

**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.



Thursday, February 17, 2000.

Met at eight minutes before three o'clock P.M.

### *Petitions.*

Petitions were presented and referred, as follows:

By Mr. Creedon, a petition (subject to Joint Rule 12) of Robert S. Creedon, Jr., and A. Stephen Tobin for legislation to authorize motor vehicle district supervisors to retire with the rank of captain in the department of state police;

By Ms. Resor, a petition (subject to Joint Rule 12) of Pamela P. Resor and Cory Atkins (by vote of the town) for legislation relative to sewer betterment assessment in the town of Acton [Local approval received]; and

By Ms. Tucker, a petition (subject to Joint Rule 12) of Susan C. Tucker, James R. Miceli, Cynthia S. Creem, Ruth B. Balser and Stephen A. Tolman for legislation to require certain materials funding and staffing levels for school library media centers;  
**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

### *Reports of Committees.*

The following matter was reported into the office of the Clerk of the Senate on Wednesday, February 16, 2000, and was placed in the Orders of the Day for Thursday, February 17, 2000.

Mr. Moore, for the committee on Bills in the Third Reading, to whom was referred the engrossed Bill relative to the practice of public accountancy (see Senate, No. 368) (having been returned by His Excellency the Governor with recommendation of amendment on Friday, February 11, 2000) [for message, see Senate, No. 2096],— reported, recommending that if the Senate adopts said amendment it be adopted in the following form:

By striking out all after the enacting clause and inserting in place thereof the following text:

“SECTION 1. Chapter 112 of the General Laws is hereby amended by inserting after section 87A½ the following section:—  
Section 87A¾. When an individual or firm licensed to practice public accountancy under section 87B or 87B½ is held liable for damages in a civil action arising from, or related to, its provision of services involving the practice of public accountancy, the trier of fact shall determine both (a) the total amount of each plaintiff’s damages, and (b) the percentage of fault of the individual or firm in contributing to each plaintiff’s damages. No individual or firm shall be required to pay damages in an amount greater than the percentage of fault as so determined. This section shall not apply where a finding is made that the acts of the individual or firm were willful and knowing.

SECTION 2. This act shall apply only to conduct occurring after its effective date.”.

Subsequently, the matter was considered during the consideration of the orders of the Day.

The Chair (Mr. Rosenberg) stated that the bill was “before the General Court and subject to amendment and re-enactment”.

**On motion of Mr. Moore, the Senate adopted the amendment recommended by His Excellency the Governor (as written by the committee on Bills in the Third Reading).**

**The bill was sent to the House for its action.**

By Mr. Jajuga, for the committee on Public Safety, on Senate, Nos. 1987, 1993 and 2092, an Order relative to authorizing and directing the joint committee on Public Safety to sit during the recess of the General Court for the purpose of making an investigation and study of certain Senate documents relative to public safety matters (Senate, No. 2101);

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

By Mr. Creedon, for the committee on the Judiciary, on petition, a Bill establishing a sick leave bank for Jean Sacco, an employee of the Trial Court of the Commonwealth (Senate, No. 2091);

By Mr. Jajuga, for the committee on Public Safety, on the recommitted petition, a Bill relative to certain veterans’ registration plates (Senate, No. 1168); and

By the same Senator, for the same committee, on petition, a Bill relative to medical examinations in correctional facilities (Senate, No. 2015);

**Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

### *Committees Discharged.*

Ms. Melconian, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Education, Arts and Humanities to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate and House documents relative to various education matters (Senate, No. 2100),— and recommending that the same be referred to the Senate committee on Rules.

**Under Senate Rule 36, the report was considered forthwith and accepted.**

### *Orders of the Day.*

The President in the Chair, the Orders of the Day were considered, as follows:

Bills

Proclaiming June as Portuguese-American month (Senate, No. 2073);

Relative to the organization and supervision of fraternal benefit societies (House, No. 4507, amended);

Relative to the reporting of pension contributions in the city of New Bedford (House, No. 4780); and

Requiring salaries paid by a domestic company be authorized by its board of directors or trustees (House, No. 4906);

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

There being no objection, the following item was taken out of its normal course in the orders of Day and considered forthwith:

The House Bill providing for an accelerated transportation development and improvement program for the Commonwealth (House, No. 4865, amended),— was read a third time.

After remarks on the question on passing the bill to be engrossed, an amendment, presented by Ms. Walsh, in section 11, by striking out, in line 6, the word “March” and inserting in place the following word: “July”,— was considered;

After further remarks, the amendment was adopted.

Ms. Jacques, Ms. Fargo, Mr. Antonioni, Ms. Resor, Mr. Glodis, Mrs. Sprague, Messrs. Creedon and Moore, Ms. Menard, Mr. Tarr, Ms. Murray, Ms. Tucker, and Messrs. Magnani, Jajuga, Brewer, Pacheco, Hedlund and Bernstein moved to amend the bill in section 14, by striking out, in lines 26 to 29, inclusive, the words “and the feasibility of establishing a credit for the amount spent on municipal or regional paratransit services for those cities and towns that do not receive the paratransit service known as ‘the Ride’ from the Massachusetts Bay Transportation Authority”; by inserting after section 7 the following section:—

“SECTION 7A. Section 9 of chapter 161A of the General Laws, as appearing in section 151 of chapter 127 of the acts of 1999, is hereby amended by adding the following paragraph:—

A city or town assessed by the authority that is not receiving paratransit services for the disabled from the authority shall have 100 per cent of the amount it expended in the previous fiscal year for the operation of or membership in a local or regional paratransit service credited against its share of the assessment made under this section. This credit shall apply only to services provided to individuals eligible for paratransit services. As used in this paragraph, ‘paratransit services’ means services provided to individuals with disabilities who, as the result of a physical or mental impairment including a vision impairment, are unable to board, ride, or disembark from any vehicle in the authority’s regular transportation system without the assistance of another individual, except the operator of a wheelchair lift or other boarding assistance device.”; and by inserting after section 14 the following section:—

“SECTION 14A. Section 7A shall take effect on July 1, 2001.”

The amendment was adopted.

Ms. Jacques moved to amend the bill by inserting after section 13 the following section:—

“SECTION 13A. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority may extend or expand commuter rail service on the Providence-Attleboro line, so-called, in accordance with said authority’s Pilgrim Partnership Agreement with the state of Rhode Island, and may build and operate a layover facility in the city of Pawtucket in the state of Rhode Island. The current layover facility in the city of Attleboro shall be relocated to the city of Pawtucket, as required by section 118 of chapter 205 of the acts of 1996, not later than 30 months after the effective date of this act. Said service expansion and facility relocation shall not in any way restrict the selection of a commuter rail service provider.”

After remarks, the amendment was adopted.

Mr. Tolman moved to amend the bill by inserting after section 14 the following section:—

“SECTION 14A. There is hereby established a pilot program for the purpose of extending the passenger services of the Massachusetts Bay Transportation Authority until the hour of 2:30 A.M. on Thursdays, Fridays and Saturdays only. Said pilot program shall begin no later than the first Thursday in September, 2000.”

Ms. Melconian in the Chair, after remarks, the amendment was *rejected*.

Mr. Tolman moved to amend the bill by striking out section 10 and inserting in place thereof the following section:—

“SECTION 10. There is hereby established a pilot program for the purpose of extending the passenger services of the Massachusetts Bay Transportation Authority until the hour of 2:30 A.M. on Thursdays, Fridays and Saturdays only. Said pilot program shall begin no later than the first Thursday in September, 2000.”

The amendment was *rejected*.

Mrs. Sprague moved to amend the bill by striking out section 12 and inserting in place thereof the following section:—

“SECTION 12. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority may use an extension of the Stoughton commuter rail route through the municipalities of Stoughton, Easton, Raynham, and Taunton in order to provide commuter rail service to New Bedford and Fall River, but none of the amount appropriated in item 6005-9906 of section 2 shall be expended for the construction of said New Bedford/Fall River commuter rail line until an environmental impact review of said project is completed.”

After remarks, the amendment was *rejected*.

Mr. Antonioni moved to amend the bill in section 2, in item 6005-9906, by adding the following words:— “; and provided further, that funds may be expended from the amount authorized in this item for the purchase of the capital equipment necessary for the establishment of high speed commuter rail service along the Fitchburg line.”

After remarks, the amendment was adopted.

Mr. Antonioni moved to amend the bill in section 2, in item 6005-9906, by adding the following words:— “; provided, that \$11,500,000 be expended for the purchase of the necessary equipment to provide express service on the Fitchburg commuter rail line, so-called.”

The amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2, by inserting before item 6005-9906 the following item:—

“6001-9906

For additional contract assistance to be allocated by the Massachusetts Bay Transportation Authority for the net additional expense of commuter rail service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts Bay Transportation authority for fiscal year 2000, as well as the other served communities as defined in section 151 of chapter 127 of the acts of 1999, in amounts determined to be appropriate by the secretary of administration and finance, on the recommendation of the secretary of transportation and construction; provided, that \$2,250,000 shall be expended for bus service in accordance with the provisions of section 28A of chapter 161A of the General Laws ..... 15,975,000”.

The amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2, in item 6005-9906, by adding the following words:— “; and provided further, that funds may be expended from the amount authorized herein for the design, permitting and construction of an extension of the Middleborough commuter rail route to provide service to the towns of Bourne and Wareham.”

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill, in section 10, by striking out the second sentence and inserting in place thereof the following sentence:— “Said commission shall consist of four members of the senate, three of whom shall be appointed by the president of the senate and one of whom shall be appointed by the minority leader of the senate; four members of the house of representatives, three of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader of the house of representatives; and four persons to be appointed by the governor.”

The amendment was adopted.

Mr. Lees moved to amend the bill in section 14, by striking out the second sentence and inserting in place thereof the following sentence:— “The special commission shall consist of the commissioner of revenue, or his designee, who shall serve as the chairman, the executive director of the Massachusetts Bay Transportation Authority advisory board, the executive director of the Massachusetts Municipal Association, or his designee, the director of the Massachusetts Taxpayers Association, or his designee, the chairman of the board of directors of the Massachusetts Bay Transportation Authority, or his designee, and seven members, one of whom shall be appointed by the governor, two of whom shall be appointed by the president of the senate, one of whom shall be appointed by the minority leader of the senate, two of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader of the house of representatives.”

After remarks, the amendment was adopted.

Ms. Resor, Messrs. Pacheco and Panagiotakos, Ms. Murray, Ms. Menard, Mr. Glodis and Ms. Tucker moved to amend the bill by striking out section 14, and inserting in place thereof the following section:—

“SECTION 14. Section 151 of chapter 127 of the acts of 1999 is hereby repealed.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes past four o'clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (yeas 12 — nays 25):

#### YEAS.

Antonioni, Robert A.

Creedon, Robert S., Jr.

Jajuga, James P.

Menard, Joan M.

Moore, Richard T.

Murray, Therese

Pacheco, Marc R.

Panagiotakos, Steven C.

Resor, Pamela

Sprague, Jo Ann

Tarr, Bruce E.

Tucker, Susan C. — 12.

#### NAYS.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creem, Cynthia Stone

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Joyce, Brian A.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Morrissey, Michael W.

Nuciforo, Andrea F., Jr.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tisei, Richard R.

Tolman, Steven A.

Travaglini, Robert E.

Wilkerson, Dianne — 25.

#### ABSENT OR NOT VOTING.

Glodis, Guy W.

Walsh, Marian — 2.

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

Mr. Pacheco moved to amend the bill in section 14, by inserting after the word "authority", in line 29, the following words:—"and shall consider the impact on end-of-the-line communities, so-called, because of their location at the end of the service line". The amendment was adopted.

Messrs. Havern and Lynch moved to amend the bill by inserting after section 12, the following section:—

"SECTION 12A. Notwithstanding the provisions of any general or special law to the contrary, the unexpended bond authorizations contained in item 6000-7967 of section 2A of chapter 28 of the acts of 1996 shall be made available for expenditure until June 30, 2006."

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill by inserting after section 14A (inserted by amendment), the following section:—

"SECTION 14B. The Massachusetts Bay Transportation Authority may expend funds contained in item 6005-9906 of section 2 for the purpose of a study by the Massachusetts Bay Transportation Authority, in consultation with the department of highways, the Massachusetts Turnpike Authority and the metropolitan district commission, relative to the Woodland and Riverside stations of the Massachusetts Bay Transportation Authority and the area surrounding said stations. The study shall include, but not be limited to, the proposed development of land owned by the Massachusetts Bay Transportation Authority in said area and its impact on the quality of life on residents of the area, transportation and traffic and the feasibility of establishing an intermodal transportation terminal. Said agencies shall, in the conduct of the study, hold at least one public hearing in a place accessible to the residents of the area.

The results of the study shall be filed with the joint committee on transportation not later than August 1, 2000 and no development of the land shall take place in said area prior to the completion and filing of the results of the study."

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 14, the following section:—

"SECTION 14A. There is hereby established a special commission to study the feasibility of any planned expansions in the operations and service area of the Massachusetts Bay Transportation Authority. The commission shall also examine and review expansions in the operations and service area of the Authority since 1985, including the costs to the Commonwealth of such expansions and attendant effects on the Authority's ridership and financial well-being. The commission shall investigate the future fiscal stability of the Authority as a result of any planned expansion.

Said commission shall have nine members and shall consist of three members appointed by the governor; two members appointed by the president of the senate; one member appointed by the minority leader of the senate; two members appointed by the speaker of the house of representatives; and one member appointed by the minority leader of the house of representatives. Said commission shall prepare a final report of its findings and shall file said report with the clerks of both the senate and the house of representatives on or before December 31, 2000."

After debate, Mr. Lees moved that the amendment be further amended by striking the text and inserting in place thereof the following:—

"SECTION 14A. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall not expend any amount appropriated in item 6005-9906 in section 2 for the purpose of expanding its operations or its areas of service from the period beginning July 1, 2000 to June 30, 2002."

The President in the Chair, after debate, the question on adoption of the further amendment was determined by a call of the yeas and nays, at twenty-seven minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 30):

#### YEAS.

Hedlund, Robert L.

Knapik, Michael R.

Lees, Brian P

Rauschenbach, Henri S.

Sprague, Jo Ann

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.

Creem, Cynthia Stone

Fargo, Susan C.

Menard, Joan M.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Nuciforo, Andrea F., Jr.

Pacheco, Marc R.

Panagiotakos, Steven C.

Havern, Robert A.  
Jacques, Cheryl A.  
Jajuga, James P.  
Joyce, Brian A.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.

Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 30.

**ABSENT OR NOT VOTING.**

Glodis, Guy W.

Walsh, Marian — 2.

The yeas and nays having been completed at twenty-nine minutes before five o'clock P.M., the further amendment was *rejected*. The pending amendment (Lees) was then considered; and it was *rejected*.

Mr. Pacheco moved to amend the bill in section 12, by inserting after the word "River," in line 5, the following words:— "provided, however, that the Massachusetts Bay Transportation Authority shall develop a proposed mitigation plan to maintain the same per cent valuation of the average property value of like properties in the municipalities of Easton, Taunton and Raynham for property owners in said municipalities whose property abuts the commuter rail line extension and is taken for such purpose or is not taken but is adversely affected by the commuter rail line extension and shall submit the same within 90 days after the effective date of this act to the house and senate committees on ways and means and the joint committee on transportation."

The amendment was adopted.

After remarks, the question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at twenty-five minutes before five o'clock P.M., on motion of Mr. Havern, as follows, to wit (yeas 32 — nays 5):—

**YEAS.**

Antonioni, Robert A.  
Bernstein, Robert A.  
Berry, Frederick E.  
Brewer, Stephen M.  
Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Hedlund, Robert L.  
Jacques, Cheryl A.  
Jajuga, James P.  
Joyce, Brian A.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.  
Menard, Joan M.

Montigny, Mark C.  
Moore, Richard T.  
Morrissey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tarr, Bruce E.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 32.

**NAYS.**

Clancy, Edward J., Jr.  
Knapik, Michael R.  
Lees, Brian P.

Rauschenbach, Henri S.  
Sprague, Jo Ann — 5.

ABSENT OR NOT VOTING.

Glodis, Guy W.

Walsh, Marian — 2.

The yeas and nays having been completed at twenty-one minutes before five o'clock P.M., the bill (House, No. 4865) was passed to be engrossed, in concurrence, with the amendments. [For text of Senate amendments, printed as amended, see Senate, No. 2102.]

Sent to the House for concurrence in the amendments.

There being no objection, during consideration of the Orders of the Day, the following matters were considered as follows:—

*Engrossed Bills — Land Takings for Conservation, Etc.*

An engrossed Bill authorizing the town of Norton to use certain land for passive recreation purposes (see House, No. 4718) (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 minutes before five o'clock P.M., as follows, to wit (yeas 37 — nays 0):

YEAS.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Menard, Joan M.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Creem, Cynthia Stone

Fargo, Susan C.

Nuciforo, Andrea F., Jr.

Pacheco, Marc R.

Panagiotakos, Steven C.

Rauschenbach, Henri S.

Resor, Pamela

Rosenberg, Stanley C.

Shannon, Charles E.

Sprague, Jo Ann

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Steven A.

Travaglini, Robert E.

Tucker, Susan C.

Wilkerson, Dianne — 37.

NAYS — 0.

ABSENT OR NOT VOTING.

Glodis, Guy W.

Walsh, Marian — 2.

The yeas and nays having been completed at eighteen minutes before five 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 Governor for his approbation.

