

**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.



### JOURNAL OF THE SENATE.

Wednesday, May 28, 2003.

Met at three minutes past eleven o'clock A.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

#### *Distinguished Guests.*

There being no objection, during consideration of the Orders of the Day, the President introduced, in the rear of the Chamber, John and Magdalen Bish, the parents of missing lifeguard Molly Bish. The Bishes were participating in the Third Annual Missing Children's Day in the Commonwealth. Since the disappearance of their daughter, the Bishes have been honored locally and nationally for their efforts on behalf of missing children. They were the guests of Senator Brewer.

There being no objection, during consideration of the Orders of the Day, the President introduced Drew Mason of Philadelphia. He was the guest of Senator Glodis.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Melconian) handed the gavel to Senator Glodis, who introduced Janet LaPointe, an artist from Worcester. Ms. LaPointe has painted the official Massachusetts 9-11 painting that will be signed by the Governor and Legislators and reside at the official September 11th memorial in New York City. She was accompanied by family members, members of the Worcester Police Department, the Massachusetts Police Association and the Todd Beamer Foundation. They were all the guests of Senator Glodis.

#### *Petition.*

Mr. Creedon presented a petition (accompanied by bill, Senate, No. 2000) of Robert S. Creedon, Jr. and Kathleen M. Teahan (by vote of the town) for legislation to designate the chief of the police department of the town of East Bridgewater as the appointing authority for said department [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Public Safety.**  
**Sent to the House for concurrence.**

#### *Orders of the Day.*

The Orders of the Day were considered, as follows:

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was read a second time, the main question being on ordering it to a third reading.

The Senate adopted the amendment, previously recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2004.

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

Pending the main question on passing the bill to be engrossed, Messrs. Lees, Tisei, Tarr, Knapik and Hedlund and Mrs. Sprague moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House, No. 1, including changes made to the text subsequent to its filing.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes past eleven o'clock A.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 31) [**Yeas and Nays No. 22**]:

**YEAS.**

|                    |                               |
|--------------------|-------------------------------|
| Hedlund, Robert L. | Sprague, Jo Ann               |
| Knapik, Michael R. | Tarr, Bruce E.                |
| Lees, Brian P.     | Tisei, Richard R. — <b>6.</b> |

**NAYS.**

|                         |                                   |
|-------------------------|-----------------------------------|
| Antonioni, Robert A.    | Montigny, Mark C.                 |
| Baddour, Steven A.      | Moore, Richard T.                 |
| Barrios, Jarrett T.     | Morrissey, Michael W.             |
| Berry, Frederick E.     | Murray, Therese                   |
| Brewer, Stephen M.      | Nuciforo, Andrea F., Jr.          |
| Chandler, Harriette L.  | O'Leary, Robert A.                |
| Creedon, Robert S., Jr. | Pacheco, Marc R.                  |
| Creem, Cynthia Stone    | Panagiotakos, Steven<br>C.        |
| Glodis, Guy W.          | Resor, Pamela                     |
| Hart, John A., Jr.      | Rosenberg, Stanley C.             |
| Havern, Robert A.       | Shannon, Charles E.               |
| Jacques, Cheryl A.      | Tolman, Steven A.                 |
| Joyce, Brian A.         | Tucker, Susan C.                  |
| Magnani, David P.       | Walsh, Marian                     |
| McGee, Thomas M.        | Wilkerson, Dianne —<br><b>31.</b> |

Menard, Joan M.

**ABSENT OR NOT VOTING.**

|                 |                                    |
|-----------------|------------------------------------|
| Fargo, Susan C. | Melconian, Linda J. —<br><b>2.</b> |
|-----------------|------------------------------------|

The yeas and nays having been completed at twenty-one minutes past eleven o'clock A.M., the amendment was *rejected*.

Mr. Creedon moved to amend the bill in section 2, in item 0320-0003, by adding the following after the words "Suffolk County":  
"; provided, that the clerk of the court shall have responsibility for the internal administration of her office, including personnel, staff services and record keeping".

The amendment was *rejected*.

Messrs. Lees, Tisei, Hedlund and Knapik and Mrs. Sprague moved to amend the bill in section 2, in item 0321-1500, by adding the following words:— " ; provided, that the committee shall submit a report to the clerks of the house of representatives and senate, the speaker and minority leader of the house of representatives, the president and minority leader of the senate and the house and senate committee on ways and means not later than January 31, 2004 that shall include, but not be limited to the following: (a) the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; (c) the total number of persons who received legal services by said committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and

geographic location; (e) the amount paid, if any, to the committee by clients for services rendered by type of case and geographic location; (f) the average cost for services rendered by said committee by type of case; (g) the average number of hours spent per attorney or staff per type of case; (h) the feasibility of the implementation of a flat rate compensation system based on the type of case;”.

After remarks, the amendment was adopted.

Messrs. Lees, Tisei and Knapik moved to amend the bill in section 2, in item 0321-1600, by striking out the figure “\$8,960,158” and inserting in place thereof the following figure:— “\$8,064,142”.

After remarks, the amendment was *rejected*.

Mr. Havern moved to amend the bill in section 2, by inserting after item 0321-2205 the following item:—

“0321-2206 For the social law library to operate the electronic law database project \$99,000.”

The amendment was *rejected*.

Messrs. Creedon and Nuciforo, Ms. Creem and Mr. Antonioni moved to amend the bill in section 2, in line item 0321-2205, by striking out the figure “\$1,704,671” and inserting in place thereof the following figure:— “\$1,804,671”.

The amendment was *rejected*.

Mr. Creedon moved to amend the bill in section 2, in item 0330-0300, by striking out the words “, including the Flashner Judicial Institute”.

The amendment was *rejected*.

Mr. Morrissey moved to amend the bill in section 2, by striking out item 0330-3333 and inserting in place thereof the following item:—

“0330-3333 The chief justice for administration and management may expend an amount not to exceed \$40,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218, the provisions of section 39 of chapter 262 concerning court fees of the land court, and sections 2, 4A, 4C, and 40 of said chapter 262 of the General Laws; provided that, said chief justice shall only expend or allocate funds from this item to the 7 departments of the trial court for the operation of the departments; provided further, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means 60 days before the expenditure or allocation; provided further, that the only revenue available for expenditure in this item for fiscal year 2004 shall be revenue collected from the increase in the fees in excess of the amount collected and deposited into the general fund in fiscal year 2003 from the fees; and provided further, that no allocation shall occur until the schedules have been approved by the committees; provided further, that the fees shall continue to be transmitted to the treasurer for deposit into the general fund before the expenditure authorized by this item; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the chief justice may incur expenses and the comptroller shall certify for payments amounts not to exceed the lower of one-half of this authorization of the most recent revenue estimate therefore as reported in the state accounting system 40,000,000”.

After remarks, the amendment was adopted.

Mr. Creedon moved to amend the bill in section 2, in item 0330-3333 by striking out the figure “\$40,000,000” and inserting in place thereof the following figure:— “\$39,341,514”; in item 0320-0003, by striking out the figure “\$6,038,046” and inserting in place thereof the following figure:— “\$6,338,046”; and in item 0322-0100, by striking out the figure “\$8,877,803” and inserting in place thereof the following figure:— “\$9,236,289”.

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik, Mrs. Sprague and Mr. Rosenberg moved to amend the bill in section 2, in item 0332-9000, by adding the following words:— “; provided, that funds expended in this item or any other item for the construction of a permanent courthouse in Hampshire county shall be for the construction or rent of the courthouse in the town known as Belchertown and no funds shall be expended from this item for the construction or rent of a courthouse in Hampshire county unless the site for the courthouse is located in the town known as Belchertown”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past eleven o'clock A.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 23]**:

**YEAS.**

|                       |                          |
|-----------------------|--------------------------|
| Antonioni, Robert A.  | Chandler, Harriette L.   |
| Baddour, Steven A.    | Creedon, Robert S., Jr.  |
| Barrios, Jarrett T.   | Creem, Cynthia Stone     |
| Berry, Frederick E.   | Glodis, Guy W.           |
| Brewer, Stephen M.    | Hart, John A., Jr.       |
| Havern, Robert A.     | Nuciforo, Andrea F., Jr. |
| Hedlund, Robert L.    | O’Leary, Robert A.       |
| Jacques, Cheryl A.    | Pacheco, Marc R.         |
| Joyce, Brian A.       | Panagiotakos, Steven C.  |
| Knapik, Michael R.    | Resor, Pamela            |
| Lees, Brian P.        | Rosenberg, Stanley C.    |
| Magnani, David P.     | Shannon, Charles E.      |
| McGee, Thomas M.      | Sprague, Jo Ann          |
| Melconian, Linda J.   | Tarr, Bruce E.           |
| Menard, Joan M.       | Tisei, Richard R.        |
| Montigny, Mark C.     | Tolman, Steven A.        |
| Moore, Richard T.     | Tucker, Susan C.         |
| Morrissey, Michael W. | Walsh, Marian            |
| Murray, Therese       | Wilkerson, Dianne —      |

**38.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Fargo, Susan C — 1.

The yeas and nays having been completed at twenty-seven minutes before twelve o’clock noon, the amendment was adopted.

Mr. Barrios moved to amend the bill in section 2, in item 0331-9000, by adding the following words:— “; provided further, that not less than \$188,340 shall be expended for the Suffolk Superior Criminal Court Education and Community Outreach Program”.

After remarks, the amendment was adopted.

Ms. Resor moved to amend the bill in section 2, in item 0332-9000, by adding the following words:— “provided further, that not less than \$529,039 shall be expended for the district court of Marlborough”.

