

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Tuesday, May 19, 1998.

Met at twenty-seven minutes past one o'clock P.M.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To establish May 23rd as Special Needs Awareness Day (Senate, No. 2172);

Further regulating waterskiing (printed as Senate, No. 1134);

Prohibiting sex offenders from work release programs (House, No. 2942);

Relative to the Union School of the towns of New Salem and Wendell (House, No. 4537);

Establishing a city or town aid to the elderly and disabled taxation fund (House, No. 4984, amended); and

Relative to false impersonation (House, No. 5147);

Were severally read a second time and ordered to a third reading.

The Senate Bill relative to annoying communications (Senate, No. 2162),— was read a second time and was amended, on motion of Ms. Jacques and Mr. Bernstein, in line 16, by inserting after the words "internet communications", the following:— , TTY/TDD (Text Telephone/Telecommunications Device for the Deaf) communications.,

The bill, as amended, was then ordered to a third reading.

The House Bill further regulating medical malpractice insurance (House, No. 1143, amended),— **was read a second time and ordered to a third reading.**

The House Bill relative to the taxation of certain retirement accounts (House, No. 5374),— was read a third time.

After debate on the question on passing the bill to be engrossed, Messrs. Knapik, Tarr and Rauschenbach moved to amend the bill by inserting after section 7 the following two sections:—

"SECTION 7A. Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by adding the following two paragraphs:—

(rr) Sales of repair or replacement parts exclusively for use in aircraft leased by a certified air carrier or an aircraft having a maximum certificated takeoff weight of 6,000 pounds or more or the significant overhauling or rebuilding of aircraft or aircraft parts or components on a factory basis. For the purposes of this paragraph and paragraph (ss), certificated takeoff weight' shall mean the maximum weight contained in the type certificate or airworthiness certificate.

(ss) Sales of aircraft having a maximum certificated takeoff weight of 6,000 pounds or more.

SECTION 7B. Section 7 of chapter 64I of the General Laws, as so appearing, is hereby amended by adding the following two paragraphs:—

(d) Storage of repair or replacement parts exclusively for use in aircraft leased by a certified air carrier or aircraft having a maximum certified takeoff weight of 6,000 pounds or more or in the significant overhauling or rebuilding of aircraft or aircraft parts or components on a factory basis. For the purposes of this paragraph and paragraph (e), certificated takeoff weight' shall mean the maximum weight contained in the type certificate or airworthiness certificate.

(e) Storage of aircraft having a maximum certificated takeoff weight of 6,000 pounds or more."

After debate, Mr. Durand in the Chair, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes past two o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 7 — nays 32):

YEAS.

Hedlund, Robert L.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.

Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 7.

NAYS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne.

— 32.

The yeas and nays having been completed at seventeen minutes past two o'clock P.M., the amendment was *rejected*.
The President having taken the Chair, Mr. Pacheco moved to amend the bill, in section 6, by inserting after the word "college", in line 8, the following words:— "or a graduate program".

The amendment was *rejected*.

Mr. Tarr moved to amend the bill by inserting after section 3 the following section:—

"SECTION 3A. Said section 2 of said chapter 62, as so appearing, is hereby amended by striking out, in lines 235 and 236, the words Part C adjusted gross income shall be the Part C gross income comprised of the following classes as adjusted:', and inserting in place thereof the following words:—

'(1) Part C adjusted gross income shall be the Part C gross income comprised of the following classes as adjusted, less the deduction provided in clause (2).

(2) Any excess of the deduction allowable under subsection (d) over the sum of: (I) the Part B gross income; and (ii) that portion of the Part A gross income which is effectively connected with the active conduct of a trade or business of the taxpayer; provided, however, that the amount deductible under this paragraph shall not exceed the amount of Part C gross income which is effectively connected with the active conduct of a trade or business of the taxpayer.'"; and by inserting after section 9 the following section:—

"SECTION 9A. Section 3A shall take effect as of January 1, 1996."

The amendment was *rejected*.

Mr. Tolman moved to amend the bill by inserting after section 5 the following sections:—

"SECTION 5A. Section 38 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in line 175,

the word sale' and inserting in place thereof the following word:— sales.'

SECTION 5B. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 465 and 466, the words except as provided in subparagraph (b) of paragraph (4)' and inserting in place thereof the following words:— except as provided in subparagraphs (b) and of paragraph (3)'.

SECTION 5C. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 492, the word necessarily'.

SECTION 5D. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 554, the word applies' and inserting in place thereof the following word:— applies,'.

SECTION 5E. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 556, the words provisions of clause (I)' and inserting in place thereof the following words:— following provisions'.

SECTION 5F. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 581, the word period' and inserting in place thereof the following word:— period;."

After remarks, the amendment was adopted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-three minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne.

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-seven minutes past two o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments (for text of Senate amendments, printed as amended, see Senate, No. 2218).

Sent to the House for concurrence in the amendments.

The House Bill relative to earned income, investment income and capital gains (House, No. 5380),— was read a third time. Pending the question on passing the bill to be engrossed, Messrs. Knapik and Lees moved to amend the bill by inserting after section 5 the following section:—

"SECTION 5A. Section 6 of said chapter 62 is hereby amended by inserting after subsection (I), inserted by section 63 of chapter

43 of the acts of 1997, the following subsection:—

(I) A credit shall be allowed against the tax liability imposed by this chapter of not more than \$1,500 to a resident aged 65 years or older for the cost incurred in having a spouse in a nursing home or for acute long-term care." The amendment was *rejected*. Mr. Knapik moved to amend the bill, in section 1, by adding the following paragraph:—

"(3) In the case of an individual who has attained the age of 65 before the close of the taxable year, who has not earned any Part B income during the taxable year and who rents a principal place of residence located within the commonwealth, an amount equal to 50 per cent of such rent up to \$4,000". The amendment was *rejected*.