An engrossed Bill authorizing the town of Braintree to convey certain easements (see House, No. 4860) (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 seventeen minutes before five o'clock P.M., as follows, to wit (yeas 37 — nays 0):

**YEAS.**

Antonioni, Robert A.	Knapik, Michael R.
Bernstein, Robert A.	Lees, Brian P.
Berry, Frederick E.	Lynch, Stephen F.
Brewer, Stephen M.	Magnani, David P.
Clancy, Edward J., Jr.	Melconian, Linda J.
Creedon, Robert S., Jr.	Menard, Joan M.
Creem, Cynthia Stone	Montigny, Mark C.
Fargo, Susan C.	Moore, Richard T.
Havern, Robert A.	Morrissey, Michael W.
Hedlund, Robert L.	Murray, Therese
Jacques, Cheryl A.	Nuciforo, Andrea F., Jr.
Jajuga, James P.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Rauschenbach, Henri S.	Tisei, Richard R.
Resor, Pamela	Tolman, Steven A.
Rosenberg, Stanley C.	Travaglini, Robert E.
Shannon, Charles E.	Tucker, Susan C.
Sprague, Jo Ann	Wilkerson, Dianne — 37.
Tarr, Bruce E.	

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Glodis, Guy W.	Walsh, Marian — 2.
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**The yeas and nays having been completed at fourteen minutes before five 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 Governor for his approbation.**

An engrossed Bill authorizing the town of Kingston to release a certain easement (see House, No. 4348) (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 thirteen minutes before five o'clock P.M., as follows, to wit (yeas 37 — nays 0):

**YEAS.**

Antonioni, Robert A.	Knapik, Michael R.
Bernstein, Robert A.	Lees, Brian P.
Berry, Frederick E.	Lynch, Stephen F.
Brewer, Stephen M.	Magnani, David P.
Clancy, Edward J., Jr.	Melconian, Linda J.



Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Hedlund, Robert L.  
Jacques, Cheryl A.  
Jajuga, James P.  
Joyce, Brian A.  
Rauschenbach, Henri S.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Sprague, Jo Ann  
Tarr, Bruce E.

Menard, Joan M.  
Montigny, Mark C.  
Moore, Richard T.  
Morrissett, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 37.

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Glodis, Guy W.

Walsh, Marian — 2.

**The yeas and nays having been completed at eleven minutes before five 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 Governor for his approbation.**

***Orders of the Day.***

The Orders of the Day were further considered, as follows:

The Senate Bill providing for an accelerated transportation development and improvement program for the Commonwealth (Senate, No. 2098),— was read a third time, the main question being on passing the bill to be engrossed.

Mr. Shannon moved to amend the bill in section 2B, in item 6033-9917, by adding the following proviso:— “; and provided further, that \$150,000 shall be expended in matching funds for the city of Somerville to facilitate transportation planning in conjunction with the redevelopment of the Assembly Square/Mystic View area.”

After remarks, the amendment was adopted.

Mr. Morrissett moved to amend the bill by inserting after section 72 the following section:—

“SECTION 72A. The department of highways shall conduct a study of the feasibility and benefits of authorizing the construction of an exit ramp to be built on the northbound side of interstate highway route 93 approximately 4.5 miles north of the interchange of interstate highway route 93 and state highway route 3 in the town of Braintree. The study shall include the effect on major economic and employment centers and assess the impact on local residential neighborhoods. The study may document potential changes in vehicular delay and travel time and the impact on vehicular traffic flow, including lane changing and on and off ramp traffic.”

The amendment was adopted.

Mr. Tolman moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. The secretary of transportation and construction shall expend funds so as to provide the commonwealth’s share as required in 23 U.S.C. section 133(e)(5)(I) and 23 U.S.C. section 120(b) only for projects permitted in 23 U.S.C. section 133(b)(8), enhancement projects, and further defined in 23 U.S.C. section 101(a)35. The secretary shall take all such measures necessary to ensure that the commonwealth receives the full amount available exclusively for enhancement activities as allocated in 23 U.S.C. section 133(d)2.”

The amendment was *rejected*.

Mr. Tolman and Ms. Fargo moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. Notwithstanding any general or special law to the contrary, the commissioner of the Metropolitan district commission shall construct the Beaver Brook Flood Mitigation Project, including an extension of a culvert system across Beaver Brook, construction of a relief culvert and related work in the vicinity of Linden street and Waverly Oaks road in the city of Waltham, construction at Beaver Brook Flood Mitigation Project Reach II in the vicinity of Mill street and the reconstruction of

the Duck Pond Dam and Mill Pond Dam and related work in the city of Waltham and the town of Belmont. The purpose of this act is to alleviate regional flooding in the towns of Arlington, Belmont and Lexington and the city of Waltham.

To meet the expenditures necessary to carry out the provisions of this act, the treasurer, upon request of the governor, shall issue and sell bonds of the commonwealth, in amounts specified by the governor from time to time, not exceeding in the aggregate the sum of \$7,200,000. All such bonds issued by the commonwealth shall be designated on their face, Beaver Brook Flood Control Program Loan Act of 2000 and shall be issued for such maximum term of years not exceeding 20 years as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2020. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

The treasurer shall borrow from time to time on the credit of the commonwealth such sums of money in an amount not to exceed \$7,200,000 as may be necessary for the purpose of making payments authorized by this act and may issue and review from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by said treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the General Court in accordance with section 3 of Article LXII of the Amendments to the Constitution, but the final maturity date of such notes, whether original or renewal, shall be not later than June 30, 2005.

Notwithstanding any other provisions of this act, notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.”

The amendment was *rejected*.

Mr. Tolman moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Turnpike Authority shall conduct an investigation and feasibility study of constructing a monument to the Armenian Genocide of 1915-1922.”

After debate, the amendment was adopted.

Mr. Tolman moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. Notwithstanding any general or special law and or regulation to the contrary, the Massachusetts Turnpike Authority shall hold harmless against any toll increase for entrance or exit at tollbooths located in Allston owners of private passenger vehicles registered in the Allston and Brighton sections of the city of Boston, as the Boston Transportation Department has determined the geographical boundaries of such section.”

After remarks, the amendment was rejected.

Mr. Brewer moved to amend the bill in section 2B, in item 6033-9917, inserting after the words “a pedestian light in the town of Hanover;” the following words:— “provided further, that not less than \$1,200,000 shall be provided to the town of Orange for the reconstruction and improvement of North Main Street;”.

The amendment was *rejected*.

Ms. Wilkerson moved to amend the bill by inserting after section 13 the following section:—

“SECTION 13A. Chapter 64A of the General Laws is hereby amended by adding the following section:—

Section 14. Notwithstanding the provisions of chapters 64A and 64E, common carriers of passengers by motor vehicle granted a certificate of public convenience and necessity pursuant to section 7 of chapter 159A shall be reimbursed the amount of fuel and special fuel excises in the manner and subject to the conditions herein provided. On or before April 15 of each year, the commissioner of revenue shall determine the amount to be payable in accordance with this section to each common carrier of passengers by motor vehicle granted a certificate of public convenience and necessity pursuant to section 7 of chapter 159A, such amount to be the sum of the fuel and special fuels excises paid by such company under the provisions of said chapters 64A and 64E during the last preceding calendar year with respect to fuel and special fuels consumed in its operation of motor vehicles upon or over the highways of the commonwealth over routes established or operated under a certificate of public convenience and necessity granted pursuant to said section 7 of chapter 159A and not otherwise reimburseable under said chapters 64A and 64E. The number of gallons of fuel or special fuels so consumed shall not exceed the number of miles that such motor vehicles have been operated during the last preceding calendar year over the routes, other than any turnpike constructed by the Massachusetts Turnpike Authority, authorized by said authority or under the certificate, divided by five.

On or before February 15 of each year, a company shall by sworn statement submit to the commissioner such information as in the judgment of the commissioner is necessary in order to determine the amount to which such company is entitled in accordance with this section. If the company fails to furnish such information on or before such date, the commissioner may refuse to certify such amount to the state treasurer. Such amount shall be subject to verification and adjustment by the commissioner and any adjustment shall correspondingly reduce or increase, as the case may be, the amount for the year in which the adjustment is made. For this purpose, the commissioner may at any time examine the accounts, books, documents and other papers of such company, take testimony and proofs under oath, issue summonses and require the attendance and testimony of witnesses and the production of accounts, books, documents and other papers. Such summonses shall be 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 hereunder. Any justice of the supreme judicial court or of the superior court may, upon application of the commissioner, compel the attendance of witnesses, the production of accounts, books, documents and other papers and the giving of testimony before the commissioner in the same manner and to the same extent as before the courts.”

The amendment was *rejected*.

Mr. Brewer moved to amend the bill in section 2D, by inserting after item 6033-9964 the following item:—

“6033-99xx For the purchase and installation of landscape materials along state highways; provided, that the department shall endeavor to utilize horticulture products produced in the commonwealth whenever feasible, in accordance with the department of food and agriculture’s ‘buy local’ guidelines, so-called 2,000,000”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that \$10,000 shall be expended for the purchase of an all terrain vehicle and emergency rescue equipment to be used by local public safety personnel for emergency rescues on the Norwottuck Rail Trail”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that \$4,000,000 shall be expended for state matching funds for federal Transportation Enhancement Program projects”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill by inserting after section 26 the following section:—

“SECTION 26A. Item 7400-6969 of section 2B of said chapter 205 is hereby amended by adding the following words:— ; and for a review of current and potential future agendas for transportation infrastructure projects and to assess the priority of such projects within the context of public safety considerations.”