After debate, the amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2, in item 0526-0100, by adding the following words:— “; provided further, that the grant provided to the city of Gloucester for the restoration of city hall relative to MMARS Document ID: SCSEC48003205102, administered on July 1, 2002, be extended until December 31, 2003 for the purpose of construction completion”.

After remarks, the amendment was adopted.

Mr. Nuciforo moved to amend the bill in section 2, in item 0610-0050, by striking out the figure “\$1,766,478” and inserting in place thereof the following figure:— “\$766,478”.

After debate, the amendment was *rejected*.

Messrs. Lees and Knapik moved to amend the bill in section 2, in item 0640-0000, by inserting after the word “Laws” the following words:— “; provided further, that the commission shall study the impact, cost of implementation and the revenue effects of establishing online lottery games in the commonwealth, and report to the house and senate ways and means committees their findings and recommendations not later than December 31, 2003.”.

After remarks, the amendment was adopted.

Mr. Lees and Mrs. Sprague moved to amend the bill in section 2, by striking out item 0900-0100; and by striking out item 0920-0300 and inserting in place thereof the following item:—

“0920-0300 For the operation of the combined office of state ethics and campaign and political finance to be known as the office of ethics and campaign finance; provided that the head of the agency formally known as the office of campaign and political finance shall maintain the position as lead contact between the functions of the agency 2,037,059”.

After remarks, the amendment was *rejected*.

Ms. Resor and Messrs. Hedlund and Tisei moved to amend the bill in section 2, in item 1107-2501, by striking out the figure “\$1,578,214” and inserting in place thereof the following figure:— “\$1,612,319”; in item 5911-1000, by striking out the figure “\$12,119,401” and inserting in place thereof the following figure:— “\$12,102,349”; and in item 5011-0100, by striking out the figure “\$35,547,302” and inserting in place thereof the following figure:— “\$35,530,249”.

After remarks, the amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 1108-1011, by striking out the figure “\$362,087” and inserting in place thereof the following figure:— “\$450,454”.

The amendment was *rejected*.

Ms. Menard and Messrs. Morrissey and Havern moved to amend the bill in section 2, in item 1108-5200, by adding the following words:— “; and provided further, that the group insurance commission shall not increase health insurance co-payments for state employees beyond any previously signed provider agreement for fiscal year 2004”.

After debate, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 2, in item 1108-5200, by inserting after the word “cent;”, in line 24, the following words:— “provided further, the commonwealth’s share of the group insurance premium for state employees who have retired after June 30, 2003 shall be at the percentage based on the retired state employee’s benefit and not the salary at which the state employee retired”.

After debate, the amendment was adopted.

Ms. Jacques, Ms. Creem and Messrs. Creedon, Morrissey and Joyce moved to amend the bill in section 2, in item 1110-1000, by striking out the figure “\$632,165” and inserting in place thereof the following figure:— “\$663,887”.

After debate, the amendment was adopted.

Mr. Moore moved to amend the bill in section 2, in item 1201-0130, by inserting after the words “November 1, 2003” the following words:— “; and provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns. The purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales/use taxes and local motor vehicle excises on their motor vehicles; and provided further, the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3½ of chapter 90 of the General Laws”.

After remarks, the amendment was adopted.

Ms. Fargo moved to amend the bill in section 2, by striking out item 1201-0130 and inserting in place thereof the following item:—

“1201-0130 The department of revenue may expend an amount not to exceed \$2,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of any tax return or the payment of any tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for any prior fiscal year; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; provided further, that the commissioner of the department shall expand the Most Wanted list, so-called, as published on the internet, to include a list of all delinquent taxpayers, including individuals, trusts, partnerships, corporations, and 121A corporations; provided further, that the delinquency is an amount greater than \$25,000 and for a period of at least 6 months from the time the taxes were assessed 2,640,000”.

After remarks, the amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 1310-1001, by striking out the figure “\$300,000” and inserting in place thereof the following figure:— “\$395,000”.

The amendment was *rejected*.

Ms. Chandler and Messrs. Glodis, Baddour and Creedon moved to amend the bill in section 2, by striking out items 1410-0250 and 1410-0251 and inserting in place thereof the following item:—

“1410-0250

For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans; provided, that funds shall be obligated for a contract with the New England Shelter for Homeless Veterans located in the city of Boston; provided further, that not more than \$100,000 shall be expended for the Veterans Benefits Clearinghouse located in Dorchester; provided further, that not more than \$100,000 shall be expended for the Veterans Benefits Clearinghouse located in Roxbury; provided further, that not more than \$90,000 shall be obligated for a contract with the southeastern Massachusetts veterans housing program located in the city of New Bedford; provided further, that not more than \$81,000 shall be obligated for a contract with the Unity House located in the city of Gardner; provided further, that not more than \$25,515 shall be obligated for a contract with the Homestead in Hyannis; provided further, that not more than \$97,200 shall be obligated for a contract with the veterans hospice homestead in the city of Leominster and the veterans hospice in the town of Fitchburg; provided further, that not more than \$81,000 shall be obligated for a contract with Habitat PLUS in the city of Lynn; provided further, that \$86,000 shall be obligated for a contract with the Central Massachusetts Veterans Shelter in the city of Worcester; provided further, that not more than \$46,778 shall be obligated for a contract with the Springfield Bilingual Veterans Outreach Center; provided further, that not less than \$2,666,366 shall be made available to those veterans organizations who respond to a request for proposal and meet those qualifications for funding: and provided further, that the commissioner may distribute funds on a per person, per bed basis ..... 3,453,559”.

The amendment was *rejected*.

Ms. Menard, Mr. Montigny and Ms. Murray moved to amend the bill in section 2, by inserting after item 1599-3856, the following 2 items:—

“1599-3857

For capital lease payments from the University of Massachusetts to Massachusetts development finance authority and for annual operations of the advanced technology and manufacturing center in Fall River .....968,778”;

1599-7014

For a reserve for the facilities costs associated with the college of visual and performing arts at the University of Massachusetts at Dartmouth; provided, that funds may be expended for Bristol community college .....2,404,280”;

In item 7100-0200, by striking out the words “provided further, that funds shall be expended for the operation of the College of Visual and Performing Arts at the University of Massachusetts at Dartmouth, including for programs operated by Bristol Community College at that facility; provided further, that funds shall be expended for capital lease payments from the University of Massachusetts to Massachusetts development finance authority and for annual operations of the advanced technology and manufacturing center in Fall River;” and by striking out the figure “\$293,748,600” and inserting in place thereof the following figure:— \$290,375,542.

After debate, the amendment was adopted.

Mr. Creedon moved to amend the bill section 2, in item 1775-0100, by striking out the figure “\$1,616,712” and inserting in place thereof the following figure:— \$1,715,212”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, by striking out item 2000-0500; in item 1110-1000, by striking out the figure “\$632,165” and inserting in place thereof the following figure:— \$1,153,037; by adding the following words:— “and including the administrative appeals judges for the department of environmental protection”; by striking out section 134; and in section 532, in clause (11), by striking out the words “environmental affairs” and inserting in place thereof the following words:— “administration and finance, division of administrative law appeals”.

The amendment was *rejected*.

Ms. Resor moved to amend the bill in section 2, in item 2010-0100, in line 6, by striking out the words “provided, that the department shall be prohibited from increasing the number of full time employees paid from this line item above the number assigned to this item on March 1, 2003” and inserting in place thereof the following words:— “provided, that the costs of personnel charged to this item during any fiscal year shall not exceed the level expended for such personnel and/or contractors assigned to this item on March 1, 2003”.

After remarks, the amendment was adopted.

Messrs. Baddour and Tarr moved to amend the bill in section 2, in item 2010-0100, by inserting after the words “April 1, 2003”, in line 14, the following words:— “; provided further, that funds may be expended on municipal recycling incentives”.

After remarks, the amendment was adopted.

Ms. Resor, Mr. Creedon, Ms. Creem and Messrs. Hedlund and Nuciforo moved to amend the bill in section 2, in item 2010-0100, by striking out the word “less”, in line 11, and inserting in place thereof the following word:— “more”.

The amendment was *rejected*.

Messrs. Hedlund, Tarr and Knapik moved to amend the bill in section 2, in item 2010-0100, by adding the following words:— “and provided further, that the department may expend funds on municipal equipment grants;”.

After remarks, the amendment was adopted.

Ms. Resor moved to amend the bill in section 2, in item 2020-0100, by striking out the figure “\$1,299,324”, and inserting in place thereof the following figure:— “\$1,510,211”; and in item 2210-0100, by striking out the figure “\$918,712”, and inserting in place thereof the following figure:— “\$707,834”.

The amendment was *rejected*.

Ms. Resor moved to amend the bill in section 2, by inserting after items 2020-0100, 2210-0100, and 7100-0300, in each instance, the following line:—

“Toxics Use Reduction Fund .....100.0%”;

by striking out section 162; and by inserting after section 580, the following section:—

“SECTION 580A. Notwithstanding this act, upon funding items 2020-0100, 2210-0100, and 7100-0300, any funds over and above the sum of the appropriations listed in items 2020-0100, 2210-0100 and 7100-0300 shall be transferred from the Toxics Use Reduction Fund to the General Fund.”.

After remarks, the amendment was *rejected*.

Ms. Chandler moved to amend the bill in section 2, in item 2200-0100, by adding the following words:— “provided further, that not less than \$75,000 shall be expended for drinking water protection in the town of Paxton”.

The amendment was *rejected*.