Messrs. Knapik, Rauschenbach, Tarr, Amorello, Tisei and Lees moved to amend the bill by inserting after section 1 the following section:—

"SECTION 1A. Said section 3 of said chapter 62, as so appearing, is hereby further amended by inserting after the word subdivision', in line 62, the following words:— and provided further, that where income from any such fund established under the laws of the commonwealth is partially exempt from taxation in such other state or political subdivision such income shall be deductible hereunder to the same dollar amount exempted by such other state.' "

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before three o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 7 — nays 32):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 7.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne.

— 32.

The yeas and nays having been completed at seventeen minutes before three o'clock P.M., the amendment was *rejected*.

Mr. Knapik moved to amend the bill by inserting after section 1 the following two sections:—

"SECTION 1A. Said section 3 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 63, the words one hundred dollars' and inserting in place thereof the following figure:— \$250'.

SECTION 1B. Said section 3 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 65, the words two hundred dollars' and inserting in place thereof the following figure:— \$500'."

The amendment was *rejected*.

Messrs. Amorello, Lees and Knapik moved to amend the bill by inserting before section 1 the following section:—

SECTION . Chapter 60A of the General Laws is hereby amended by inserting after section 4 the following section:—

Section 4A. (a) The excise imposed by section 1 shall not apply to a motor vehicle registered on an apportioned or allocation basis in accordance with the International Registration Plan pursuant to the provisions of section 2 of chapter 90; provided, however, that the owner has paid a registration fee that is calculated using a registration fee for the commonwealth which includes a sum equal to the excise that would be imposed on such motor vehicle or trailer under this chapter had the motor vehicle or trailer been registered in the commonwealth.

(b) Fees received by the registrar as registration fees attributable to payments in lieu of excise from owners registered under the International Registration Plan shall be credited to each city and town in that proportion which the amount of excise collected by the city or town during the year bears to the total excise collected by all cities and towns."; and

By inserting after section 5 the following 16 sections:—

"SECTION 5K. Said chapter 64E is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section :—

Section 4. All special fuels sold or used within the common wealth shall have a tax imposed at the rate of 17 cents upon each gallon.

SECTION 5O. Section 6 of chapter 64H of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following two paragraphs:—

(rr) sales of motor vehicles known as tractors as defined in section 1 of chapter 90 with a gross vehicle weight rating of 33,000 pounds or greater and used exclusively for the interstate or intrastate transportation of freight and to conduct commerce.

(ss) sales of semi-trailers as defined in section 1 of chapter 90 used for the conduct of commerce in conjunction with motor vehicles with a gross vehicle weight rating of 33,000 pounds or greater used exclusively for the interstate or intrastate transportation of freight and to conduct commerce.

SECTION 5A. Section 1 of Chapter 64E of the General Laws is hereby amended by striking out section 1, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:—

Section 1. The following words, as used in this chapter, shall have the following meanings, unless the context clearly requires otherwise:

'Commissioner', the commissioner of revenue.

'Special fuels', combustible gasses and liquids used or sold for use in an internal combustion engine or motor for the generation of power to propel motor vehicles registered for use on the public highways, except such fuels defined as fuel' in paragraph (d) of section 1 of chapter 64A.

'Special fuel licensee', a person holding a properly issued special fuel supplier, special fuel exporter or permissive supplier license.

'Special fuel supplier', a person that imports or acquires immediately upon import into the commonwealth special fuel by pipeline or vessel or produces, manufactures or refines special fuel within the commonwealth and sells or distributes it within the commonwealth or otherwise acquires special fuel for distribution on which there has been no previous taxable sale or use.

'Special fuel exporter', a person, other than a special fuel supplier, that receives special fuel in the commonwealth and subsequently sells or distributes it to other persons outside the commonwealth.

'Permissive supplier', a person who does not meet the definition of special fuel supplier but sells or distributes special fuel from another state destined within the commonwealth.

'User seller', a person who sells or delivers special fuel or dispenses special fuel into the fuel tanks or attached motor vehicles, including any such person who dispenses special fuels for consumption in such motor vehicles owned, leased or operated by him or who otherwise distributes special fuels to end users.

'User of special fuels', any person, including a special fuel licensee or user seller, who owns or leases a special fuels propelled motor vehicle operated over the highways of the commonwealth.

'Use', in addition to its usual meaning, the receipt of special fuels by a person into a fuel supply tank of a registered motor vehicle or into a receptacle from which special fuels are supplied by a person to his own or other registered motor vehicles.

'Motor vehicle', any vehicle propelled by any power other than muscular, except boats, tractors used exclusively for agricultural purposes and such vehicles that run only on rails or tracks.

'Terminal', a fuel storage and distribution facility that is supplied by pipeline or vessel and from which special fuel may be removed for distribution at the terminal rack, but not into the fuel supply tank of a motor vehicle.

'Received', the removal of special fuels from the refinery or terminal in the commonwealth or the first entry into the commonwealth from another state or foreign country for sale, distribution or use.

'Liquefied gas', that type of special fuels which is a combustible gas and exists in the gaseous state at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

'Qualified purchaser', a person who holds a supplier license on the effective date of this section or who show financial responsibility, satisfactory to the department, to defer payment of the special fuel tax to its supplier.

SECTION 5B. Section 2 of said chapter 64E, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words user sellers, suppliers, or users' and inserting in place thereof the following words:— a person as a special fuel supplier, special fuel exporter or permissive supplier.

SECTION 5C. Said section 2 of said chapter 64E, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

No person other than a licensed special fuel supplier shall maintain storage facilities for tax-free undyed special fuels and dispense special fuels therefrom unless such person is the holder of an uncanceled license as a special fuel supplier issued by the commissioner.

