional analysis showing the impact on taxpayers or varying income levels, the current practice of other states, any anticipated change in employment and ancillary economic activity to the joint committee on the judiciary and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution."

After debate the further amendment was adopted.

Quorum.

Subsequently Mr. Miceli of Wilmington asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), 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. 392 in Supplement.]

Therefore a quorum was present.

Mr. Pedone of Worcester then moved that the vote be reconsidered by which the House adopted the further amendment (offered by Mr. Bradley of Hingham) adding section 111; and the motion to reconsider prevailed. Subsequently (Mr. Petrolati of Ludlow having been in the Chair), on the recurring question, the further amendment was rejected.

Mr. Donato of Medford being in the Chair,— Mr. Bradley of Hingham moved that the amendment be amended by striking out the text of said amendment [at "A"] and inserting in place thereof the following "section:—

SECTION 107. There shall be established a special commission to investigate the fiscal, social, economic and judicial issues related to the adoption of capital punishment in the commonwealth. Said commission shall consist of the attorney general, the secretary of the executive office of public safety, the chief justice of the supreme judicial court and the commissioner of the department correction. Said commission shall investigate, without limitation, the fiscal, social, judicial, and economic impact of instituting capital punishment including the impact of capital punishment on the state's economy and revenue cost to the commonwealth."

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Miceli of Wilmington; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 105 members voted in the affirmative and 52 in the negative.

[See Yea and Nay No. 393 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment offered by Mr. Miceli of Wilmington.

Mr. Murphy of Burlington moved that the bill be amended in section 2, [A] in item 7006-0010, by striking out the figures "\$15,546,502" and inserting in place thereof the figures "\$12,815,333";

By striking out item 7006-0020 and inserting in place thereof the following item:

"7006-0020 For the operation of the division of insurance, including the expenses of the board of appeal on motor vehicle policies and bonds and the associated fringe benefits costs for personnel paid from this item and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to chapter 31 of the General Laws; provided further, that notwithstanding any general or

Quorum roll call—yea and nay No. 392.

Further amendment adopted—yea and nay No. 393.

special law to the contrary, 100 per cent of the amount appropriated in this item, and the associated fringe costs of personnel paid from this item, shall be assessed upon the institutions which the division currently regulates under general or special laws or regulations, except for licensed business entity producers; and provided further, that the assessment shall be in addition to any and all assessments currently assessed upon the institutions

\$11,458,823";

By striking out item 7006-0071 and inserting in place thereof the following item:

"7006-0071 For the operation of the department of telecommunications and cable; provided, that notwithstanding the second sentence of section 7 of chapter 25C of the General Laws, the assessments levied for fiscal year 2011 under this section shall be made at a rate sufficient to produce 100 per cent of the amount appropriated in this item, and the associated fringe benefits costs for personnel paid from this item

\$2,653,105";

By striking out item 7006-1003 and inserting in place thereof the following item:

"7006-1003 For the operation of the department of energy resources and the residential conservation services program; provided, that the amount assessed under section 11H of chapter 25A of the General Laws shall be equal to the amount expended from this item as well as the associated fringe benefits costs for personnel paid from this item

\$2,938,679";

and by striking out item 8000-0040 and inserting in place thereof the following item:

"8000-0040 For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers; provided, however, that regular full-time members of municipal police departments hired on or after July 1, 2009 shall not be eligible to participate in the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department who has not enrolled in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 of the General Laws, as of October 1, 2009, shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department who has begun to accumulate credit hours pursuant to said sec-

General Appropriation Bill.

tion 108L of said chapter 41 of the General Laws as of October 1, 2009 shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department on active duty in the armed forces of the United States in any theater of operations from July 1, 2008 through September 1, 2009 who enrolls in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 no later than 4 months from the date of his return from active duty shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41; and provided further, that any permanent employee of a municipal police department appointed prior to October 1, 2009 and separated from employment pursuant to section 39 of chapter 31 of the General Laws may enroll in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 no later than 4 months from the date of his reinstatement \$5,000,000”;

and by adding the following section:

“SECTION 108. (A) Section 34 of chapter 118G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition of ‘Health services’ the following definition:—

‘Managed Care Organization’, any managed care organization as defined by 42 CFR 438.2 and any eligible health insurance plan as defined by section 1 of chapter 118H, that contracts with MassHealth or the commonwealth health connector authority; but the term shall not include any senior care organization as defined by section 9D of chapter 118E.