Ms. Resor and Mr. Nuciforo moved to amend the bill in section 2, by striking out items 2220-2220 and 2220-2221 and inserting in place thereof the following 2 items:—

“2220-2220

For the administration and implementation of the federal Clean Air Act, including the operating permit program, the emissions banking program, the auto related state implementation program, the low emissions vehicle program, the non-auto related state implementation program, and the commonwealth’s commitments under the New England Governor’s/Eastern Canadian Premiers’ Action Plans for reducing acid rain deposition and mercury emissions, the department is authorized \$948,068; provided, that an additional \$298,280 shall be available to the department for expenditure if the Office of the State Comptroller certifies that additional revenue received from Clean Air Act fines and penalties by October 1, 2003 exceeds .....\$5,000,000.

2220-2221

For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act, the department is authorized \$1,975,287; provided, that an additional \$378,235 shall be available to the department for expenditure if the office of the state comptroller certifies that additional revenue received from Clean Air Act fines and penalties by October 1, 2003 exceeds .....\$5,000,000.”;

and by striking out item 2260-8870, and inserting in place thereof the following item:—

“2260-8870

For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding section 323F of chapter 94 of the General Laws and section 2K of chapter 29 of the General Laws and section 4 of chapter 21J of the General Laws: provided, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 2003 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, Tier IC and tier II projects, the department is authorized \$15,287,045; provided further, that an additional \$1,062,319 shall be available to the department for expenditure if the office of the state comptroller certifies that additional revenue received from Clean Air Act fines and penalties by October 1, 2003 exceeds \$5,000,000.

|                              |           |
|------------------------------|-----------|
| Clean Environment Fund ..... | 55.47%    |
| General Fund .....           | 44.53% ”. |

After remarks, the amendment was *rejected*.

Ms. Resor, Mr. O’Leary, Ms. Chandler and Mr. Nuciforo moved to amend the bill in section 2, by striking out item 2250-2000, and inserting in place thereof the following item:—

“2250-2000

For the purposes of state implementation of the federal Safe Drinking Water Act under section 18A of chapter 21A of the General Laws; provided, that the comptroller shall transfer all revenues in excess of \$1,506,194 to the General Fund .....

|                                    |           |
|------------------------------------|-----------|
| Safe Drinking Water Act Fund ..... | 100.0% ”; |
|------------------------------------|-----------|

and by striking out section 164.

The amendment was *rejected*.

Ms. Resor, Messrs. Brewer and Morrissey, Ms. Fargo, Ms. Creem and Mr. Nuciforo moved to amend the bill in section 2, in item 2260-8881, by striking out the figure “\$219,038” and inserting in place thereof the following figure:— “\$347,683”; and in item 2200-0100, by striking out the figure “\$28,578,643”, and inserting in place thereof the following figure:— “\$28,449,998”.

After remarks, the amendment was adopted.

Messrs. Tarr, Knapik and Joyce moved to amend the bill in section 2, in item 2511-0100, by inserting after the words “Buy Local campaign,” the following words:— “; provided, that any funds so distributed shall be provided on a per capita basis”.

The amendment was *rejected*.

Mr. Shannon moved to amend the bill in section 2, in item 2600-1400, by striking out the words “provided, that expenses incurred in other department programs to assist the watershed management program may be charged to this item;”.

Ms. Menard in the Chair, after remarks, the amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 2600-2000, by adding the following words:— “provided further, that not less than \$50,000 shall be expended for the Nahant Life Saving Station”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in section 2, in item 2600-2000, by adding the following words:— “; and provided further, that not less than \$90,000 be expended for the construction of a handicapped accessible fishing pier in the town of Wilmington”.

The amendment was *rejected*.

Messrs. McGee and Barrios moved to amend the bill in section 2, in item 4000-0100, by adding the following words:— “provided further, that not more than \$40,000 shall be expended for the public partnership program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA”.

The amendment was *rejected*.

Mr. Moore moved to amend the bill in section 2, in item 4000-0300, by inserting after the words “February 15, 2004;” the following words:— “provided further, that by October 1, 2003 the division shall establish a mechanism that will allow hospitals and community health centers the ability to electronically access the health benefit coverage database to assist with coordinating

coverage of persons requesting uncompensated care under chapter 118G of the General Laws and medical assistance under chapter 118E of the General Laws; provided further, that the division shall collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the division later discovers another third party is liable;”.

The amendment was *rejected*.

Mr. O’Leary, Ms. Tucker, Messrs. Brewer, McGee and Ms. Chandler moved to amend the bill in section 2, in item 4000-0300, by adding the following words:— “; and provided further, that the same standards and regulations for personal care attendants in effect on February 1, 2003 shall be retained in fiscal year 2004 unless an agreement to any changes is reached between the division of medical assistance, designees of the governor’s advisory commission on disability policy, the Massachusetts office on disability and the statewide independent living council”.

After remarks, the amendment was adopted.

Mr. O’Leary moved to amend the bill in section 2, in item 4000-0500, by adding the following words:— “and, not less than \$99,999 of said \$1,100,000 shall be expended for grants intended to demonstrate innovative methods to improve interpreter services and contain costs”.

The amendment was *rejected*.

Messrs. Shannon and Baddour moved to amend the bill in section 2, in item 4000-0600, by inserting after the words “any needed community services,” in lines 7 and 8, the following words:— “including case management;”.

After remarks, the amendment was adopted.

Ms. Chandler, Messrs. Baddour and Joyce and Ms. Resor moved to amend the bill in section 2, in item 4000-0600, by inserting after the word “means”, in line 38, the following words:— “; provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003”.

After remarks, the amendment was adopted.

Ms. Chandler and Mr. Moore moved to amend the bill in section 2, in item 4000-0600, by inserting after the word “means”, in line 38, the following words:— “; provided further, that within the amount to be expended in fiscal year 2004 on Medicaid home health services, the division of medical assistance shall establish a demonstration project to allow for the use of technology in the provision of home health services; provided further, that the demonstration project shall establish a tiered rate system of reimbursement under the Medicaid program; provided further, that technology shall include the following: information services and devices that make documentation, charting and staff time more efficient or that encourage and allow for care through alternative settings; provided further, that the division shall not expend funds related to the demonstration project for services that are not eligible for federal reimbursement under Title XIX of the federal Social Security Act or any related 1115 waiver; provided further, that the division shall report to the house and senate committees on ways and means not later than December 1, 2003 any cost savings achieved by the project, outcome measures and patient satisfaction;”.

After remarks, the amendment was adopted.

Mr. Joyce, Ms. Creem, Mr. Hart, Ms. Fargo, Mr. Barrios, Ms. Tucker and Ms. Chandler moved to amend the bill in section 2, in item 4100-0060, by adding the following words:— “; and provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the executive office of health and human services, shall approve a special innovative program, and that the executive office, in recognition of the unique special innovative program status granted by the division of medical assistance, shall, for any nursing home that provides kosher food to its residents, establish up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food”.

The Chair (Ms. Menard) ruled that, pursuant to a special order, previously adopted by the Senate, the above amendment was out of order because the net effect of the amendment would increase a corresponding line item in excess of \$100,000 and there was no corresponding reduction in another line item.

Mr. Baddour and Ms. Wilkerson moved to amend the bill in section 2, in item 4120-3000, by striking out, in lines 2 and 3, the following word:— “physically”.

After remarks, the amendment was adopted.

Mr. O'Leary moved that the bill be amended in section 2, in item 4130-3050, by adding the following words:— “; and provided further, that \$50,000 shall be expended for the Boys and Girls Club of Cape Cod for the purpose of after school programs that enhance decision making and life skills through educational and recreational activities”.

The amendment was *rejected*.

Mr. Baddour, Ms. Tucker and Mr. McGee moved to amend the bill in section 2, in item 4130-3050, by inserting after the word “item”, in line 10, the following words:— “; provided further, that not fewer than 500 child care slots shall be reserved for children in the foster care program at the department of social services,”.

After remarks, the amendment was adopted.

Mr. Tolman moved to amend the bill in section 2, in item 4130-3050, by adding the following words:— “; provided further, that not more than \$50,000 be expended for the West End Boys and Girls Club in the Allston-Brighton section of the city of Boston for the purpose of after school tutoring and recreational services for the children of the community”.

The amendment was *rejected*.

Mr. Creedon moved to amend the bill in section 2, in item 4130-3050, by adding the following words:— “; provided further, that \$25,000 shall be expended for the Brockton Boys and Girls Club for the purpose of delinquency prevention, leadership, and character development, technology training, job training, drug, alcohol and teenage pregnancy prevention, and education advancement”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 4200-0010, by striking out the figure “\$4,476,803” and inserting in place thereof the following figure:— “4,688,221”; and in item 4130-1000, by striking out the figure “\$12,975,179” and inserting in place thereof the following figure:— \$12,763,761”.

After debate, the amendment was *rejected*.

Ms. Wilkerson, Ms. Chandler, Ms. Resor, Messrs. McGee and Morrissey, Ms. Creem and Mr. Tarr moved to amend the bill in section 2, in item 4401-1000, by inserting after the word “services;”, in line 10, the following words:— “provided further, that the department of transitional assistance shall use funds from this item and shall collaborate with the department of labor and workforce development and the division of workforce training to access funding through Title I of the Workforce Investment Act to ensure that sufficient resources are available to provide substantive, pre-employment skills training, including training that integrates basic education and English as a second language instruction, to recipients of transitional aid to families with dependent children who are in need of such services;”; by inserting after the word “program”, in line 16, the following words:— “and of skills training programs funded by Title I of the federal Workforce Investment Act accessible through the one-stop career centers, so-called, and adult education programs funded by the department of education”; and by striking out, in lines 27 to 29, inclusive, the words “nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or in enforceable entitlement to services” and inserting in place thereof the following words:— “all of this item is subject to appropriation and, in the event of a deficiency, nothing herein shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item.”.