SECTION 5D. Said section 2 of said chapter 64E, as so appearing, is hereby further amended by striking out the fifth paragraph.

SECTION 5E. Said section 2 of said chapter 64E, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following three paragraphs:—

The commissioner, as a condition of issuing any license under this section, may require that the applicant state, under the penalties of perjury, that he will purchase special fuels or accept delivery of special fuels only from a person licensed under this chapter and, if a special fuel exporter neglects or refuses to provide on his application that he is licensed to deal in special fuels in each destination state, it shall be grounds for refusal to grant such a license.

Except as provided in this chapter, it shall be unlawful for a person to act as a special fuel exporter unless he is a holder of a special fuel exporter license issued to him by the department, nor shall any person import or cause to be imported special fuel to other than a special fuel supplier for sale or distribution unless he is a holder of a permissive supplier license.

Each special fuel licensee shall provide a bond executed by him as principal, and by a corporation qualified under the laws of the commonwealth as surety, payable to the commonwealth and conditioned upon the faithful performance of all the requirements of this chapter and upon the prompt payment of all excise, penalties and interest due to the commonwealth. The total amount of the bonds of any special fuel licensee shall be fixed by the department at not less than three times the estimated maximum monthly tax, determined in such a manner as deemed appropriate by the department. If the department determines that a licensee is habitually delinquent in the payment of amounts due to the department, it may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required shall be rounded off to the next larger integral multiple of \$10. No recovery on any bond, nor the execution of any new bond, nor the suspension or revocation of any special fuel license shall affect the validity of a bond. In lieu of a bond, a licensee may deposit with the state treasurer, under such terms as the department may prescribe, a like amount of lawful money of the United States or any other form of security authorized by this section. If security is provided in the form of a saving certificate, certificate of deposit or investment certificate, the certificate shall state that the amount is unavailable for withdrawal except upon order of the department.

SECTION 5F. Section 3 of said chapter 64E, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words of said special fuels to be used in a vehicle for the propulsion over the highways'.

SECTION 5G. Said section 3 of said chapter 64E, as so appearing, is hereby further amended by striking out, in line 5, the words gross sales price or cost and the number of'.

SECTION 5H. Said section 3 of said chapter 64E, as so appearing, is hereby further amended by inserting after the word used', in line 6, the following words:— the gallons upon which dye was added.

SECTION 5I. Said section 3 of said chapter 64E, as so appearing, is hereby further amended by inserting after the word delivered', in line 15, the following words:— and the color and concentration of dye added.

SECTION 5J. Section 3 of said chapter 64E, as so appearing, is hereby further amended by adding the following paragraph:—

Each special fuel licensee shall prepare and provide for every sale in transport truck loads exceeding 5,200 gallons of special fuel a shipping document setting forth, on its face, the origin and destination of the special fuel, gallons being shipped, color and concentration of dye added and the name and address of the purchaser. Each person transporting special fuel on public highways shall carry on board the shipping document issued by the licensee. Each person receiving special fuel from a licensee shall obtain a copy of the shipping paper and shall retain such copy for a period of 36 months.

SECTION 5L. Section 10 of said chapter 64E, as so appearing, is hereby amended by adding the following paragraph:—

No person shall import, sell, use, deliver or store special fuel in the commonwealth to which dye has not been added in accordance with this chapter or to which a tax has not been imposed by this chapter. A special fuel supplier shall be exempt from the provisions herein with respect to special fuel imported by pipeline or other vessel and stored within the supplier's terminal facility in the commonwealth. No person shall operate or maintain a motor vehicle on a public highway with special fuel containing dye, as provided by section 4, in the fuel supply tank for the vehicle. It shall be a rebuttable presumption that all undyed special fuel received, sold or distributed in the commonwealth is to be sold for use in propelling a motor vehicle.

SECTION 5M. Section 12 of said chapter 64E, as so appearing, is hereby amended by adding the following paragraph:—

The department may seal a special fuel pump if dyed special fuel is being placed into the fuel supply tank of a highway motor vehicle. Before sealing any such pump, the department shall send a notice by registered or certified mail to the person operating such special fuel pump at his last known address, ordering him to appear before the department at a time not less than ten days after the mailing of the notice and show cause why such pump should not be sealed.

SECTION 5N. Section 14 of said chapter 64E, as so appearing, is hereby amended by striking out, in line 1, the words supplier or user-seller' and inserting in place thereof the following words:— special fuel licensee.

SECTION . Notwithstanding any general or special law to the contrary, the department of revenue shall conduct an audit of the reports submitted to the commissioner under the International Fuel Tariff Agreement. Said audit shall begin on or before January 1, 1999 and conclude no later than December 31, 1999. The results of said audit shall be made available to the house and senate committees on ways and means and the joint committee on taxation no later than January 31, 2000. Said audit shall include, but not be limited to, a specific emphasis on the recent decline in revenue to the Commonwealth through the IFTA system.

SECTION 5P. Notwithstanding any general or special law to the contrary, including the provisions of section 68 of Chapter 11 of the Acts of 1997, all provisions of this act shall remain in effect until the future action of the legislature or the provisions of Section 27 of this act come into effect."; and

By adding the following two sections:—

SECTION 9. Notwithstanding the provisions of any general or special law to the contrary the provisions of sections 5K and 5O shall remain in effect until July 1, 2001.

SECTION 10. The remaining provisions of this act shall take effect on July 1, 1998."

After debate, Ms. Melconian in the Chair, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes past three o'clock P.M., on motion of Mr. Amorello, as follows, to wit (yeas 6 — nays 32):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.