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that \$1,424,000 shall be expended for the replacement of bridge C-18-010 on state highway route 112 over the North river in the town of Colrain”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2B, by adding the following item:—

“6033-xxxx For the purposes of reconstruction, repair of culverts and other drainage improvements and to provide safe, dependable and convenient access and egress to the River Lodge housing complex, the department of highways shall expend not more than \$200,000 to make the improvements to River Lodge road in the town of South Hadley and, upon completion of the improvements, the road shall become a public way and shall thereafter be maintained by said town. The department shall consult and cooperate with the town’s road superintendent so the aforesaid purposes may be accomplished; provided, that for such purposes, the project shall be eligible for reimbursement under the provisions of sections 33B and 34 of chapter 90 of the General Laws and the state treasurer shall allocate the funds or portions thereof in accordance with said sections 33B and 34 of said chapter 90 200,000”.

The amendment was *rejected*.

Messrs. Rosenberg and Brewer moved to amend the bill in section 2B, by inserting after item 6033-9903 the following item:—

“6033-9904 For the purposes of item 6033-9604 of section 2A of chapter 205 of the acts of 1996; provided, that the amount authorized herein shall be in addition to any amounts previously made available for the same purpose 13,000,000”.

The amendment was *rejected*.

Mr. Lynch moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not less than \$1,000,000 shall be expended from this item for a comprehensive investigation and study of the traffic impact on the South Boston and Dorchester sections of the city of Boston generated by the Central Artery Tunnel Project, the construction and development of the Boston Convention and Exhibition Center and the overall development of the South Boston Waterfront; provided further that the study shall be completed within six months of the effective date of this section by the executive office of transportation and construction and shall be reported to the joint committee on transportation; provided further, that the study shall include, but not be limited to, an examination of traffic management, street light signalization and street layout options to reduce the negative impact of the aforementioned projects on the residential neighborhoods while preserving access to the port of Boston”.

The amendment was *rejected*.

Mr. Lynch and Ms. Wilkerson moved to amend the bill by inserting after section 13 the following section:—

“SECTION 13A. Section 25B of chapter 58 of the General Laws, as so appearing, is hereby amended by inserting after subsection (b) the following subsection:—

(c) \$1,420,000 to provide for the continuation of the successful community-based training services furnished by the consortium of nonprofit agencies comprising the Community Training Collaborative presently operated by the department of highways. Employment and training services shall be delivered to those communities most impacted by the Central Artery/Tunnel Project. The impacted communities are: Charlestown, East Boston, South Boston, North End/ West End, Chinatown, South End, Roxbury and Dorchester in the city of Boston. Services provided include: information and outreach, intake and assessment, case management, prevocational education, occupational skills training, job placement and referral.”

The amendment was *rejected*.

Mr. Lynch moved to amend the bill by inserting after section 15 the following section:—

“SECTION 15A. Section 15 of chapter 81A of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

The construction or occupancy of a building or other thing erected or affixed under a lease of air rights under this section shall be subject to the building, fire, garage, health and zoning laws, rules and regulations applicable in the city or town in which such building or other thing is located.”

After remarks, the amendment was *rejected*.

Mr. Lynch moved to amend the bill by inserting after section 44 the following two sections:—

“SECTION 44A. Item 7007-0300 of section 2 of chapter 127 of the acts of 1999 is hereby amended by adding the following words:—; provided further, that not less than \$900,000 shall be expended by said office to establish an emerging technology/ business incubator in the city of Boston pursuant to chapter 19 of the acts of 1993; provided further, that the emerging technology/ business incubator shall be developed and constructed by the Boston Technology Venture Center, a 501(c)(3) community economic development corporation to perform such functions; provided further, that the facility shall be developed in the South Boston or South Bay section of the city of Boston; provided further, that Boston Technology Venture center shall work closely with the Massachusetts Development Finance Agency and said office to assist in the performance of such functions, so as, upon completion of the incubator, said agencies may be able to identify other incubator sites within economic target areas and economic opportunity areas; provided further, that said agencies shall have no liability, financial, environmental, legal or otherwise, for any claims or costs related to or arising in connection with the emerging technology/business incubator beyond any sum specifically appropriated therefor by the commonwealth and, upon completion of the incubator, all of the agencies’ and the authority’s rights, title and ownership interest in the incubator shall be transferred by the agencies and by the authority to the Boston Technology Venture Center which entity shall accept the transfer and shall thereafter be wholly responsible for such emerging technology/business incubator.

SECTION 44B. Said section 2 of said chapter 127 is hereby further amended by striking out the figure ‘\$3,308,626’ and inserting in place thereof the following figure:— \$4,208,626.”

The amendment was *rejected*.

Mr. Bernstein moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “and provided further, that \$200,000 shall be expended for a study regarding development plans for the Blackstone canal in the city of Worcester”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that funds from this item shall be expended for road and other improvements to accommodate the reconstruction of Bates bridge in the area known as Elm Park in the town of Groveland”.

After remarks, the amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further that funds from this item shall be expended for the construction on state highway route 127 in the city of Gloucester of a planned memorial to the ten thousand men and women lost in the fishing industry”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further that funds from this item shall be expended for the construction of the Rocco Depasquale handicapped access pier at Silver lake in the town of Wilmington”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that funds from this item shall be expended for the specialized design, engineering and improvements to the intersection of Church street and Bridge street at the approach to the Rocks village bridge in the town of West Newbury for the specific purpose of preserving the historic character of the neighborhood”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding at the end thereof the following proviso:— “; provided further, that funds from this item shall be reimbursed for design and engineering costs associated with the reconstruction of bridge number N18-005, located in the town of North Reading”.

The amendment was adopted.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding at the end thereof the following proviso:— “; provided further that funds from this item shall be expended for the purpose of the planning, design and construction of a pedestrian overpass at Grant Circle on route 128 in the city of Gloucester”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that funds from this item may be expended for the purpose of studying the feasibility of relocating the Massachusetts Bay Transportation Authority maintenance facility in the town of Wilmington in conjunction with the town”.

The amendment was adopted.

Messrs. Glodis and Moore moved to amend the bill in section 2E, in item 6001-9905, by adding the following words:— “and provided further, that \$70,000 shall be expended on a paratransit feeder service for the communities of Grafton, Northbridge, Shrewsbury, Sutton and Upton to the commuter rail station in the town of Grafton to be administered by the Worcester Regional Transit Authority”.

The amendment was adopted.

Mr. Moore moved to amend the bill in section 2E, in item 6001-9905, by adding the following proviso:— “; provided further, that \$100,000 shall be expended by the Worcester Regional Transit Authority to provide direct shuttle service between Worcester and Southbridge to implement the Southern Worcester County Transportation Project, so-called, including operation, marketing and vehicle lease-purchase; and provided further, that the authority shall evaluate and report the results of said project including but not limited to ridership interest and support, cost benefits analysis, economic impact, including support for the welfare-to-work initiative and environmental impact, to the house and senate committees on ways and means and to the joint committee on

transportation within one year of the effective date of this act.”

The amendment was *rejected*.

Mr. Moore moved to amend the bill in section 2B, in item 6033-9917, by adding the following proviso:— “; provided further, that \$1,300,000 be expended for the acquisition of the inactive spur line of the Providence and Worcester Railroad Company known as the Southbridge Secondary Track which extends from the town of Southbridge through the town of Webster, for an eleven mile recreational bike trail; and provided further, that such expenditure of \$1,300,000 shall also be expended for the purpose of removing the inactive Providence and Worcester Railroad bridge over state highway route 131 on East Main Street, Southbridge.”

The amendment was *rejected*.

Mr. Moore moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not less than \$540,000 shall be expended for delivery of Jitney Bus Service, including a fifty vehicle parking facility, from the town of Milford to the Forge Park Commuter Rail Station in Franklin.”

The amendment was *rejected*.

Mr. Havern moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not more than \$18,000,000 shall be expended for repairs, deleading and painting of the Long Island Bridge.”

The amendment was *rejected*.

Mr. Havern moved to amend the bill in section 2B, in item 6033-9969, by adding the following words:— “; provided further, that not more than \$18,000,000 shall be expended for repairs, deleading and painting of the Long Island Bridge.”

The amendment was *rejected*.

Mr. Tolman moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that no more than \$300,000 shall be expended for the purpose of beautification and sound relief adjacent to the Massachusetts Turnpike in the Allston and Brighton sections of Boston.”

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill in section 2B, in item 6033-9903, by adding the following words:— “; provided further, that not less than \$450,000 shall be provided for the design and construction of a project to extend an existing sewer main to an industrial-zoned area in the town of Lunenburg.”

The amendment was *rejected*.