After remarks, the amendment was adopted.

Ms. Melconian moved to amend the bill in section 2, in item 4401-1000, by inserting after the word “program”, in line 7, the following words:— “by Parents Fair Share of Springfield”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 4401-1000, by striking out, in lines 24 to 27, inclusive, the words: “provided further, that notwithstanding any general or special law to the contrary, verified hours spent attending a department approved education or job skills training program shall count toward satisfaction of the work requirement established under subsection (j) of said section 110 of said chapter 5” and inserting in place thereof the following words:— “provided further, that notwithstanding any general or special law to the contrary, recipients not qualifying as exempt under subsection (e) of section 110 of chapter 5 of the acts of 1995 shall participate in the work program established by subsection (j) of section 110 of said chapter 5”.

The President in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 5 — nays 33) **[Yeas and Nays No. 24]**:

**YEAS.**

Hedlund, Robert L. Sprague, Jo Ann  
Knapik, Michael R. Tisei, Richard R. — 5.  
Lees, Brian P.

**NAYS.**

Antonioni, Robert A. Montigny, Mark C.  
Baddour, Steven A. Moore, Richard T.  
Barrios, Jarrett T. Morrissey, Michael W.  
Berry, Frederick E. Murray, Therese  
Brewer, Stephen M. Nuciforo, Andrea F., Jr.  
Chandler, Harriette L. O’Leary, Robert A.  
Creedon, Robert S., Jr. Pacheco, Marc R.  
Creem, Cynthia Stone Panagiotakos, Steven  
C. Glodis, Guy W. Resor, Pamela  
Hart, John A., Jr. Rosenberg, Stanley C.  
Havern, Robert A. Shannon, Charles E.  
Jacques, Cheryl A. Tarr, Bruce E.  
Joyce, Brian A. Tolman, Steven A.  
Magnani, David P. Tucker, Susan C.  
McGee, Thomas M. Walsh, Marian  
Melconian, Linda J. Wilkerson, Dianne —  
33.  
Menard, Joan M.

**ABSENT OR NOT VOTING.**

Fargo, Susan C. — 1.

The yeas and nays having been completed at twenty-five minutes before two o’clock P.M., the amendment was *rejected*.

*Recess.*

There being no objection, at twenty-four minutes before two o’clock P.M. the President declared a recess subject to the call of the Chair; and at twenty minutes past two o’clock P.M. the Senate reassembled, Mr. Havern in the Chair.

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended), — was considered, the main question being on passing the bill to be engrossed.

Ms. Tucker, Ms. Creem, Messrs. Shannon and McGee, Ms. Resor, Ms. Wilkerson and Messrs. Montigny and Joyce moved to amend the bill in section 2, in item 4403-2000, by inserting at the end thereof the words:— “; and provided further, that notwithstanding any general or special law to the contrary, 30 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the text of and basis for such proposed changes”.

After remarks, the amendment was adopted.

Mr. Panagiotakos moved to amend the bill in section 2, in item 4403-2120, by inserting after the words “, so called;” , in line 5, the following words:— “(viii) activities and payments to reduce homelessness, and assist families to obtain or retain housing;”.

The amendment was *rejected*.

Mr. McGee and Ms. Resor moved to amend the bill in section 2, in item 4403-2120, by inserting after the words “United States”, in line 8, the following words:— “; provided further, that the department shall use monies from this account to add a minimum of 150 new units of scattered site and rolling stock units contracted for in FY03; and provided further, that these new units shall be located in areas of greatest need to facilitate placement of eligible families within 20 miles of the home community”.

The amendment was *rejected*.

Ms. Melconian moved to amend the bill in section 2, in item 4406-3000, by inserting after the word “served;”, in line 5, the following words:— “provided further, that the Friends of the Homeless shelter in Springfield and the Open Pantry Community Services, Inc. in Springfield shall receive the same appropriation that they received in fiscal year 2003”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in item 4406-3000, by inserting after the word “indigent”, in line 3, the following words:— “; provided further, that not less than \$50,000 shall be provided for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc. located in the city of Lynn”.

The amendment was *rejected*.

Ms. Melconian moved to amend the bill in section 2, in item 4800-1400, by adding the following words:— “and, provided further, that \$488,028 shall be expended for the YWCA Battered Women’s Shelter in Springfield;”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in item 4510-0100, by adding the following words:— “provided further, that not less than \$100,000 shall be expended for the Elder Health Center in Saugus”.

The amendment was *rejected*.

Mr. Barrios moved to amend the bill in section 2, in item 4510-0600, in line 17, by inserting after the word “examinations” the following words:— “and for the maintenance of a statewide lupus database”.

After remarks, the amendment was adopted.

Mr. Moore moved to amend the bill in section 2, by striking out item 4510-0723, and inserting in place thereof the following item:—

“4510-0273 For the operation and administration of the board of medicine and the committee on acupuncture; provided, that the board of registration in medicine shall prepare an annual report addressing its activities with respect to licensing, enforcement, law and policy, patient safety, and other relevant topics, including, but not limited to, the total number of cases referred to and reviewed by the board, the resolution of the cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the board in the previous 6 months; a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals, and pharmacies to modify their practices and techniques to avoid error, and any other relevant topics; provided further, that the board shall submit the report to the general court, house and senate committee on ways and means and the joint committee on health care and shall make the compilation widely available, including by electronic means, to the public; and provided further, that the board shall promulgate rules and regulations to coordinate their patient care assessment program with the boards of nursing and pharmacy 1,639,554.”

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 2, in item 4510-0725, by striking out the words “; provided, that the department of public health, in cooperation with the division of professional licensure, shall submit a plan for transferring the boards of allied health professionals, podiatry, optometry, chiropractors, health officers, speech language pathology and audiology, dispensing opticians, psychologists, hearing instruments specialists, and dieticians and nutritionists from the division of professional licensure to the department of public health; provided further, that the plan shall consider current funding levels and shall propose no additional costs; and provided further, that employees of the boards transferred from the division of professional licensure to the department of public health shall suffer no impairment of civil service status, seniority or other employment rights”.

After remarks, the amendment was *rejected*.

Mr. Moore moved to amend the bill in section 2, in item 4510-0726, by striking out, in lines 2 and 3, the words “from new revenues associated with increased license and renewal fees; provided, that this amount shall be in excess of the amount prescribed in section 1B of this act” and inserting in place thereof the following words:— “; provided, that this amount shall be in excess of funds allocated to the board of registration in medicine by section 35M of chapter 10 of the General Laws”.

After remarks, the amendment was adopted.

Ms. Chandler moved to amend the bill in section 2, in item 4512-0103, by inserting after the word “AIDS;”, in line 17, the following words:— “provided further, that not less than \$243,000 shall be expended for the operation of a program to be administered by the Worcester department of health for comprehensive drug treatment for the prevention of AIDS;”.

The amendment was *rejected*.

Ms. Wilkerson and Mr. Joyce moved to amend the bill in section 2, in item 4512-0200, by inserting after the word “program;”, in line 13, the following words:— “; provided further, that not less than \$99,925 be expended for Latinas Y Ninos to provide a full-time child advocate-parent educator specialist to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents, and mothers recently reunified with their children; provided further, that no funds appropriated herein shall be expended for Latinas Y Ninos until the organization provides evidence that funds shall not be used to support non-Massachusetts residents;”.

After remarks, the amendment was adopted.

Ms. Wilkerson moved to amend the bill in section 2, in item 4513-1112, by adding the following words:— “; provided further, that screening, education and treatment shall have a particular focus on the high rate of prostate cancer among African-American males”.

After remarks, the amendment was adopted.

Ms. Wilkerson moved to amend the bill in section 2, by striking out item 4513-1112 and inserting in place thereof the following item:—

“4513-1112  
For a prostate cancer screening, education and treatment program; provided, that not more than \$99,000 shall be expended for the H.E.L.P. program for black males’ health; and, provided further, that state employees previously paid from this item shall be paid from item 4510-0099 or from item 4510-0100 in fiscal year 2004  
.....1,000,000”.

The amendment was adopted.

Mr. Creedon moved to amend the bill in section 2, by inserting after item 4513-1112 the following item:—

“4513-1113  
For a program for renal disease; provided that the funding in this item shall be appropriated for nutritional supplements and early intervention services for those affected by renal disease and those at risk of renal disease; and provided further, that this program shall be administered through the National Kidney Foundation of Massachusetts, Rhode Island and Vermont  
.....30,000”.

The amendment was *rejected*.