Lees, Brian P.
Rauschenbach, Henri S.
Tisei, Richard R.

— 6.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne — 32.

— 32.

ANSWERED "PRESENT".

Tarr, Bruce E. — 1.

The yeas and nays having been completed at sixteen minutes past three o'clock P.M., the amendment was *rejected*.

The President in the Chair, Ms. Wilkerson and Mr. Montigny moved to amend the bill by inserting after section 5 the following new section:—

"SECTION 5A. Notwithstanding the provisions of any general or special law to the contrary, the department of revenue and the department of housing and community development shall investigate ways of updating or adjusting the tax laws including, but not limited to, the rental deduction, so-called, to reflect changes in the rental market since 1985. Said departments shall jointly report to the house and senate committees on ways and means, the joint committee on taxation and the joint committee on housing and urban development not later than December 31, 1998 the results of their investigation and any recommendations for legislation."

The amendment was adopted.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by striking out sections 3, 4 and 5 and inserting in place thereof the following section:—

"SECTION 3. Section 4 of said chapter 62, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines

7 and 8, the words five and ninety-five hundredths percent' and inserting in place thereof the following words:— 5.95 percent for taxable years beginning on or after January 1, 1998 and before January 1, 1999; 5.6 percent for taxable years beginning on or after January 1, 1999 and before January 1, 2000; 5.3 percent for taxable years beginning on or after January 1, 2000 and before January 1, 2001; and 5 percent for taxable years beginning on or after January 1, 2001."

During debate on the question on adoption of the amendment, the Senator from Suffolk, Mr. Lynch, arose to a point of parliamentary procedure which, being stated, was that the Senator from Hampden and Hampshire, Mr. Lees, was not directing his comments through the Chair and was not referring to other members by their proper Senatorial designations.

The President stated that the point of procedure was well taken and requested that the Senator from Hampden and Hampshire refer to other members by their proper designations and to avoid personalities in debate.

After further debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nine minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 33):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 7.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Birmingham, Thomas F.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 32.

The yeas and nays having been completed at three minutes before five o'clock P.M., the amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by striking out sections 1 and 2 and inserting in place thereof the following section:—

"SECTION 1. Section 4 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words twelve percent' and inserting in place thereof the following words:— 12 percent for taxable years beginning before January 1, 1999; 10.6 percent for taxable years beginning on or after January 1, 1999 and before January 1, 2000; 9.2 percent for taxable years beginning on or after January 1, 2000 and before January 1, 2001; 7.8 percent for taxable years beginning on or after January 1, 2001 and before January 1, 2002; 6.4 percent for taxable years beginning on or after January 1, 2002 and before January 1, 2003; and 5.0 percent for taxable years beginning on or after January 1, 2003."

The question on adoption of the amendment was determined by a call of the yeas and nays, at one minute past five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 33):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 7.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Birmingham, Thomas F.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese

Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 33.

The yeas and nays having been completed at six minutes past five o'clock P.M., the amendment was *rejected*. Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by striking out section 8. After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 8 — nays 31):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Pines, Lois G.
Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 8.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 31.

The yeas and nays having been completed at twenty-one minutes before six o'clock P.M., the amendment was *rejected*.

Ms. Melconian moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and, there being no objection, on further motion of the same Senator, the rule was suspended without a recorded ye and nay vote.

Recess.

At twenty minutes before six o'clock P.M., the President declared a recess until ten minutes past seven o'clock P.M.; and, at twenty-one minutes past seven o'clock P.M., the Senate reassembled, the President in the Chair.

Papers from the House.

Engrossed Bills.

There being no objection, during consideration of the Orders of the Day, the following engrossed bills (the first two of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Acting Governor for his approbation, to wit: Designating a certain bridge in the town of Amesbury as the Bailey Bridge (see Senate, No. 2061, amended); Relative to cardiopulmonary resuscitation and automatic external defibrillation (see Senate No. 2164); and Establishing a commission on the status of women (see House, No. 5199, amended).

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, during consideration of the Orders of the Day, the following matters were taken out of the notice section of the calendar and considered, as follows:

The House Bill relative to the membership of the conservation commission of the town of Falmouth (House, No. 5193),— **was read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Arlington to establish a special fund for the payment of costs relative to school renovation projects (House, No. 5159) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed, in concurrence.**

Papers from the House.

Engrossed Bill Returned to House by Acting Governor With Recommendation of Amendment.

There being no objection, during consideration of the Orders of the Day, the engrossed bill authorizing the town of North Attleborough to make certain conveyances of forest land (see House, No. 5224),— having been returned to the House by His Honor the Lieutenant-Governor, Acting Governor, in accordance with the provisions of Article LVI of the Amendments to the Constitution, with recommendation of amendment (for message, see House, No. 5470),— came from the House, amended as follows:

By striking out section 5 and inserting in place thereof the following section:

"SECTION 5. The town of North Attleborough is hereby authorized to transfer care, custody and control of a certain parcel of forest land from the town forest committee to the board of public works. Said parcel contains approximately 35.375 acres, being part of Assessor's Plat 37, Lot 63, as shown on a plan entitled Plan of Land in North Attleborough, MA' dated September 25, 1997, drawn by Bay Colony Group Inc., which is on file in the office of the town clerk."

The message from His Honor the Lieutenant-Governor, acting Governor, was read.

The rules were suspended, on motion of Ms. Melconian, and the matter was considered forthwith.

The President stated that inasmuch as, under the provisions of Article LVI of the Amendments to the Constitution, the bill was "before the General Court subject to amendment and re-enactment", the bill was before the Senate subject to amendment.

On motion of Ms. Melconian, the Senate concurred in the adoption of the House amendment.