Mr. Tolman moved to amend the bill by striking out section 75 and inserting in place thereof the following section:—

“SECTION 75. Chapter 81A of the General Laws is hereby amended by adding the following section:—

Section 32. The Massachusetts Turnpike Authority shall establish a community beautification grant program to benefit communities that are adversely impacted by the presence of the turnpike. Funding for the grant program shall come directly from Authority revenues at a rate equal to one-half of one per cent of the prior year’s annual revenue. Grants shall be awarded to non-profit institutions, as defined by 26 U.S.C. section 501(c)(3), headquartered within a community impacted by the turnpike and which demonstrate a plan to mitigate such impacts through methods which include but are not limited to trash collection, graffiti removal, sound mitigation, tree and shrub plantings, pollution reduction and other aesthetic improvements.”

The amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that an amount not to exceed \$123,200 shall be expended for improvements at the railroad station on Jarves street in the town of Sandwich.”

After remarks, the amendment was adopted.

Mr. Rosenberg in the Chair, Ms. Murray moved to amend the bill by inserting after section 24 the following section:—

“SECTION 24A. Section 701 of the acts of 1960 is hereby amended by inserting after section 15B the following section:—

Section 15C. The Authority shall be subject to the zoning ordinances or bylaws of any municipality in which it owns, leases or rents property.”

After remarks, the amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that \$650,000 shall be expended for the replacement of the River street bridge over the Eel river in Plymouth.”

After remarks, the amendment was adopted.

Ms. Murray moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that an amount not less than \$75,000 shall be expended for landscape and design costs for the area around exit 6 on state highway route 3 in Plymouth and to landscape the berm along the property at the intersection of 84 Nick’s Rock road and the Liberty Condominiums in Plymouth.”

The amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that \$1,750,000 shall be expended for the design and construction of an extension to the Shining Seas bicycle path on state highway route 28A in the town of Falmouth.”

The amendment was *rejected*.

Mr. Joyce moved to amend the bill in section 2B, in item 6033-9917, by inserting after the words “provided further, that the sum of \$35,000 shall be expended for the development of a Master traffic study plan in the town of Milton;” the following words:— “provided further that the sum of \$5,000 be expended for the construction and improvements to the sidewalks on Hope avenue at the intersection of Squantum street in the town of Milton”.

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill by inserting after section 25 the following section:—

“SECTION 25A. Item 7462-7965 of section 2 of chapter 267 of the acts of 1995 is hereby amended by striking out the words “the University of Massachusetts at Boston is hereby authorized to borrow twenty-five million dollars” and inserting in place thereof the following words:— “the University of Massachusetts at Boston may borrow an amount not greater than \$35,000,000”; and by adding the following words:— “; and provided further, that the university shall relocate the facility for contracted bus services from the Quinn building, so-called, to the center authorized by this item and shall include an indoor waiting area.”

After remarks, the amendment was adopted.

Ms. Jacques moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not less than \$2,900,000 shall be expended for replacement of the Thatcher street bridge in the city of Attleboro.”

The amendment was *rejected*.

Messrs. Berry, Clancy and Jajuga moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. The director of the Massachusetts Port Authority and the chair of the Massachusetts Turnpike Authority shall establish a frequent commuter pass system for commuters traveling on the Tobin bridge and the Turnpike. The system shall take effect upon the implementation of the next fare adjustment by each respective authority.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2B, in item 6033-9917, by inserting after the words “Willimansett Bridge” the following words:— “; provided further, that \$400,000 be appropriated for upgrades and improvements to the water drainage system from the area known as Elm street to state highway route 83 in the town of East Longmeadow”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2B, in item 6033-9917, by inserting after the words “Willimansett Bridge” the following words:— “; provided further, that \$400,000 be expended in conjunction with the Congestion Management Program, so-called, for the planning, construction and support of signalization on state highway route 83 in the town of East Longmeadow”.

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 54 the following section:—

“SECTION 54A. Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall establish a pilot program to mandate the use of HDPE plastic drainage pipe, manufactured in the United States, as an alternative to reinforced concrete pipe on specific projects under the jurisdiction of department of highways District 2 and department of highways District 4 for the specific purpose of product-evaluation following the manufacturer’s specifications. The total number of projects included in the HDPE pilot program should include no less than 25 per cent of the total linear footage of storm drainage pipe required by department of highways District 2 and department of highways District 4 combined. The department of highways shall report the results of said pilot program to the joint committee on transportation upon completion of the projects.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 16 the following four sections:—

“SECTION 16A. Section 113B of chapter 175 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word “registration”, in line 217, the following words:— or inspection.

SECTION 16B. Said section 113B of said chapter 175, as so appearing, is hereby further amended by inserting after the word “plate”, in line 218, the following words:— or windshield.

SECTION 16C. Said section 113B of said chapter 175, as so appearing, is hereby further amended by inserting after the word “registration”, in line 219, the following words:— or inspection.

SECTION 16D. Said section 113B of said chapter 175, as so appearing, is hereby further amended by inserting after the word “plate”, in line 220, the following words:— or windshield.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. Notwithstanding the provisions of chapter 64E of the General Laws, the taxes imposed upon all special fuels, as defined in said chapter 64E, are hereby waived for a period of 30 days following the effective date of this act. The imposition of said taxes shall resume 31 days after the effective date of this act.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes past six o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 29):

#### YEAS.

Hedlund, Robert L.

Knapik, Michael R.

Lees, Brian P.

Rauschenbach, Henri S.

Sprague, Jo Ann

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.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Jacques, Cheryl A.  
Jajuga, James P.  
Joyce, Brian A.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.

Menard, Joan M.  
Montigny, Mark C.  
Morrisey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 29.

**PAIRED.**

**YEAS.**

Guy W. Glodis

**NAYS.**

Richard T. Moore (present) — 2.

**ABSENT OR NOT VOTING.**

Walsh, Marian — 1.

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

Messrs. Lees and Knapik moved to amend the bill by inserting after section 81A (inserted by amendment), the following section:—

“SECTION 81B. Notwithstanding the provisions of any general or special law to the contrary, the department of telecommunications and energy shall hold a public hearing within 120 days of the effective date of this act regarding the closure or discontinuation of the service provided by the railway carrier known as the Springfield Terminal Railway Company and its affiliates, subsidiaries and related entities on the line of trackage running approximately from the junction known as Boston and Maine Railroad Company Willimansett Junction in the town of Chicopee to Airpark West within the present or former Westover Air Force Base premises in the town of Chicopee.”

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. There is hereby established a special commission to make an investigation and study of the overall state of the commonwealth's highways, including the Massachusetts Turnpike and all roads and bridges operated by the Massachusetts Port Authority. Said commission shall evaluate the need for improvement of all of the commonwealth's highways, including the Massachusetts Turnpike and all roads and bridges operated by the Massachusetts Port Authority and review all possible sources of funding to finance such improvements. Said commission shall also consider and examine the operating budget and financial needs of the department of highways, the Massachusetts Turnpike Authority and the Massachusetts Port Authority in order to determine how to best meet the resource requirements of the department and authorities.

Said commission shall consist of the following 11 members: the chairmen of the joint committee on transportation, who shall serve as chairmen of the commission; the chairman of senate committee on ways and means; the chairman of the house committee on ways and means; one member appointed by the minority leader of the senate; one member appointed by the minority leader of the house of representatives; the secretary of the executive office of transportation and construction; the secretary of the executive office of administration and finance; the commissioner of the department of highways; the chairman of the Massachusetts Turnpike authority; and the executive director of the Massachusetts Port Authority.

Said commission shall file the results of its study with the clerks of both the senate and house of representatives by December 31, 2000.”

Mr. Knapik moved to amend the amendment by striking the text and inserting in place thereof the following:— “In section 2B, in item 6033-9917, by adding the following words:— ; provided further, that \$100,000 shall be expended for sound barriers on

interstate highway route 91 in the city of Holyoke as determined by the department of highways”.

Mr. Havern arose to a point of order which, being stated, was that the amendment was beyond the scope of the pending (Lees) amendment.

The Chair (Mr. Rosenberg) ruled that the point of order was well taken; and the amendment was laid aside.

The pending amendment (Lees) was then considered; and it was *rejected*.

Ms. Melconian and Mr. Lees moved to amend the bill by inserting after section 44 the following section:—

“SECTION 44A. Clause (1) of the second paragraph of section 12 of chapter 257 of the acts of 1998 is hereby amended by adding the following words:— provided, however, that such limitation shall not apply to loans provided for the creation of battered women’s shelters which loans may be provided in amounts up to 80 per cent of the financing of total development costs; and provided further, that such loans shall not exceed \$2,500,000 per project;”

The amendment was adopted.

Messrs. Morrissey and Creedon moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that \$250,000 shall be used for the construction of sidewalks located on Lincoln street in Abington.”

The amendment was *rejected*.

Ms. Resor moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not less than \$3,500,500 be provided for the widening and resurfacing of Route 20 in the town of Marlborough from Interstate 495 to the town of Northborough line.”

The amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 81B (inserted by amendment) the following section:—

“SECTION 81C. The department of highways shall conduct a study to determine the cost of repairs to, or replacement of, the bridge over Fort Pond Brook on Route 111 in Acton. Said study shall include construction costs of pedestrian walkways and pipe rail repair or replacement.”

The amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. The department of highways shall allocate \$1,500,000 of Public Works Economic Development (PWED) funds for the construction of a municipal parking lot on Main street in Maynard.”