Ms. Menard moved to amend the bill in section 2, in item 4580-1000, by inserting after the words “fiscal year 2004;”, in line 3, the following words:— “; provided, that the department shall not engage in spending on the Pediatric Immunization Program to the detriment of the Adult Immunization Program including but not limited to the purchase and distribution of influenza and pneumococcal vaccines;”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 4590-0250, by striking out the figure “\$14,073,966” and inserting in place thereof the following figure:— “\$13,370,268”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in item 4800-0038, by inserting at the end thereof the following words:— “provided further, that not less than \$15,000 shall be expended on a teen pregnancy prevention program operated by Girls, Inc. of Lynn”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in item 4800-1100, in line 7, by inserting after the words “social workers in excess of the 18-1 ratio by region;” the following words:— “provided further, that the department shall develop a management plan so that no social worker shall be over the 18 to 1 caseload standard for more than 2 consecutive months; provided further, that the department shall report on the management plan to the house and senate committees on ways and means not later than January 15, 2004;”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 5011-0100, by striking out the figure “\$35,547,302” and inserting in place thereof the following figure:— “\$37,002,982”; and in item 4130-1000, by striking out the figure “\$12,975,179” and inserting in place thereof the following figure:— “\$11,519,499”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eighteen minutes past three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 5 — nays 33) [**Yeas and Nays No. 25**]:

**YEAS.**

|                    |                        |
|--------------------|------------------------|
| Hedlund, Robert L. | Sprague, Jo Ann        |
| Knapik, Michael R. | Tisei, Richard R. — 5. |
| Lees, Brian P.     |                        |

**NAYS.**

|                         |                            |
|-------------------------|----------------------------|
| Antonioni, Robert A.    | Montigny, Mark C.          |
| Baddour, Steven A.      | Moore, Richard T.          |
| Barrios, Jarrett T.     | Morrissey, Michael W.      |
| Berry, Frederick E.     | Murray, Therese            |
| Brewer, Stephen M.      | Nuciforo, Andrea F., Jr.   |
| Chandler, Harriette L.  | O’Leary, Robert A.         |
| Creedon, Robert S., Jr. | Pacheco, Marc R.           |
| Creem, Cynthia Stone    | Panagiotakos, Steven<br>C. |
| Glodis, Guy W.          | Resor, Pamela              |
| Hart, John A., Jr.      | Rosenberg, Stanley C.      |
| Havern, Robert A.       | Shannon, Charles E.        |
| Jacques, Cheryl A.      | Tarr, Bruce E.             |
| Joyce, Brian A.         | Tolman, Steven A.          |
| Magnani, David P.       | Tucker, Susan C.           |
| McGee, Thomas M.        | Walsh, Marian              |
| Melconian, Linda J.     | Wilkerson, Dianne —<br>33. |
| Menard, Joan M.         |                            |

**ABSENT OR NOT VOTING.**

Fargo, Susan C. — 1.

The yeas and nays having been completed at twenty-one minutes past three o’clock P.M., the amendment was *rejected*.

Ms. Melconian and Mr. Barrios moved to amend the bill in section 2, by striking out item 4513-1022 and inserting in place thereof the following item:—

“4513-1022 For community-based domestic violence prevention programs; provided, that state employees previously paid from this item shall be paid from item 4510-0099 or from item 4510-0100 in fiscal year 2004; provided further, that not less than \$50,000 shall be made available for domestic violence education and awareness in faith-based and community-based organizations; provided further, that not less than \$120,000 shall be made available for outreach and intervention services to homosexual male victims of domestic violence; provided further, that not less than \$60,000 shall be expended for the Planned

Learning Achievement for Youth program in Amherst in collaboration with the department of education through an interagency service agreement; provided further, that not less than \$10,000 shall be made available to the Words not Weapons mentoring project in Saugus; provided further, that not less than \$45,000 shall be made available to Portal to Hope to oversee a domestic violence prevention program that includes a “Teens-At-Risk” project, for the communities of Everett, Lynn, Malden and Medford without the need of approval by the commissioner of public health; and provided further, that no funds shall be expended for the program before the approval of a program plan by the commissioner of public health; provided further, that not less than \$755,000 shall be made available for domestic violence services for immigrants and refugees 1,040,000”.

The amendment was *rejected*.

Mr. Panagiotakos moved to amend the bill in section 2, in item 0511-0000, by adding the following words:— “; and provided further, that the secretary may transfer funds between items 0540-0900, 0540-1000, 0540-1100, 0540-1200, 0540-1300, 0540-1400, 0540-1500, 0540-1600, 0540-1700, 0540-1800, 0540-1900, 0540-2000, 0540-2100 pursuant to an allocation schedule filed with the house and senate committees on ways and means not less than 30 days prior to any such transfer”.

After remarks, the amendment was adopted.

Ms. Wilkerson moved to amend the bill in section 2, in item 5046-0000, by inserting after the word “facilities;”, in line 4, the following words:— “provided, further, that the commissioner of mental health shall ensure that the per-client rate paid to service providers of the clubhouse program, are equal across all such programs;”.

The amendment was *rejected*.

Ms. Chandler and Mr. Glodis moved to amend the bill in section 2, by striking out item 5095-0015 and inserting in place thereof the following item:—

“5095-0015

For the operation of adult inpatient facilities, including the community mental health centers; provided, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days before the transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities; provided further, that no action to reduce the client population of Worcester State Hospital for the sole purpose of closing said hospital shall be undertaken, and no steps shall be taken to close that institution through attrition, layoffs or any other means until a study of any reduction or closing shall be completed, and the general court shall have approved by law any reductions or closing; and provided further, that the secretary of administration and finance, in cooperation with the department, shall conduct a study, which shall examine the costs, benefits and quality of maintaining said institutions and shall identify alternative methods of providing the services currently provided by the institution, and the secretary shall report in writing the findings and recommendations of the study or studies to the house and senate committees on ways and means not later than December 1, 2003

.....156,753,632”.

After remarks, the amendment was *rejected*.

Mr. Barrios moved to amend the bill in section 2, in item 5911-1000, by adding the following words:— “; provided further, that a study commission shall be established to explore the viability of developing standards and a framework for a training and/or apprenticeship program for direct care workers; the impact of such programs on compensation, including a determination of the amount of the disparity in salary and benefits between community direct service workers and direct service workers in the commonwealth’s state operated programs for mental retardation and quality of care staff retention; provided further, that said commission shall consist of a representative from department of mental retardation, SEIU, ADDP, DOE, DOL, and the house and senate chairs of the joint committee on human services and elderly affairs or their designees; provided further, that the commission shall file a report with its findings to the house and senate ways and means committees and the joint committee on human services and elderly affairs not later than January 1, 2004”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, by striking out items 6000-0100 and 6010-0001 and inserting in place thereof the following item:—

“6000-0100 For the office of the secretary of transportation and construction and for the personnel costs of the department of highways, certain administrative and engineering expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to families with dependent children program under item 4401-

1000; provided further, that said office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that said office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 9 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by said secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation and construction in collaboration with the commissioner of highways shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2004; provided further, that the report shall include spending in the commonwealth through the statewide 90 program, the Small Town Road Assistance road and bridge program, the chapter 90 program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that said office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall identify the number of full-time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate said information for full-time employees, part-time employees and contracted personnel; provided further, that such reports shall be filed not later than 30 days after the end of each quarter; provided further, that notwithstanding any administrative bulletin or general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided 30 36A of chapter further, that the department shall not be subject to section 7 of the General Laws, but shall 22 of chapter of the General Laws and section submit to the secretary of transportation and construction for approval requests 22 to repair vehicles costing in excess of the limit set forth in said section 7; provided further, that the department shall provide the house of said chapter and senate committees on ways and means a quarterly report of repairs requiring said secretary's approval; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C and for costs associated with police services and overtime within said areas shall be paid from this item; provided further, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair; provided further, that notwithstanding any general or special law to the contrary, the department of highways, in furthering cost effective management of the commonwealth's infrastructure, may implement a statewide corrosion mitigation program utilizing electrochemical corrosion passivation or chloride extraction treatment of steel reinforced concrete structures, as a means of stopping existing corrosion and monitoring and preventing the initiation of new corrosion; provided further, that the electrochemical corrosion passivation or chloride extraction treatment method that may be utilized, which uses an anode system temporarily installed on the surface of the concrete, to facilitate the passing of a continuously monitored, and unequally adjusted, low voltage DC current to the steel reinforcement for the purpose of eliminating differentials on the surface potentials on the steel reinforcement; provided further, that the department of highways may amend its contractor prequalification program to include a new class of work for this specialty infrastructure repair process; provided further, that the department shall report to the joint committee on transportation and the chairmen of the house and senate committees on ways and means on the program method's safety to structures and the environment, cost effectiveness, effectiveness in eliminating new corrosion, and effectiveness in stopping existing corrosion; and provided further, that said report shall be due no later than February 1, 2004; provided further, that notwithstanding any general or special law to the contrary the department is hereby authorized to expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall develop a plan to phase into the budgetary appropriation all personnel costs expended from capital authorizations after June 30, 2002; and provided further, that the phase in of these costs shall be complete by June 30, 2005 .....36,568,769”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 7002-0010, by adding the following words:— “including for the support of science and technology initiatives, the provision of assistance to small business and entrepreneurs, and for policy, research,

program and administrative costs”; and by striking out the figure “\$1,727,629” and inserting in place thereof the following figure:— “\$3,527,629”; and in item 0321-1600 by striking out the figure “\$8,960,158”, and inserting in place thereof the following figure:— “\$7,160,158.”

After remarks, the amendment was *rejected*.

Mr. Tisei moved to amend the bill in section 2, in item 7002-0101, in lines 6 and 7, by striking out the words “provided further, that all revenues from fees charged for this identification card shall be deposited into the General Fund;” and inserting in place thereof the following words:— “provided further, that the first \$125,000 of the fees collected by the division for this identification card program shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 357 of the acts of 2002 and the remainder of all fees collected shall be deposited into the General Fund;”.

The amendment was adopted.

Mr. Panagiotakos moved to amend the bill in section 2, in item 7002-0150, by striking out the words “Lowell Acre Urban Revitalization Project” and inserting in place thereof the following words:— “Jackson/Appleton/Middlesex Urban Revitalization Project”.

After remarks, the amendment was adopted.