There being no objection, during consideration of the Orders of the Day, a petition (accompanied by bill, House, No. 5530) of John H. Rogers relative to elective shares of surviving spouses under the probate laws of the Commonwealth,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on the Judiciary.**

Resolutions.

There being no objection, during consideration of the Orders of the Day, resolutions (filed by Mr. Creedon) "congratulating Margaret A. Robinson on the occasion of her retirement as a teacher in the Brockton public school system", were referred, under the rule, to the committee on Rules.

Subsequently, Mr. Norton for the said committee, reported, recommending that the resolutions ought to be adopted; and they were considered forthwith, under a suspension of the rules, moved by Mr. Lees, and adopted.

There being no objection, during consideration of the Orders of the Day, resolutions (filed by Ms. Melconian and Mr. Lees) "honoring Saint Mark Armenian Church in Springfield on the occasion of its fortieth anniversary", were referred, under the rule, to the committee on Rules.

Subsequently, Mr. Norton for the said committee, reported, recommending that the resolutions ought to be adopted; and they were considered forthwith, under a suspension of the rules, moved by Mr. Lees, and adopted.

Communications.

There being no objection, the Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053
May 18, 1998.

Mr. Edward B. O'Neill
Clerk of the Massachusetts Senate
State House
Boston, Massachusetts 02133

Dear Mr. O'Neill:

Due to a scheduling conflict, I was unable to be present for the following roll call votes on May 14, 1998.

Had I been present, I would have voted in the affirmative on each of the following matters:

- 1) S. 2148, An Act Regulating Set Off of Mutual Debts and Credits Involving an Insolvent Insurer.
- 2) S. 1792, An Act Authorizing The City of Everett To Use Certain Park Land For School Purposes.
- 3) H5428, An Act Amending a Certain Conservation Restriction.

I would appreciate your noting this for the record. Thank you for your assistance in this matter.

Sincerely,

EDWARD J. CLANCY, JR.,
State Senator.

On motion of Mr. Bernstein, the above statement was ordered printed in the Journal of the Senate.

There being no objection, the Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133
May 18, 1998.

Edward B. O'Neill
Clerk of the Senate
Room 335, State House
Boston, Massachusetts 02133

Dear Sir:

During the formal session held on Thursday, May 14, 1998 I was in Russia, fulfilling my role as a delegate for the Environmental Institute at the University of Massachusetts. Had I been able to attend the session, I would have voted in favor of the following matters:

- H. 3680 "An Act Relative to Certain Transactions by the Massachusetts Water Resources Authority."
- S. 2206 "An Act to Reverse Mortgage Loans."
- H. 5199 "An Act Establishing a Commission on the Status of Women."
- H. 5339 "An Act Further Regulating Junior Operator's Licenses."
- H. H5478 "An Act Providing for the Use of Certain Types of Securities in the Financing of Central Artery/Ted Williams Tunnel Project."

I would be grateful if my vote on these matters could be properly recorded and placed in the next journal.

Very truly yours,

ROBERT A. DURAND,
Assistant Majority Leader.

On motion of Mr. Panagiotakos, the above statement was ordered printed in the Journal of the Senate.

Orders of the Day.

The Orders of the Day were further considered.

The House Bill relative to earned income, investment income and capital gains (House, No. 5380),— was further considered, the main question being on passing the bill to be engrossed.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by inserting before section 1 the following section:—

"SECTION . Chapter 59 of the General Laws is hereby amended by inserting after section 5J the following section:—

Section 5K. (a) In any city or town which accepts the provisions of this section, the board of selectmen of a town or mayor with the approval of the city council may establish a program to allow persons over the age of 65 to volunteer to provide services to such city or town in exchange for a reduction in their real property tax obligations; provided, however, that any reduction so provided shall be in addition to any exemption or abatement to which such person is otherwise entitled; provided further, that no person shall receive a rate of more than \$5 per hour for services provided pursuant to such reduction nor shall such reduction exceed \$500 in a given tax year.

(b) It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of such record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of such record shall also be provided to the taxpayer prior to the issuance of the actual tax bill.

In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services be considered income, wages or employment for the purposes of taxation as provided in chapter 62, for purposes of withholding taxes as provided in chapter 62B, for purposes of unemployment insurance as provided in chapter 151, for purposes of workers' compensation as provided in chapter 152 or in any other applicable provisions of the General Laws."; and by inserting after section 6 the following section:—

"SECTION 6A. The department of revenue shall investigate and study the feasibility of eliminating or otherwise lessening the impact of the Internal Revenue Code on the real estate tax exemption provided by section 5K of chapter 59 of the General Laws. Said department shall file its report with the clerks of the senate and house of representatives and the joint committee on taxation on or before December 31, 1998."

The amendment was adopted.

Messrs. Tarr, Amorello and Hedlund moved to amend the bill by inserting after Section 6 the following section:—

"SECTION 6A. The department of revenue, in consultation with the joint committee on taxation, is hereby directed to establish regulations that provide for a single annual interest rate for the Title V tax credit, so-called. Said regulations shall be completed by September 1, 1998. The amendment was *rejected*.

Messrs. Tarr, Amorello and Hedlund moved to amend the bill by inserting after section 5 the following section:—

SECTION 5A. Subsection (I) of section 6 of chapter 62 of the General Laws, as inserted by section 63 of chapter 43 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Said expenditures shall be the actual cost to the taxpayer or \$15,000, whichever is less; provided, that said credit shall be available to eligible taxpayers beginning in the tax year in which repair or replacement of said cesspool or septic system was completed; provided, that said credit shall not exceed \$1500, in any tax year and any excess credit may be applied over five subsequent tax years up to an aggregate maximum of \$6,000. After debate, the amendment was *rejected*.