The amendment was *rejected*.

Ms. Resor moved to amend the bill in section 74 by inserting after the word “governor”, in line 16, the following words: — “, including the secretary of the executive office of environmental affairs or the secretary’s designee.”

The amendment was *rejected*.

Ms. Resor moved to amend the bill in section 2B, in item 6033-9918, by adding the following words:— “; provided, further, that the department utilize zero pollution discharge technologies, including greywater systems, when upgrading sanitary facilities.”

The amendment was adopted.

Mr. Pacheco moved to amend the bill by inserting after section 81C (inserted by amendment) the following section:—

“SECTION 81D. Notwithstanding the provisions of section 15C of chapter 40 of the General Laws, state highway route 105 in the towns of Acushnet, Marion and Rochester is hereby designated as a scenic road. It shall be subject to all of the provisions of said section 15C of said chapter 40 for the purposes of repair, maintenance, reconstruction, or paving of said highway”.

The amendment was adopted.

Mr. Magnani, Ms. Jacques, Mr. Clancy, Ms. Fargo, Ms. Creem, Mr. Tolman, Ms. Resor and Messrs. Tarr, Berry and Jajuga moved to amend the bill by inserting after section 81D (inserted by amendment) the following section:—

“SECTION 81E. Notwithstanding the provisions of section 10 of chapter 81A of the General Laws or any other general or special law or rule or regulation to the contrary, tolls charged and collected for transit over or through the Massachusetts turnpike and the metropolitan highway system as defined in section 3 of chapter 81A of the General Laws and the Tobin Bridge shall remain fixed at the rates in place on January 1, 2000 until submission by the governor of the plan required by subsection (b) of section 81.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes past seven o’clock P.M., on motion of Mr. Magnani, as follows, to wit (yeas 28 — nays 8):

#### YEAS.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Clancy, Edward J., Jr.

Creem, Cynthia Stone

Fargo, Susan C.

Havern, Robert A.

Jacques, Cheryl A.

Moore, Richard T.

Murray, Therese

Nuciforo, Andrea F., Jr.

Pacheco, Marc R.

Panagiotakos, Steven C.

Resor, Pamela

Rosenberg, Stanley C.

Shannon, Charles E.



Jajuga, James P.  
Joyce, Brian A.  
Magnani, David P.  
Melconian, Linda J.  
Menard, Joan M.  
Montigny, Mark C.

Tarr, Bruce E.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 28.

**NAYS.**

Brewer, Stephen M.  
Creedon, Robert S., Jr.  
Hedlund, Robert L.  
Knapik, Michael R.

Lees, Brian P.  
Morrissey, Michael W.  
Rauschenbach, Henri S.  
Sprague, Jo Ann — 8.

**PAIRED.**

**YEAS.**  
Guy W. Glodis,

**NAYS.**  
Stephen F. Lynch (present) — 2.

**ABSENT OR NOT VOTING.**

Walsh, Marian — 1.

The yeas and nays having been completed at eleven minutes past seven o'clock P.M., the amendment was adopted.

Mr. Lees moved to amend the bill in section 2B, in item 6033-9917, by inserting after the words "Willimansett Bridge" the following words:— "and provided further, that \$500,000 shall be expended for road improvements to Van Horn park in the city of Springfield".

The amendment was adopted.

***Suspension of Senate Rule 38A.***

There being no objection, during consideration of the Orders of the Day, Mr. Havern 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 rules were suspended without a recorded yeas and nay vote.

***Orders of the Day.***

The Orders of the Day were further considered, as follows:

The Senate Bill providing for an accelerated transportation development and improvement program for the Commonwealth (Senate, No. 2098),— was considered, the main question being on passing the bill to be engrossed.

Messrs. Nuciforo and Lees moved to amend the bill by striking out section 55 and inserting in place thereof the following section:—

"SECTION 55. Section 15A of chapter 90D of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 10, the words "and the required fee" and inserting in place thereof the following words:— and the title change fee for such persons shall be waived."

The amendment was adopted.

Mr. Nuciforo moved to amend the bill by striking out section 27 and inserting in place thereof the following section:—

"SECTION 27. Section 2J of chapter 205 of the acts of 1996 is hereby amended by striking out item 6005-9684 and inserting in place thereof the following item:—

"6005-9684 For prototype development and research of mass producing transit buses powered by non-polluting sources, including solar energy; provided, that \$100,000 shall immediately be provided to the University of Massachusetts at Lowell for a feasibility study to produce transit buses powered by non-polluting sources; provided further, that \$350,000 shall immediately be provided to the Pioneer Valley Transit Authority for the research and development of pure electric transit vehicles to further promote the development of an electric vehicle manufacturer in the city of Pittsfield; and provided further, that remaining funds

authorized herein shall not be expended prior to a submission to the house and senate committees on ways and means and the joint committee on transportation of said feasibility study by the University of Massachusetts at Lowell and accompanying recommendations 1,000,000”.

The amendment was *rejected*.

Mr. Havern moved to amend the bill in section 81, in subsection (a), by striking out clause 5 and inserting in place thereof the following clause:—

“(5) The most recently approved Statewide Transportation Improvement program (STIP), includes a commitment to continue funding the statewide program of road and bridge infrastructure investments as reflected in a \$400 million statewide advertising program for projects other than the Central Artery, and such a commitment is also one of the conditions in Federal Highway Administration approved financing plans for the Central Artery project.”; and

In section 81 by striking out subsection (b) and inserting in place thereof the following subsection:—

“(b) The governor shall submit to the general court a comprehensive plan to finance all aspects of the Central Artery project, including surface restoration, that does not jeopardize the ability to maintain the commonwealth’s other road and bridge infrastructure at a minimum level of \$400 million annually. The \$400 million minimum annual expenditure excludes spending for Chapter 90. Public Works Economic Development Programs (PWEDs), Right of Way (ROW) acquisitions, design, utility, and force account work. The plan shall include options for financing the cost of the \$400 million annual statewide road and bridge program, while providing the funding to cover the new estimated cost of the Central Artery project, including any additional projected cost increases. The governor shall recommend his preferred option from among the options presented. The plan shall be submitted to the clerks of the house of representatives and the senate on or before March 15, 2000.”

After remarks, the amendment was adopted.

Mr. Havern moved to amend the bill by inserting after section 81E (inserted by amendment) the following section:—

“SECTION 81F. Notwithstanding any provision of chapter 91 of the General Laws or any other general or special laws, rule or regulation to the contrary, no waterways license pursuant to said chapter 91 shall be required for the construction of any structure on air rights, including necessary supports and foundations incidental thereto, adjacent to or over an intermodal transportation center, constructed on filled tidelands, which are more than 250 feet from the high water mark and any portion of such filled tidelands are separated from any flowed tidelands by a public way in existence at any time which was subsequently discontinued or abandoned and which way was used for the operations of any instrumentality of the United States, including any independent agency, establishment or department of any branch of government thereof. The chief planning agency in the city or town in which such intermodal transportation center is located and the regional transit authority shall work cooperatively to promote public access to flowed tidelands over and through any such intermodal transportation center.

After remarks, the amendment was adopted.

Mr. Havern moved to amend the bill in section 2E, in item 6001-9905, by inserting after the words “161B of General Laws, including” the following words:— “the purchase of vehicles, equipment, and”.

After remarks, the amendment was adopted.

Ms. Menard, Ms. Resor, Messrs. Moore and Rosenberg, Ms. Creem, Ms. Wilkerson, Mr. Nuciforo, Mrs. Sprague and Ms. Fargo moved to amend the bill by inserting after section 25A (inserted by amendment) the following section:—

“SECTION 25B. Subsection (b) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out the words “provided, however, that the fair market value of any licensed motor vehicle does not exceed five thousand dollars” and inserting in place thereof the following words:— provided, however, that the fair market value of any licensed motor vehicle does not exceed an amount determined by the commissioner in consultation with the secretary of the executive office of transportation and construction and the equity value of any licensed motor vehicle does not exceed \$5,000.”

The amendment was adopted.

Ms. Murray and Mr. Rauschenbach moved to amend the bill by striking out sections 18, 19, 21, 22 and 23 (as printed).

After remarks, the amendment was adopted.

Mr. Rauschenbach moved to amend the bill in section 24 by striking out the sentence “The freight transported by said freight ferry service to and from the island of Martha’s Vineyard shall be comprised of no more than 25 percent hazardous cargo and or waste, so-called.”

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill by striking out section 78.

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill by striking out section 77.

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill by striking out section 76.

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill by striking out section 24.

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill by striking out section 20.

The amendment was *rejected*.

Mr. Rauschenbach moved to amend the bill in section 24 by inserting after the words “two years,” in line 8, the following sentence:— “The port of New Bedford shall grant docking privileges to any private operator selected by the Authority pursuant to a request for responses reviewed by the inspector general.”

The amendment was *rejected*.

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

“SECTION . Notwithstanding any general or special law to the contrary, the commonwealth, subject to appropriation, shall incur any costs associated with changing the name of the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority to the Massachusetts Steamship Authority.”