Mr. Tolman moved to amend the bill in section 2, in item 7002-0150, by adding the following words:— “; provided further, that not more than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center”.

After remarks, the amendment was adopted.

Ms. Chandler moved to amend the bill in section 2, in item 7003-0701, by adding the following words:— “; and provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester”.

The amendment was *rejected*.

Ms. Melconian in the Chair, Mr. Joyce moved that the bill be amended in section 2, in item 7004-0099, by adding the following words:— “; and, provided further, that a grant in the amount of \$100,000 be awarded to the town of Milton for the Central Avenue/ Milton village business district revitalization, subject to appropriation”.

The amendment was *rejected*.

Ms. Chandler and Messrs. Shannon, Barrios, O’Leary and Magnani moved to amend the bill in section 2, by inserting after item 7004-0099, the following item:—

“7004-2027

For community economic development; provided, that grants may be awarded to not-for-profit organizations; provided further, that no funds shall be expended from this item in the AA subsidiary account, so-called, for the compensation of state employees 500,000”;

and, in item 0411-1000, by striking out the figure “\$5,432,067” and inserting in place thereof the following figure:— “\$4,932,067”.

After remarks, the amendment was *rejected*.

Ms. Wilkerson and Mr. Montigny moved to amend the bill in section 2, by inserting after item 7004-0099, the following item:—

“7004-2027

For the Community Enterprise and Economic Development Program; provided, that pursuant to item 7004-3037 of Section 2D, funds from the federally funded grant entitled, Small Cities Community Development Block Grant, shall be expended for grants to not-for-profit community development corporations; and provided further, that funds expended from this item are subject to the limits set forth in the Community Development Act of 1974, as amended, 42 USC 5301 et seq  
.....500,000”;

and, in section 2D, in item 7004-3037, by adding the following words:— “; provided further, that pursuant to item 7004-2027, in section 2, not less than \$500,000 shall be expended for the Community Enterprise and Economic Development Program”.

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill in section 2, by inserting after item 7004-0099, the following item:—

“7004-2027 For community economic development; provided, that grants shall be awarded to not-for-profit community-based organizations, including the Twin Cities Community Development Corporation and the Greater Gardner Community Development Corporation 100,000”.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 2, in item 7004-3036, by striking out, in line 8, the words “that funds may be expended West Broadway Task Force” and inserting in place thereof the following words:— “that not less than \$95,000 may be expended for the West Broadway Task Force”.

The amendment was *rejected*.

Ms. Chandler moved to amend the bill in section 2, in item 7004-3036, by inserting after the word “services;”, in line 9, the following words:— “provided further, that \$80,925 shall be expended for the Central Massachusetts Housing Alliance;”.

After remarks, the amendment was adopted.

Ms. Chandler moved to amend the bill in section 2, in item 7004-9315, by striking out the figure “\$1,379,876” and inserting in place thereof the following figure:— “\$1,500,000”; and in item 7004-0099, by striking out the figure “\$6,033,644” and inserting in place thereof the following figure:— “\$5,913,520”.

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 2, by striking out item 7006-0068 and inserting in place thereof the following item:—

“7006-0068

The division of standards may expend an amount not to exceed \$250,000 from revenue received from license fees assessed to owners of motor vehicle repair shops .....250,000”.

After debate, the amendment was adopted.

Mr. Havern moved to amend the bill in section 2, in item 7007-0300, by adding the following words:— “; and provided further, that a grant of not less than \$50,000 be provided to the McCormack Institute for research in the current economic competitiveness of Massachusetts to other New England States; but, notwithstanding any general or special law to the contrary, the Institute shall report the results of its research to the house and senate ways and means committees, subject to its policies”.

The amendment was *rejected*.

Messrs. Lees and Knapik and Mrs. Sprague moved to amend the bill in section 2, in item 7007-0300, by adding the following words:— “; provided further, that not more than 10 per cent of the funds appropriated in this item for each regional planning commission shall be used for administrative costs”.

After remarks, the amendment was adopted.

Messrs. Lees and Knapik moved to amend the bill in section 2, in item 7007-0950, by adding the following words:— “; and provided further, that the Massachusetts office of travel and tourism shall assume the ownership, control and administrative functions of the Springfield Visitors Information Center”.

After remarks, the amendment was *rejected*.

Ms. Menard moved to amend the bill in section 2, in item 7007-0950, by striking out, in lines 2 and 3, the words “that such organizations shall not expend more than 20 percent of any grant for the cost of administration services; provided further;”.

After remarks, the amendment was adopted.

Messrs. Barrios and Tisei and Ms. Wilkerson moved to amend the bill in section 2, in item 7007-0950, in line 11, by inserting after the word “Stage” the following words:— “provided further, that not less than \$100,000 shall be expended as a grant to the Metropolitan Area Planning Council for the administration of the Metropolitan Mayors Coalition;”.

The amendment was *rejected*.

Messrs. McGee and Tarr moved to amend the bill in section 2, in item 4401-1000, by inserting after the words “structured subsidized employment services;” the following words:— “provided further, that not less than \$6,000,000 shall be expended to provide substantive, pre-employment skills training to recipients of transitional aid to families with dependent children, including training that integrates basic education and English as a second language instruction;”.

The amendment was *rejected*.

Mr. McGee and Ms. Chandler moved to amend the bill in section 2, in item 4401-1000, by inserting after the word “further;” in line 6, the following words:— “not less than \$3,000,000 shall be expended for the young parents program; provided further;” and by striking out, in line 9, the words:— “the young parents program”.

The amendment was *rejected*.

Ms. Jacques, Messrs. Barrios and Shannon and Ms. Creem moved to amend the bill in section 2, in item 7010-0005, by adding the following words:— “; provided further, that the department of education, in collaboration with the Governor’s Commission on Gay and Lesbian Youth, implement the board of education’s recommendations on the support and safety of gay and lesbian students”.

After remarks, the amendment was adopted.

Ms. Fargo moved to amend the bill in section 2, in item 7010-0012, by striking out the figure “\$13,615,313” and inserting in place thereof the following figure:— “\$15,128,126”; and in item 7010-0017, by striking out the figure “\$2,301,790” and inserting in place thereof the following figure:— “\$788,977”.

The amendment was *rejected*.

Ms. Creem, Ms. Jacques and Ms. Fargo moved to amend the bill in section 2, in item 7010-0012, by striking out the figure “\$13,615,313” and inserting in place thereof the following figure:— “\$15,128,126”; and, in item 0640-0010, by striking out the figure “\$5,000,000” and inserting in place thereof the following figure:— “\$3,487,187”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, by striking out item 7010-0012.

After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr and Knapik moved to amend the bill in section 2, by striking out item 7010-0012 and inserting in place thereof the following item:—

“7010-0012

For the establishment and operation of a public school voucher program to allow students in the Springfield and Boston Public School Systems the option of attending any public or charter school in the commonwealth

.....13,615,313”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes past four o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 32) [**Yeas and Nays No. 26**]:

**YEAS.**

|                    |                               |
|--------------------|-------------------------------|
| Hedlund, Robert L. | Sprague, Jo Ann               |
| Knapik, Michael R. | Tarr, Bruce E.                |
| Lees, Brian P.     | Tisei, Richard R. — <b>6.</b> |

**NAYS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O’Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |

|                     |                            |
|---------------------|----------------------------|
| Glodis, Guy W.      | Panagiotakos, Steven<br>C. |
| Hart, John A., Jr.  | Resor, Pamela              |
| Havern, Robert A.   | Rosenberg, Stanley C.      |
| Jacques, Cheryl A.  | Shannon, Charles E.        |
| Joyce, Brian A.     | Tolman, Steven A.          |
| Magnani, David P.   | Tucker, Susan C.           |
| McGee, Thomas M.    | Walsh, Marian              |
| Melconian, Linda J. | Wilkerson, Dianne —<br>32. |

**ABSENT OR NOT VOTING.**

Fargo, Susan C. — 1.

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

Mr. Antonioni moved to amend the bill in section 2, in item 7027-0020, by striking out the figure "\$225,000" and inserting in place thereof the following figure:— "\$325,000"; and by striking out the figure "\$500,000" and inserting in place thereof the following figure:— "\$600,000".

The amendment was *rejected*.

Ms. Resor and Mr. McGee moved to amend the bill in section 2, in item 7030-1000 by inserting after the words "chapter 15;" in line 9, the following words:— "provided further, that the amount by which the funds appropriated in this item exceed the amount appropriated in item 7030-1000 of chapter 60 of the acts of 1994 shall be used to provide services to the children of working parents;".

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 7030-1002, by adding the following words:— "provided further, that preference shall be given to all grant applicants providing full day English-immersion kindergarten for English language learners".

The amendment was *rejected*.

Mr. Baddour moved to amend the bill in section 2, in item 4512-0200, by striking out the words "provided further, that \$603,000 may be expended for the Link House, Inc. for purposes of establishing half way services for women in recovery from substance abuse in the town of Salisbury" and inserting in place thereof the following words:— "provided further, that not less than \$603,000 shall be expended for the Link House, Inc. in the town of Salisbury for the purposes of establishing halfway services and or transitional housing for women in recovery from substance abuse in the town of Salisbury".

After remarks, the amendment was adopted.