Mr. Tarr moved to amend the bill by striking out section 2 and inserting in place thereof the following section:

"SECTION 2. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as amended by section 62 of chapter 43 of the acts of 1997, is hereby further amended by adding the following subparagraph:—

(12) The first \$4,000 of Part B interest income from financial institutions located in the commonwealth, pursuant to subparagraph (A) of paragraph (1) of section 2 for each individual; and all such income for each individual, who, for the taxable year, both: (a) claimed the additional exemption afforded by paragraph (b) for those individuals who had attained the age of 65 during said taxable year; and (b) had total adjusted gross income of no more than:

(I) in the case of a married couple filing jointly who have claimed two exemptions under the provisions of clause of subparagraph (2) of paragraph (b), \$60,000;

(ii) in the case of a single individual or a head of household filer, \$30,000. After remarks, the amendment was *rejected*.

Messrs. Tarr, Lees, Amorello and Hedlund moved to amend the bill by inserting after section 5 the following section:—

SECTION 5A. Section 6 of chapter 62 of the Mass. General Laws, as amended by section 63 of chapter 43 of the acts of 1997, is hereby further amended by adding the following subsection:—

(j) 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 failed 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 taxpayers beginning in the 1998 tax year for those expenditures made between the initial effective date of said Title V regulations and December 31, 1996; provided said credit shall not exceed \$1,500 in any tax year and any excess credit may be applied over the following three subsequent tax years. 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, the creation of a notification system administered jointly by the department of environmental protection and the department of revenue to those owners of residential property who made expenditures for the repair or replacement of a failed cesspool or septic system completed between the initial effective date of Title V regulations and December 31, 1996.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before eight o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 9 —nays 30):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.

Murray, Therese
Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 9.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Norton, Thomas C.
Nuciforo, Andrea F., Jr.

Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 30.

The yeas and nays having been completed at sixteen minutes before eight o'clock P.M., the amendment was *rejected*.

Messrs. Tarr and Clancy moved to amend the bill by inserting after section 5 the following section:—

SECTION 5A. Chapter 62 of the General Laws is hereby amended by inserting after section 10, as appearing in the 1996 Official Edition, the following section:—

SECTION 10A. (a) A Qualified Funeral Trust shall have the same meaning as in the Code, as amended, on January 1, 1998, effective for taxable years ending on or after August 5, 1997.

(b) For taxable years ending on or after August 5, 1997 a qualified funeral trust exemption of \$250 shall be allowed for each qualified funeral trust, first against Part A gross income with any remainder deductible against Part B gross income.

The amendment was *rejected*.

Messrs. Tarr and Amorello moved to amend the bill by inserting after section 5 the following section:—

"SECTION 5A. Section 6 of chapter 64H of the General Laws, as amended by section 73 of chapter 164 of the Acts of 1997, is hereby further amended by adding the following paragraph:—

(rr) sales of goods which by weight contain 70 percent recycled materials.; and by adding the following section:—

SECTION . The provisions of this act shall cease to be effective, unless otherwise renewed or modified, on January 1, 2003."

The amendment was *rejected*.

Messrs. Tarr, Amorello and Lees moved to amend the bill by inserting after section 5 the following section:—

"SECTION 5A. Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

(rr) Sales of machinery and equipment if its operation, function, or purpose is an integral or essential part of a continuous production flow or process of manufacturing printed material to be sold and sales of pre-press items which are part of a continuous production flow or process of manufacturing printed material to be sold."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes before eight o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 11 — nays 28):

YEAS.

Amorello, Matthew J.
Bernstein, Robert A.
Hedlund, Robert L.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.

Lees, Brian P.
Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.

— 11.

NAYS.

Antonioni, Robert A.
Berry, Frederick E.
Brewer, Stephen M.

Moore, Richard T.
Morrissey, Michael W.
Murray, Therese

Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.

Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 28.

The yeas and nays having been completed at eight minutes before eight o'clock P.M., the amendment was *rejected*.

Messrs. Tarr and Lees moved to amend the bill by inserting after section 5 the following section:—

"SECTION 5A. Chapter 63 of the General Laws is hereby amended by inserting after section 38P the following section:—

Section 38Q. In determining the net income subject to tax under this chapter, a domestic or foreign business corporation may deduct, in addition to any other allowable deduction under this chapter, an amount equal to 25 per cent of the allowable deduction for the contribution of tangible property as defined in subparagraph (1) of section 1221 of the Federal Internal Revenue Code which provides general education benefits, such as so-called state of the art' equipment and services, to an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, including elementary, secondary and post-secondary institutions located in the commonwealth. The provisions of this section shall be applicable to the current taxable year in which the contribution was made."

The amendment was *rejected*.

Mr. Tolman moved to amend the bill by adding the following section:—

"SECTION . Notwithstanding any general or special law to the contrary, a taxpayer who obtained an automatic extension of time to file his 1996 Massachusetts income tax return, pursuant to section 19 of chapter 62C, and who shall be reporting a gain or loss from the sale or exchange of capital assets pursuant to the provisions of chapter 62 of the General Laws shall be allowed an automatic additional extension up to and including July 31, 1998 to file such return. For purposes of this section, the commissioner may require the taxpayer to file additional forms or to provide additional information as he deems necessary."

After debate, the amendment was adopted.

Messrs. Amorello, Lees and Knapik moved to amend the bill by inserting before section 1 the following section:—

"SECTION . Chapter 59 of the General Laws is hereby amended by inserting after section 5J the following section:—

Section 5K. In any city or town which accepts the provisions of this section, the board of selectmen of a town or mayor with the approval of the city council may establish a program to allow persons over the age of 65 to volunteer to provide services to said city or town in exchange for a reduction in their real property tax obligations; provided, however, that any reduction, so provided, shall be in addition to any exemption or abatement to which such person is otherwise entitled; and provided further, that no person shall receive a rate of more than five dollars per hour for services provided pursuant to that reduction nor shall the reduction exceed \$500.00 in any given tax year. It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of said record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of such record shall also be provided to the taxpayer prior to the issuance of the actual tax bill.