The amendment was *rejected*.

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

“SECTION . Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, any deficiency that is incurred by the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority as a result of legislatively-mandated service from New Bedford to the island of Martha’s Vineyard or to the island of Nantucket, shall be an obligation of the Commonwealth. The deficiency shall not be assessed on the serviced port cities located on Cape Cod or the Islands.

If as of the last day of December in any year the Authority determines that the income of the Authority is insufficient to meet the cost of the above-referenced service, it shall notify the office of the state auditor of such deficiency. The Authority will segregate its costs and revenues from the ferry services run out of the New Bedford ports and maintain them on separate books and accounts so they are not co-mingled with the revenues and costs for the ferry services from the other mainland ports. Upon such notification by the Authority, the office of the state auditor shall immediately conduct a review of the costs and revenues associated with the New Bedford services and determine the resulting obligations to the commonwealth. Within three months of the commencement of its review, the office of the state auditor shall submit a report based on its review to the house and senate committees on ways and means. Subject to appropriation by the general court, the commonwealth shall reimburse the Authority for any such deficiency.”

The amendment was *rejected*.

Mr. Clancy moved to amend the bill by inserting after section 15 the following section:—

“SECTION 15A. Section 34 of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

Notwithstanding the aforesaid provisions, \$4 from each motorcycle registration fee shall be paid by the registrar or by the person collecting the same into the treasury of the commonwealth to the Motorcycle Safety Fund established by section 35G of chapter 10.”

The amendment was *rejected*.

Messrs. Berry, Jajuga and Clancy moved to amend the bill by inserting after section 81 the following section:—

“SECTION 81A. The Massachusetts Port Authority shall not increase the tolls on the Tobin Bridge until such time as the governor submits a financing plan for the payment of the necessary expenses of the Central Artery/Tunnel Project to the senate committee on ways and means.”

The amendment was *rejected*.

Ms. Creem moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not more than \$50,000 shall be expended on a study of traffic flow/ pedestrian access on state highway route 9 from Parker Street in the city of Newton to Hammond Street in the city of Brookline.”

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill in section 2E, in item 6001-9957, by inserting after the words “in the town of Westfield” the following words:— “; and provided further, that a study shall be conducted relative to the feasibility of siting an intermodal transportation center at the Riverside MBTA Station in the city of Newton.”

The amendment was *rejected*.

Ms. Creem moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; provided further, that not more than \$200,000 shall be expended for the design and construction of sound barriers along the Massachusetts Turnpike as determined necessary by the Massachusetts Turnpike Authority Priority Results, in the city of Newton.”

The amendment was *rejected*.

Messrs. Havern and Morrissey moved to amend the bill by striking out sections 49 and 50 and inserting in place thereof the following two sections:—

“SECTION 49. The department of highways may provide functional replacement of real property in public ownership whenever the department has acquired such property in whole or in part under the provisions of this act or such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the department determines such functional replacement is necessary and in the public interest. For purposes of this section, the words ‘functional replacement’ shall mean the replacement, pursuant to the provisions of chapter 7 of the General Laws including sections 40F and 40F½, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which will provide equivalent utility, and the words “real property in public ownership” shall mean any and all present and future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required by said chapter 7.

Whenever the department determines it is necessary that any utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facility shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth shall reimburse the owner of such utility or utility facility for the cost of relocation in accordance with the following formula:

(a) for any utility facility, as defined under federal law, which is to be reimbursed federally in whole or in part, the department

shall reimburse the utility to the extent that the cost of relocating the utility facility is reimbursed by the federal government;

(b) for the relocation of any utility facility over \$25,000 that does not qualify for federal reimbursement, the department shall reimburse the utility in accordance with the utility's performance in meeting the following schedule:

(i) if the utility completes the relocation on or before the target date established by the department for the project, the department shall reimburse the utility 75 percent of the costs of relocating the utility facility;

(ii) the department shall have the authority to promulgate policies for the calculation of reimbursable expenditures, the determination of target dates, and the calculation of completion times. The Department shall consult with and seek the consent of the utilities in the development of such policies.

Any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to the provisions of section 27 of chapter 149 of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, any utility facility that is required to be relocated because of the construction of a project federally funded under the Federal Aid Highway Act of 1982 and the Federal Aid Highway Act of 1987 may be relocated temporarily above ground during the construction of said project.

SECTION 50. Notwithstanding the provisions of section 6 of chapter 33 of the acts of 1991 or any other general or special law to the contrary, the commonwealth, through the department of highways, shall reimburse the owner of an underground utility or utility facility as defined under federal law whenever such underground utility or utility facility has been relocated because of construction of a project which is to be reimbursed federally in whole or in part in accordance with the following formula:

(a) for any utility facility, as defined under federal law, which is to be reimbursed federally in whole or in part, the department shall reimburse the utility to the extent that the cost of relocating the utility facility is reimbursed by the federal government;

(b) for the relocation of any utility facility over \$25,000 that does not qualify for federal reimbursement, the department shall reimburse the utility in accordance with the utility's performance in meeting the following schedule:

(i) if the utility completes the relocation on or before the target date established by the department for the project, the department shall reimburse the utility 75 percent of the costs of relocating the utility facility;

(ii) the department shall have the authority to promulgate policies for the calculation of reimbursable expenditures, the determination of target dates, and the calculation of completion times. The department shall consult with and seek the consent of the utilities in the development of such policies.

The provisions of this section shall apply to any underground utility or utility location project eligible for federal reimbursement having commenced on or after January 1, 1984."

The amendment was *rejected*.

Mr. Panagiotakos moved to amend the bill in section 2B, in item 6033-9917, by adding the following words:— “; and provided further, that \$100,000 shall be expended for the purpose of conducting a feasibility study on the Lowell Regional Transit Authority”.

The amendment was adopted.

Mr. Lees moved to amend the bill in section 63 by striking out the third paragraph and inserting in place thereof the following paragraph:—

“Said commission shall have 18 members and shall consist of the chairmen of the joint committee on transportation who shall serve as chairmen of the commission; the chairman of the house committee on ways and means; the chairman of the senate committee on ways and means; the chairman of the house committee on long-term debt and capital expenditures; the secretary of administration and finance; the secretary of transportation and construction; the chairman of the Massachusetts Turnpike Authority; the chairman of the board of directors of the Massachusetts Bay Transportation Authority; three members who shall not be members of the general court to be appointed by the president of the senate to serve a term of two years; one member who shall not be a member of the general court to be appointed by the minority leader of the senate to serve a term of two years; two members who shall not be members of the General Court to be appointed by the speaker of the house of representatives to serve a term of two years; one member who shall not be a member of the General Court to be appointed by the minority leader of the house of representatives to serve a term of two years; and two members who shall not be members of the executive branch to be appointed by the governor to serve a term of two years. The members of said commission to be appointed by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, the minority leader of the house of representatives and the governor shall be experts in transportation planning, public finance or design and construction of transportation projects.”

The amendment was adopted.

Messrs. Nuciforo, Joyce, Magnani, Moore, Creedon, Pacheco and Bernstein moved that the bill be amended by inserting after section 81F (inserted by amendment) the following section:—

“SECTION 81G. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, an independent audit firm shall be retained for the purpose of conducting an independent audit of the Central Artery/Tunnel project, so-called. Said independent audit shall review all aspects of the Central Artery/ Tunnel project and set forth projections in connection with any additional projected cost increases of the project. Said audit shall also assess the risk of additional costs for the remainder of said project. The audit firm shall assume that the commonwealth will continue to implement an annual statewide road and bridge construction program totaling approximately \$400 million per year, when assessing the adequacy of the funding plan for said project. Said statewide construction program shall exclude spending on the Central Artery/ Tunnel project and the chapter 90 program, so-called. Selection of the audit firm shall be made jointly by the inspector general, attorney general, state auditor and state treasurer, not later than March 1, 2000. Said officials shall submit an appropriation request to the house and senate committees on ways and means to fund the cost of said audit. A final audit report with recommendations shall be submitted to the

house and senate committees on ways and means on or before June 1, 2000.”

Pending the question on adoption of the amendment, Mr. Lees moved that the amendment be amended in section 81A by inserting after the words “to fund the cost of said audit.” the following:— “Provided, however, that the cost of said audit shall not exceed \$10,000.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes past eight o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 29):

**YEAS.**

Hedlund, Robert L.  
Knapik, Michael R.  
Lees, Brian P.  
Rauschenbach, Henri S.

Sprague, Jo Ann  
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.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Jacques, Cheryl A.  
Jajuga, James P.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.  
Menard, Joan M.

Montigny, Mark C.  
Moore, Richard T.  
Morrissey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 29.

**ABSENT OR NOT VOTING.**

Glodis, Guy W.  
Joyce, Brian A.

Walsh, Marian — 3.

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

The pending amendment (Nuciforo, et al) was then considered; and, after further debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before nine o'clock P.M., on motion of Mr. Nuciforo, as follows, to wit (yeas 33 — nays 3):

**YEAS.**

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

Moore, Richard T.  
Morrissey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.