Mr. Nuciforo moved to amend the bill in section 2, in item 7052-0005, by striking out the figure "\$379,358,606" and inserting in place thereof the following figure:— "\$383,190,606"; in item 0610-0050 by striking out the figure "\$1,766,478" and inserting in place thereof the following figure:— "\$766,478"; in item 0640-0010, by striking out the figure "\$5,000,000" and inserting in place thereof the following figure:— "\$4,000,000"; in item 8100-0000, by striking out the figure "\$196,454,966" and inserting in place thereof the following figure:— "\$195,454,966"; and in section 2B, in item 1790-0200, by striking out the figure "\$27,047,810" and inserting in place thereof the following figure:— "\$26,047,810".

The amendment was *rejected*.

Messrs. Lees, Tisei, Hedlund and Mrs. Sprague moved to amend the bill in section 2, in item 7061-0008, by adding the following words:— "; and provided further, that any school district that grants diplomas to students failing to meet the competency determination as condition for high school graduation, defined in part (i) of section 1D of Chapter 71 of the acts of 1993, and determined by the passing score on the tenth grade English Language Arts and Mathematics Massachusetts Comprehensive Assessment System exams, shall be excluded from receiving any funds appropriated in this item".

After remarks, the amendment was *rejected*.

Mr. Antonioni moved to amend the bill in section 2, in item 7061-0011, by striking out the figure “\$7,000,000” and inserting in place thereof the following figure:— “\$3,500,000”; and by striking out item 7061-9640 and inserting in place thereof the following item:—

“7061-9640 For programs to improve the quality of teaching and leadership in schools; for purposes of providing a Massachusetts master teacher corps who shall serve to mentor beginning teachers and further the goals of the education reform act, so-called; provided further, that the department may select master teachers who achieve master teacher status through certification from the National Board for Professional Teaching Standards or other alternatives to the NBPTS program provided such alternatives maintain equivalent or higher standards of excellence in teaching; provided further, that the department provide master teachers with ongoing salary bonuses of no more than \$5,000 per year; provided further, that the department establish a low cost district-based certification path for beginning teachers who are mentored by recognized teachers of high achievement in the profession; provided further, that the department may expend not more than \$800,000 to provide continuing signing bonus recipients annual payments for the purpose stated in section 19B of chapter 15A of the General Laws, provided further, that there shall be a principal and superintendent recruitment program for recruiting and training as principals and superintendents in public schools individuals from other professions who have the skills, experience and talent to be outstanding school principals and superintendents, but who do not meet the existing statutory and regulatory requirements to serve as principals and superintendents; and provided further, the program shall include innovative methods for recruiting candidates and providing the necessary training and support 4,500,000”.

The amendment was *rejected*.

Mr. O’Leary moved to amend the bill in section 2, in item 7061-0011, by striking out the figure “\$7,000,000” and inserting in place thereof the following figure:— “\$4,000,000”; in item 1231-2000, by striking out the figure “\$40,000,000” and inserting in place thereof the following figure:— “\$20,000,000”; and by inserting after item 7061-0029 the following item:—

“7061-9010  
For fiscal year 2004 reimbursements to certain cities, towns and regional school districts under section 89 of chapter 71 of the General Laws .....23,000,000”.

After remarks, the amendment was *rejected*.

At twenty minutes before five o’clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Ms. Melconian) declared a recess; and at seven minutes before five o’clock P.M., the Senate reassembled. Ms. Melconian in the Chair.

#### *Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Ms. Resor and Ms. Creem moved to amend the bill in section 2, in item 7061-0012, by striking out the figure “\$115,100,262” and inserting in place thereof the following figure:— “\$129,564,647”; and, in item 7061-9404, by striking out the figure “\$45,000,000” and inserting in place thereof the following figure:— “\$30,535,615”.

The amendment was *rejected*.

Mr. Magnani moved to amend the bill in section 2, by inserting after item 7061-0029 the following item:—

“7061-9010  
For fiscal year 2003 reimbursements to certain cities, towns and regional school districts pursuant to section 89 of chapter 71 of the General Laws 23,244,488”;

in item 8900-0001 by striking out the figure “\$427,505,435” and inserting in place thereof the following figure:— “\$413,558,743”; in item 8910-0000 by striking out the figure “\$126,818,218” and inserting in place thereof the following figure:— “\$117,520,423”; and by inserting after section 580 the following section:—

“SECTION 580A. When assigning sentences to non-violent offenders where a mandatory minimum sentence applies, a judge may, in his discretion require that 50 per cent of the sentence be served through electronic monitoring. Offenders incarcerated for non-violent crimes who have already served at least 50 per cent of a mandatory minimum sentence may appeal to the sentencing judge to serve the remainder of their sentence through the electronic monitoring system.”

After remarks, the amendment was *rejected*.

Mr. Barrios and Ms. Wilkerson moved to amend the bill by inserting after section 453 the following section:—

“SECTION 453A. Notwithstanding any general or special law to the contrary, in the event that the Massachusetts bay transportation authority increases fares and in no event later than 24 months after the effective date of this act, the authority shall adopt a fare policy under paragraph (r) of section 5 of chapter 161A of the General Laws which includes the following:

(a) a fare pricing policy that shall consider, among other factors, distance traveled and discount pricing for passengers traveling during off peak hours;

(b) a plan to narrow the difference in per-rider subsidy between the commuter rail, subway and bus riders; and

(c) a plan for discounted fares for subway-to-bus transfers, and bus-to-subway transfers.”; and by inserting after section 580KK the following section:—

“SECTION 580LL. Notwithstanding any general or special law to the contrary, no fare increase shall be implemented by the Massachusetts Bay Transportation Authority under the second paragraph of section 11 of chapter 161A of the General Laws until the board of directors of the authority implement the following quality service improvements:

(a) placement of a purchase order for not less than 550 new clean-fuel buses which shall be utilized for the replacement of buses currently in service on routes in transit-dependent urban communities. Upon implementation of this provision, no bus operated by said authority shall be manufactured prior to nineteen hundred and ninety-four. The authority shall make every effort to maintain the average age of buses in service of not more than 6 years in age.

(b) extension of the time for use of said authority’s student passes from 8 p.m. to 10 p.m.”

After remarks, the amendment was adopted.

Messrs. Barrios and McGee moved to amend the bill in section 2, in item 7061-9200, by adding the following words:— “; provided, that not less than \$270,000 shall be made available to fund the third year of a 4 year state-wide music education project that uses technology to promote the beneficial effect of role modeling on young people ages 8 to 18. The project should have varied components including radio broadcasts available on line, and classroom projects involving young musicians, with the emphasis on dissemination of information via the Internet”.

The amendment was *rejected*.

Ms. Creem moved to amend the bill in section 2, by striking out item 7061-9400 and inserting in place thereof the following item:—

“7061-9400 To develop authentic student and school assessments in order to replace the current Massachusetts Comprehensive Assessment System as required by Section 11 of Chapter 69 of the General Laws, the assessment system to be developed shall employ a variety of assessment instruments on either a comprehensive or statistically valid sampling basis. As much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration of work samples, projects and portfolios, and shall facilitate authentic and direct gauges of student performance. Notwithstanding any other general or special law to the contrary, there shall be no administration of any MCAS tests during the school year 2003-2004 1,000,000”;

in item 7030-1000 by striking out the figure “74,604,130” and inserting in place thereof the figure “84,104,130”; in item 7061-0012 by striking out the figure “\$115,100,262” and inserting in place thereof the figure “124,600,262”; and by inserting after section 232, the following section:—

“SECTION 232A. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by adding after the word ‘graduation,’ in line 59, the following words:— ‘; provided however, that the Massachusetts Comprehensive Assessment System test, or other standardized test, shall not be a component of the competency determination for the high school graduating classes of the years 2003 and 2004’.”

The amendment was *rejected*.

Ms. Resor and Mr. Magnani moved to amend the bill in section 2, in item 7061-9404, by striking out, in lines 29 to 32, inclusive, the words “provided further, that cities and towns shall make every effort to coordinate the delivery of academic support services and out-of-school time programming in school and community-based locations so that students identified for academic support services do not jeopardize their participation in other out-of-school time programming;” and inserting in place thereof the following words:— “provided further, that not less than \$3,500,000 shall be expended for comprehensive after-school programs

with a structured academic component as approved by the board of education and the cities and towns shall make every effort to coordinate the delivery of academic support services and out-of-school time programming in school and community-based locations so that students identified for academic support services do not jeopardize their participation in other out-of-school time programming;”.

After debate, the amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 0337-9000, by striking out the figure “\$28,797,274” and inserting in place thereof the following figure:— “\$28,894,276”.

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill in section 2, in item 7061-9404, by inserting after the word “exam;”, in line 3, the following words:— “provided, that the department and districts shall ensure that services are available to students with disabilities;” and by inserting after the words “districts shall develop”, in line 38, the following words:— “a plan to include all student populations, including, but not limited to, students with disabilities and a”.

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 2, in item 7061-9626, by inserting after the words “New Bedford”, in line 3, the following word:— “Quincy;”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 7061-9634, by striking out the words “provided further, that the matching amount shall be from a source other than state funds;”.

After remarks, the amendment was adopted.

Mr. Pacheco moved to amend the bill in item 7066-0000 by inserting after the words “(3) the funding sources used to fund these projects;”, in lines 7 and 8, the following words:— “provided further, that the board shall make a report to the general court relative to the annual cost of maintaining the electronic equipment and systems of institutions of public higher education and identify means to reduce such costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further, in preparing said report the board may utilize the services of appropriate third parties knowledgeable in equipment maintenance service contracts; provided further, that the board shall file the report with the house and senate committees on ways and means within 90 days of the effective date of this act”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 7066-0000, by striking out the figure “\$1,950,914” and inserting in place thereof the following figure:— “\$2,175,414”; and in item 4130-1000, by striking out the figure “\$12,975,179” and inserting in place thereof the following figure:— “\$12,750,179”.