(B) The definition of ‘Payments subject to surcharge’ in said section 34 of said chapter 118G, as so appearing, is hereby amended by adding the following sentence:— But the term shall include payments made by a managed care organization on behalf of (a) Medicaid recipients under age 65, and (b) enrollees in the commonwealth care health insurance program.

(C) The definition of ‘Surcharge payor’ in said section 34 of said chapter 118G, as so appearing, is hereby amended by adding the following sentence:— But the term shall include managed care organizations.

(D) Subsection (a) of section 36 of said chapter 118G, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— The purposes of the fund shall be: (i) to maintain a health care safety net by reimbursing hospitals and community health centers for a portion of the cost of reimbursable health services provided to low-income, uninsured or under-

insured residents of the commonwealth; and (ii) to support a portion of the costs of the Medicaid program under chapter 118E and the commonwealth care health insurance program under chapter 118H.

(E) Said section 36 of said chapter 118G, as so appearing, is hereby further amended by inserting after the word ‘hospitals’, in line 29, the following words:— ; and provided further, that any amounts collected from surcharge payors in any year in excess of \$160,000,000, adjusted to reflect applicable surcharge credits, shall be transferred to the General Fund to support a portion of the costs of the Medicaid and commonwealth care health insurance programs.

(F) Section 38 of said chapter 118G, as so appearing, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following 2 sentences:— The office shall calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate payments subject to the surcharge, excluding projected annual aggregate payments based on payments made by managed care organizations. The office shall determine the surcharge percentage before the start of each fund fiscal year and may redetermine the surcharge percentage before April 1 of each fund fiscal year if the office projects that the initial surcharge percentage established the previous October will produce less than \$150,000,000 or more than \$170,000,000 in surcharge payments excluding payments made by managed care organizations.”[B].

Pending the question on adoption of the amendments, Mr. Murphy of Burlington moved to amend them by inserting [at “A”] the following “in item 0337-0002, by adding the following:— ; provided that in fiscal year 2011 the department shall not reduce the amount allocated to the CASA programs as appearing in items 0337-0300, 0337-0400, 0337-0500, 0337-0600, 0337-0700, 0337-0800, 0337-0900 of section 2 of chapter 182 of the acts of 2008.”;

By inserting after item 1599-1977 the following item:—
“1599-2009 For a reserve for Hale Hospital in the city of Haverhill \$1,920,000”;

and by adding [at “B”] the following “; and by adding the following section:—

SECTION 109. Notwithstanding any general or special law to the contrary, the comptroller shall, no later than June 30, 2011, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2011 to the General Fund.”.

The further amendments were adopted; and the pending amendments, as amended then also were adopted.

Engrossed Bill — Land Taking.

There being no objection,— The engrossed Bill authorizing the city of Methuen to lease a building to the Head Start Program of the Greater Lawrence Community Action Council (see House, No. 4261, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the

Methuen,— Head Start Program.

Bill enacted (land taking),—

yea and nay
No. 394.

taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 157 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 394 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

General
Appropriation
Bill.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.

Bill passed to
be engrossed,—
yea and nay
No. 395.

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. Murphy of Burlington; and on the roll call (Mr. Donato of Medford being in the Chair) 132 members voted in the affirmative and 25 in the negative.

[See Yea and Nay No. 395 in Supplement.]

Therefore the bill (House, No. 4601, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

Next
sitting.

On motion of Mr. DeLeo of Winthrop,—
Ordered, That when the House adjourns today, it adjourn to meet on Tuesday next at eleven o'clock A.M.

Mr. Cabral of New Bedford then moved that as a mark of respect to the memory of Edmund Dinis, a member of the House from New Bedford in 1949 and 1950, a member of the Senate from 1953 to 1956, inclusive, and District Attorney of Bristol County from 1959 to 1970, inclusive, the House adjourn; and the motion prevailed.

Accordingly, at half past six o'clock P.M. (Friday, April 30), on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Tuesday at eleven o'clock A.M.; in an Informal Session.