Clancy, Edward J., Jr.  
Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Jacques, Cheryl A.  
Jajuga, James P.  
Knapik, Michael R.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.  
Menard, Joan M.  
Montigny, Mark C.

Pacheco, Marc R.  
Panagiotakos, Steven C.  
Rauschenbach, Henri S.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tarr, Bruce E.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 33.

**NAYS.**

Hedlund, Robert L.  
Lees, Brian P.

Sprague, Jo Ann

**ABSENT OR NOT VOTING.**

Glodis, Guy W.  
Joyce, Brian A.

Walsh, Marian — 3.

The yeas and nays having been completed at twenty-seven minutes before nine o'clock P.M., the amendment was adopted. The question on passing the bill to be engrossed, in concurrence, was then determined by a call of the yeas and nays, at twenty-six minutes before nine o'clock P.M., on motion of Mr. Montigny, as follows, to wit (yeas 36 — nays 0):

**YEAS.**

Antonioni, Robert A.  
Bernstein, Robert A.  
Berry, Frederick E.  
Brewer, Stephen M.  
Clancy, Edward J., Jr.  
Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Hedlund, Robert L.  
Jacques, Cheryl A.  
Jajuga, James P.  
Knapik, Michael R.  
Lees, Brian P.  
Lynch, Stephen F.  
Magnani, David P.

Montigny, Mark C.  
Moore, Richard T.  
Morrisey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Rauschenbach, Henri S.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Sprague, Jo Ann  
Tarr, Bruce E.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.

Melconian, Linda J.  
Menard, Joan M.

Tucker, Susan C.  
Wilkerson, Dianne — 36.

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Glodis, Guy W.  
Joyce, Brian A.

Walsh, Marian — 3.

**The yeas and nays having been completed at twenty-three minutes before nine o'clock P.M., the bill (Senate, No. 2103, printed as amended) was passed to be engrossed.**

**Sent to the House for concurrence.**

The House Bill relative to the underground cable reimbursement schedule (House, No. 2692),— was considered, the question being on passing the bill to be engrossed.

**On motion of Mr. Shannon, the further consideration thereof was postponed until Thursday, March 2.**

**PAPERS FROM THE HOUSE.**

The House Bill making appropriations for the fiscal year 2000 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5011, amended,— on House, No. 4995, in part),— was read and, under Senate Rule 27, referred to the committee on Ways and Means.

Subsequently, Mr. Montigny, for said committee, reported, recommending that the bill ought to pass with amendments.

In section 2A, by striking out item 7515-0100;

By striking out section 3 and inserting in place thereof the following section:—

“SECTION 3. Section 31 of chapter 29 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 36, 41 and 49 the word ‘weekly’, each time it appears.”; and by

Striking out sections 4, 5A, and 5B; and

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 forthwith to make or supplement certain appropriations for the fiscal year ending June 30, 2000 and to make certain changes in the law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, safety and convenience.”.

There being no objection, the rules were suspended, on motion of Mr. Montigny, and the bill was read a second time. Pending the question on ordering the bill to a third reading, Mr. Montigny moved to amend the Ways and Means amendments by inserting after section 4 the following two sections:—

“SECTION 4A. Item 1599-7015 in section 2 of chapter 127 of the acts of 1999 is hereby amended by striking out the words ‘provided further, that no more than ten probation officers-in-charge’ and inserting in place thereof the words:— provided further, that not more than 24 probation officers-in-charge.

SECTION 4B. Item 7006-0100 of said section 2 of said chapter 127 is hereby amended by adding the following words:— ; and provided further, that notwithstanding the provisions of any general or special law to the contrary, there shall be not less than eight alcoholic beverages control commission investigators assigned for the purpose of investigating and enforcing the alcoholic beverages laws.”

The amendment was adopted.

The Ways and Means amendment, as amended, was then adopted. The bill, as amended, was ordered to a third reading and read a third time. The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at thirteen minutes before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0):

**YEAS.**

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

Montigny, Mark C.  
Moore, Richard T.  
Morrisey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.

Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Fargo, Susan C.  
Havern, Robert A.  
Hedlund, Robert L.  
Jacques, Cheryl A.  
Jajuga, James P.  
Knapik, Michael R.  
Lees, Brian P.  
Lynch, Stephen F.  
Magnani, David P.  
Melconian, Linda J.  
Menard, Joan M.

Pacheco, Marc R.  
Panagiotakos, Steven C.  
Rauschenbach, Henri S.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Sprague, Jo Ann  
Tarr, Bruce E.  
Tisei, Richard R.  
Tolman, Steven A.  
Travaglini, Robert E.  
Tucker, Susan C.  
Wilkerson, Dianne — 36.

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Glodis, Guy W.  
Joyce, Brian A.

Walsh, Marian — 3.

**The yeas and nays having been completed at ten minutes before nine o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments.**

**Sent to the House for concurrence in the amendments.**

The Senate Bill relative to mental health benefits (Senate, No. 2036),— came from the House 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 House document numbered 5008, amended in section 1, in line 37, in section 2, in line 44, in section 3, in line 41, in section 5, in line 43, and also in section 9, in line 39, by striking out the word “and” and inserting in place thereof, in each instance, the word “or”; in section 1 by striking out the paragraph contained in lines 55 to 60, inclusive, and inserting in place thereof the following paragraph:—

“Any such health plan shall also provide medically necessary coverage during each 12 month period for the diagnosis and treatment of all other mental disorders not provided in the previous paragraphs and which are described in said manual for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.”

In section 2, in lines 62 to 67, inclusive, and in section 3, in lines 60 to 65, inclusive, by striking out the paragraphs contained therein and inserting in place thereof, in each instance, the following paragraph:—

“Any such contract shall also provide medically necessary benefits during each 12 month period for the diagnosis and treatment of all other mental disorders not provided in the previous paragraphs and which are described in said manual for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.”

By inserting after section 2 the following section:—

“SECTION 2A. Section 108E of said chapter 175, as so appearing, is hereby amended by inserting after the word ‘conditions’, in line 7, the following words:— under different terms and conditions than the consent required for the disclosure of information for other medical conditions.”

In section 5 by striking out the paragraph contained in lines 62 to 67, inclusive, and inserting in place thereof the following paragraph:—

“Any such subscription certificate shall also provide medically necessary benefits during each 12 month period for the diagnosis and treatment of all other mental disorders not provided in the previous paragraphs and which are described in said manual for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.”

In section 9 by striking out the paragraph contained in lines 58 to 63, inclusive, and inserting in place thereof the following paragraph:—

“Such a health maintenance contract shall also provide benefits for the diagnosis and treatment of all other mental disorders not provided in the previous paragraphs and which are described in said manual during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.”; and

By inserting after section 13 (as printed) the following section:—

“SECTION 16. Chapters 175, 176A, 176B and 176G of the General Laws, as appearing in the 1998 Official Edition, are hereby



amended by inserting at the end thereof the following section:—

Any individual policy of accident and sickness insurance issued pursuant to section 108, which provides hospital expense and surgical expense insurance, and any group blanket or general policy of accident and sickness insurance issued pursuant to section 110, and any contract between a subscriber and the corporation under an individual group hospital service plan which is delivered, issued or renewed within or without the commonwealth, and any subscription certificate under an individual or group medical service agreement which is delivered, issued or renewed within or without the commonwealth shall have an expedited internal and external appeals process.”

**On motion of Mr. Bernstein, the Senate insisted in its amendment, and asked for a committee of conference on the disagreeing votes of the two branches; and Senators Bernstein, Berry and Tarr were appointed to the committee on the part of the Senate.**

### *Reports of Committees.*

By Ms. Melconian, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stephen M. Brewer, Stephen Kulik and Tracey Nowers for legislation to prohibit the sale of animals at flea markets.

**Senate Rule 36 was suspended, on motion of Mr. Magnani, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Commerce and Labor.**

By Ms. Melconian, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Susan C. Tucker and Barry R. Finegold (by vote of the town) for legislation to authorize the conservation commission of the town of Andover to grant an easement for sewer construction [Local approval received].

**Senate Rule 36 was suspended, on motion of Mr. Magnani, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Local Affairs. Severally sent to the House for concurrence.**

### **PAPERS FROM THE HOUSE.**

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5022) of Thomas P. Kennedy and another that the Registrar of Motor Vehicles be directed to issue distinctive license plates for combat veterans;

**Under suspension of Joint Rule 12, to the committee on Public Safety.**

Petition (accompanied by bill, House, No. 5023) of Barbara Gardner and Pamela P. Resor relative to authorizing the Water Resources Authority to enter into a certain contract with the New England Center for Children;

**Under suspension of Joint Rule 12, to the committee on State Administration.**

A Bill relative to the establishment of a child fatality review team (House, No. 4847,— on House, No 982),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

### *Engrossed Bill.*

An engrossed Bill designating the Orange Peace Statue as the official peace statue of the Commonwealth (see Senate, No. 1406) (which originated in the Senate), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.**

### *Order Adopted.*

On motion of Ms. Jacques,—

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

On motion of Mr. Lees, at seven minutes before nine o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.

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