In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services be considered income, wages, or employment for the purposes of taxation as outlined in chapter 62, for purposes of withholding taxes as outlined in chapter 62B, for purposes of unemployment insurance as outlined in chapter 151, for purposes of workers compensation as outlined in chapter 152, or any other applicable provision of the General Laws." The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by striking out sections 3, 4, and 5 and inserting in place thereof the following section:—

"SECTION 5A. Section 4 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5.7 per cent for taxable years beginning on or after January 1, 1998." After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill, by striking out sections 1 and 2 and inserting in place thereof the following section:—

"SECTION 1. Subsection (a) of section 4 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby

amended by inserting after the word percent', in line 6, the following words:— for taxable years beginning before January 1, 1998; 10 per cent for taxable years beginning on or after January 1, 1998 and before January 1, 1999; and 5.7 percent for taxable years beginning on or after January 1, 1999. The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by striking out sections 1 and 2 and inserting in place thereof the following section:—

"SECTION 1. Subsection (a) of section 4 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word percent', in line 6, the following words:— for taxable years beginning before January 1, 1998; 10.6 percent for taxable years beginning on or after January 1, 1998 and before January 1, 1999; 9.2 percent for taxable years beginning on or after January 1, 1999 and before January 1, 2000; 7.8 percent for taxable years beginning on or after January 1, 2000 and before January 1, 2001; 6.4 percent for taxable years beginning on or after January 1, 2001 and before January 1, 2002; and 5.95 percent for taxable years beginning on or after January 1, 2002."

After remarks, on motion of Mr. Lees, a call of the yeas and nays was ordered on the adoption of the amendment. Subsequently, after debate, there being no objection, on motion of Mr. Lees, the request for a call of the yeas and nays on the adoption of the amendment was withdrawn.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund then presented the following redrafted amendment:

By inserting after section 5 the following section:

"SECTION 5A. Subsection (a) of section 4 of said chapter 62, as so appearing, is hereby amended by inserting after the word percent', in line 6, the following words:— for taxable years beginning before January 1, 1998; 10.6 per cent for taxable years beginning on or after January 1, 1998 and before January 1, 1999; 9.2 per cent for taxable years beginning on or after January 1, 1999 and before January 1, 2000; 7.8 per cent for taxable years beginning on or after January 1, 2000 and before January 1, 2001; 6.4 per cent for taxable years beginning on or after January 1, 2001 and before January 1, 2002; and 5.95 per cent for taxable years beginning on or after January 1, 2002.

After further debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 10 — nays 29):

YEAS.

Amorello, Matthew J.

Fargo, Susan C.

Hedlund, Robert L.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Pines, Lois G.

Rauschenbach, Henri S.

Tarr, Bruce E.

Tisei, Richard R.

— 10.

NAYS.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Havern, Robert A.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Rosenberg, Stanley C.

Shannon, Charles E.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

The yeas and nays having been completed at six minutes before nine o'clock P.M., the amendment was *rejected*.

Mr. Tisei moved to amend the bill by inserting before section 1 the following section:—

"SECTION . Section 1 of chapter 60A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 93 and 94, the words and registered to any person' and inserting in place thereof the following words:— or leased and registered to any person or the parent or legal guardian of such person,". The amendment was adopted.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik, Tarr and Hedlund moved to amend the bill by adding the following section:—

"SECTION . Subsection (a) of section 4 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words rate of twelve percent' and inserting in place thereof the following words:— same rate as Part B taxable income." The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by inserting after section 5 the following three sections:—

SECTION 2A. Subparagraph (1) of paragraph (b) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$5,000 if the taxpayer provided more than one-half of the support for an elderly relative who has attained at least the age of 70 by the end of the taxable year; provided, however, that such relative resides with the taxpayer for more than eight months of the taxable year and that the adjusted gross income of the taxpayer does not exceed \$100,000 for the year in which the exemption is being claimed.

SECTION 2B. Subparagraph (1A) of said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$5,000 if the taxpayer provided more than one-half of the support for an elderly relative who has attained at least the age of 70 by the end of the taxable year, provided, however, that such relative resides with the taxpayer for more than eight months of the taxable year and that the adjusted gross income of the taxpayer does not exceed \$100,000 for the year in which the exemption is being claimed.

SECTION 2C. Subparagraph (2) of said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$5,000 if the taxpayer provided more than one-half of the support for a relative who has attained at least the age of 70 by the end of the taxable year, provided, however, that such relative resides with the taxpayer for more than eight months of the taxable year and that the adjusted gross income of the taxpayers does not exceed \$100,000 for the year in which the exemption is being claimed. The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by inserting after section 3 the following section:—

"SECTION 3A. Subparagraph (1) of paragraph (b) of Part B of section 3 of Chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$3,000 shall be allowed for any owner or tenant of residential property located in the commonwealth who cares for a disabled individual, as defined in section 12A of chapter 71B, for the cost of caring for such disabled individual; provided, however, that: (i) such disabled individual has resided with such owner or tenant for more than six months of the taxable year; and (ii) that the adjusted gross income of such owner or tenant does not exceed \$50,000 in the case of a single filer.";

By inserting after section 4 the following section:—

"SECTION 4A. Subparagraph (1A) of said paragraph (b) of said Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$3,000 shall be allowed for any owner or tenant of residential property located in the commonwealth who cares for a disabled individual, as defined in section 12A of chapter 71B, for the cost of caring for such disabled individual; provided, however that (i) such disabled individual has resided with such owner or tenant for more than six months of the taxable year; and (ii) that the adjusted gross income of such owner or tenant does not exceed \$50,000."; and

By inserting after section 5 the following section:—

"SECTION 5A. Subparagraph (2) of said paragraph (b) of Part B of said section 3 of said chapter 62, as so appearing, is hereby amended by inserting after clause (C) the following clause:—

(D) an additional exemption of \$3,000 shall be allowed for any owner or tenant of residential property located in the commonwealth who cares for a disabled individual, as defined in section 12A of chapter 71B, for the cost of caring for such disabled individual; provided, however, that (i) such disabled individual has resided with such owner or tenant for more than six months of the taxable year and (ii) that the adjusted gross income of such owner or tenant does not exceed \$100,000." The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by inserting after the enacting clause the following section:—

"SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 11, the words clause Eighteenth' and inserting in place thereof the following words:— clauses Eighteenth, Thirty-seventh, Thirty-seventh A." The amendment was *rejected*.

Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by inserting after the enacting clause the

following three sections:—

"SECTION 2. Said clause Forty-First of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out subclause (B) and inserting in place thereof the following clause:—

(B) that such person's income does not exceed that required to qualify under subsection (a) of section 5 of chapter 62.

SECTION 1. Clause Forty-First of section 5 of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 747, the words five hundred' and inserting in place thereof the following words:— one thousand.

SECTION 3. Clause Forty-First B of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in line 934, the words five hundred' and inserting in place thereof the following words:— one thousand." The amendment was *rejected*. Messrs. Lees, Tisei, Amorello, Rauschenbach, Knapik and Tarr moved to amend the bill by inserting after the enacting clause the following section:—

"SECTION 1. Paragraph (e) of section 21C of chapter 59 of the General Laws, as so appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:—

The provisions of this paragraph shall not apply to persons 70 years of age or older; provided, however, that such persons have owned the real estate subject to such tax increase for a period of at least ten years." After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Amorello and Knapik moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Notwithstanding the provisions of any general law or special law to the contrary, the rate of taxation on diesel fuel sold in the commonwealth shall be the same as the lowest rate of taxation on diesel fuel in any contiguous state." The amendment was *rejected*.

Messrs. Lees and Tarr moved to amend the bill by inserting after section 5 the following two sections:—

"SECTION 5A. Section 31A of chapter 63 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out paragraphs (a), (f) and (k).

SECTION 5B. Said section 31A of said chapter 63, as so appearing, is hereby further amended by striking out paragraph (l) and inserting in place thereof the following paragraph:—

(l) The provisions of paragraph (l) and (j) shall be available for the taxable years ending on or after December 31, 1993."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 8 — nays 31):

YEAS.

Amorello, Matthew J.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Magnani, David P.
Rauschenbach, Henri S.
Tarr, Bruce E.
Tisei, Richard R.

— 8.

NAYS.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.

Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian

Melconian, Linda J.
Montigny, Mark C.

Wilkerson, Dianne

— 31.

The yeas and nays having been completed at eighteen minutes past nine o'clock P.M., the amendment was *rejected*.

Messrs. Lees and Tarr moved to amend the bill by inserting after section 5 the following two sections:—

"SECTION 5A. Section 31A of chapter 63 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 189, the words July first, nineteen hundred and ninety-nine' and inserting in place thereof the following words:— July 1, 2004.

SECTION 5B. Said section 31A of said chapter 63, as so appearing, is hereby further amended by striking out, in line 193, the words July first, nineteen hundred and ninety-nine' and inserting in place thereof the following words:— July 1, 2004." The amendment was *rejected*.

After debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-three minutes past nine o'clock P.M., on motion of Mr. Rosenberg, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

Mr. Durand in the Chair, the yeas and nays having been completed at half past nine o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments (for text of Senate amendments, printed as amended, see Senate, No. 2219).

Sent to the House for concurrence in the amendments.

Papers from the House.
Engrossed Bill — Land Taking for Conservation, Etc.

The President in the Chair,— an engrossed Bill relative to the conveyance of a certain parcel of land in the city of Lowell (see House, No. 3131, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-nine minutes before ten o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-seven minutes before ten o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the acting Governor for his approbation.

A Bill authorizing the Division of Capital Planning and Operations to grant interests in certain land to the town of Franklin (House, No. 4697,— on petition) [Local approval received],— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Bills

Providing for recall elections in the town of Ayer (House, No. 4596,— on petition) [Local approval received]; and Exempting certain employees of the city of Westfield from the civil service law (House, No. 5231, changed,— on petition) [Local approval received];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

A petition (accompanied by bill, House, No. 5527) of John F. Merrigan (with the approval of the town council) that the town of Greenfield be authorized to issue an additional license for the sale of wine and malt beverages to be drunk on the premises to Bickford's Family Restaurant in said town,— **was referred, in concurrence, to the committee on Government Regulations.**

Order Adopted.

On motion of Mr. Norton,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

***Adjournment in memory of Representative William G.
Reinstein of Revere.***

Mr. Birmingham offered an order that, when the Senate adjourns today, it adjourn in memory of Representative William G. Reinstein of Revere, who passed away on May 15. Representative Reinstein, a member of the Massachusetts House of Representative from 1969 to 1972, inclusive, and from 1987 to 1998, inclusive, also served three terms as mayor of the city of Revere from 1972-1977. Representative Reinstein leaves his wife Maureen (Judge) and two children, Kathi-Anne and William, Jr. The order was adopted.

Accordingly, as a mark of respect to the memory of Representative William G. Reinstein of Revere, on motion of Mr. Lees, at twenty-three minutes before ten o'clock P.M., the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.