The amendment was *rejected*.

Messrs. Nuciforo and Knapik moved to amend the bill in section 2, by inserting after item 7070-0065, the following item:—

“7077-0010

For the purchase of scientific, technological, and other educational reference materials for the libraries of the system of public higher education institutions; provided, that the funds in this item shall be distributed to campuses in the same formulaic manner as in chapter 127 of the acts of 1999 .....300,000”;

and in item 1790-0100, by striking out the figure “\$6,165,824” and inserting in place thereof the following figure:— “\$5,865,824”.

The amendment was *rejected*.

Ms. Chandler moved to amend the bill in section 2, by inserting after item 7512-0100 the following item:—

“7512-0101

For the operation of the new library at Quinsigamond Community College  
.....500,000”;

and in section 493 by adding after the word “probation.”, in line 11, the following sentence:— “Persons placed on probation by another state and supervised by the Massachusetts Probation service shall be required to pay the probation fee described herein.”

The amendment was *rejected*.

Messrs. Moore and Knapik moved to amend the bill in section 2, in item 8000-0010, by adding the following words:— “and provided further, that \$99,999 shall be expended for the neighborhood Crime Watch Program”.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 2, in item 8000-0010, by inserting after the words “fiscal year 2004”, in line 6, the following words:— “; provided further, that \$332,500 of the grants award to Boston shall be provided for community policing in the Bowdoin Street, Geneva Avenue and Uphams corner sections of Dorchester”.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 2, in item 8000-0010, by inserting after the words “fiscal year 2004”, in line 4, the following words:— “; provided further, that \$250,000 of the Boston award shall be provided for the community safety activities and for community policing in the Grove Hall section of Roxbury/North Dorchester in the city of Boston”.

The amendment was *rejected*.

Mr. Nuciforo moved to amend the bill in section 2, in item 8000-0010, by inserting after the words “that any community that was approved for a competitive grant in fiscal year 2003 and did not receive any funding shall take first priority in receiving consideration for competitive grants in fiscal year 2004;” the following words:— “provided further, that not less than \$40,000 shall be expended for Community Policing in the town of Lenox”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in item 8000-0010, by adding the following words:— “provided further, that not less than \$25,000 shall be provided for community policing in the city of Swampscott”.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill in item 8000-0010, by adding the following words:— “; provided further, that the towns of Boxford, Essex, Georgetown, Groveland, Hamilton, Ipswich, Manchester-by-the-Sea, Middleton, Newbury, North Andover, North Reading, Rockport, Rowley, Wenham, West Newbury, Wilmington and the City of Gloucester shall receive not less than \$40,000 from this item”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 8000-0110, by striking out the figure “\$5,303,362” and inserting in place thereof the following figure:— “\$5,603,362”; and in item 7061-0011, by striking out the figure “\$7,000,000” and inserting in place thereof the following figure:— “\$6,700,000”.

After remarks, the amendment was *rejected*.

Mr. Shannon moved to amend the bill in section 2, in item 8100-0000, by adding the following words:— “of which \$100,000 of the \$365,000 previously earmarked in chapter 184 of the acts of 2002 for the Zero Tolerance Program shall be expended for patrolling the area of the Mystic River Reservation that lies between Sandy Beach in Winchester and Dugger park in West Medford commonly known as Whiskey Flats”.

After remarks, the amendment was adopted.

Mr. Baddour moved to amend the bill in section 2, in item 8100-0000, by striking out, in line 26, the words “any community receiving earmarked funds in fiscal year 2003” and inserting in place thereof the following words:— “any community that was selected to receive earmarked funds in fiscal year 2003”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 8100-0000, by adding the following words:— “; and provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the criminal justice training council, so-called, and the criminal history systems board”; and in item 8900-0001, by adding the following words:— “; and provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal,

human resources, payroll and other administrative services of the military division, the Massachusetts parole board and the sex offender registry board”.

The President in the Chair, after remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at thirteen minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0) [**Yeas and Nays No. 27**]:

**YEAS.**

|                       |                          |
|-----------------------|--------------------------|
| Antonioni, Robert A.  | Chandler, Harriette L.   |
| Baddour, Steven A.    | Creedon, Robert S., Jr.  |
| Berry, Frederick E.   | Creem, Cynthia Stone     |
| Brewer, Stephen M.    | Glodis, Guy W.           |
| Havern, Robert A.     | Hart, John A., Jr.       |
| Hedlund, Robert L.    | Nuciforo, Andrea F., Jr. |
| Jacques, Cheryl A.    | O'Leary, Robert A.       |
| Joyce, Brian A.       | Pacheco, Marc R.         |
| Knapik, Michael R.    | Panagiotakos, Steven C.  |
| Lees, Brian P.        | Resor, Pamela            |
| Magnani, David P.     | Rosenberg, Stanley C.    |
| McGee, Thomas M.      | Shannon, Charles E.      |
| Melconian, Linda J.   | Sprague, Jo Ann          |
| Menard, Joan M.       | Tarr, Bruce E.           |
| Montigny, Mark C.     | Tisei, Richard R.        |
| Moore, Richard T.     | Tucker, Susan C.         |
| Morrissey, Michael W. | Walsh, Marian            |
| Murray, Therese       | Wilkerson, Dianne —      |

**36.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

|                     |                   |
|---------------------|-------------------|
| Barrios, Jarrett T. | Tolman, Steven A. |
| Fargo, Susan C — 3. |                   |

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

Ms. Menard, Messrs. Tarr, Barrios and Lees, Ms. Jacques, Messrs. Brewer, Baddour, Joyce, Morrissey and Hedlund, Mrs. Sprague and Messrs. Knapik and Tisei moved to amend the bill in section 2, in item 8200-0200, in line 2, by striking out the word “more” and inserting in place thereof the following word:— “less”.

The amendment was adopted.

Mr. Morrissey moved to amend the bill in item 8315-1000, by striking out, in line 6, the figure “2” and inserting in place thereof the following figure:— “10”; and by striking out the figure “\$3,459,912” and inserting in place thereof the following figure:— “\$4,759,912”; and by striking out item 8315-1020.

The amendment was adopted.

Mr. Pacheco moved to amend the bill in section 2, in item 8400-0001, by striking out, in lines 18 and 19, the words “may operate an office in the city of Taunton which shall handle license business, learner’s permits, road testing and full service registration business to the general public,” and inserting in place thereof the following words:— “shall operate an office in the city of Taunton and the town of Plymouth which shall handle license business, learner’s permits, road testing and full service registration business to the general public”.

The amendment was adopted.

Messrs. Lees and Tarr, Mrs. Sprague and Messrs. Hedlund and Tisei moved to amend the bill in section 2, by striking out item 8400-0222 and inserting in place thereof the following item:—

“8400-0222

Notwithstanding any general or special law to the contrary, the registry of motor vehicles shall retain up to \$3,500,000 of the renewal fees for the purpose of maintaining registry services; and provided, that the registry shall deposit these funds into a retained revenue account for the purposes of expending these funds; provided further, that retention of these funds shall not expire before June 30, 2004 .....3,500,000.”

The question on adoption of the amendment was determined by a call of the yeas and nays, at six minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0) [**Yeas and Nays No. 28**]:

**YEAS.**

|                       |                          |
|-----------------------|--------------------------|
| Antonioni, Robert A.  | Chandler, Harriette L.   |
| Baddour, Steven A.    | Creedon, Robert S., Jr.  |
| Berry, Frederick E.   | Creem, Cynthia Stone     |
| Brewer, Stephen M.    | Glodis, Guy W.           |
| Havern, Robert A.     | Hart, John A., Jr.       |
| Hedlund, Robert L.    | Nuciforo, Andrea F., Jr. |
| Jacques, Cheryl A.    | O'Leary, Robert A.       |
| Joyce, Brian A.       | Pacheco, Marc R.         |
| Knapik, Michael R.    | Panagiotakos, Steven C.  |
| Lees, Brian P.        | Resor, Pamela            |
| Magnani, David P.     | Rosenberg, Stanley C.    |
| McGee, Thomas M.      | Shannon, Charles E.      |
| Melconian, Linda J.   | Sprague, Jo Ann          |
| Menard, Joan M.       | Tarr, Bruce E.           |
| Montigny, Mark C.     | Tisei, Richard R.        |
| Moore, Richard T.     | Tucker, Susan C.         |
| Morrissey, Michael W. | Walsh, Marian            |
| Murray, Therese       | Wilkerson, Dianne —      |

**36.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

|                     |                   |
|---------------------|-------------------|
| Barrios, Jarrett T. | Tolman, Steven A. |
| Fargo, Susan C — 3. |                   |

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

Mr. Morrissey moved to amend the bill in section 2, in item 8900-0001, by adding the following words:— “; and provided further, that if the department shall lay off employees within the Bargaining Unit Four due to reduction in force, the Unit Four employees shall be re-hired before the hiring of any new Unit Four employees by the department”.

After remarks, the amendment was adopted.

Mr. Rosenberg moved to amend the bill in section 2, in item 8910-0000, by inserting after the first proviso the following proviso:— “; provided further, that the office of the sheriff of the former Hampshire county shall be eligible for funds to be used exclusively for the purposes of paying FY04 lease obligations on the modular units”.

The amendment was *rejected*.

Mr. Nuciforo moved to amend the bill in section 2, in item 8910-0145, by striking out the figure “\$11,564,894” and inserting in place thereof the following figure:— “\$12,652,565”; and in section 2B, in item 1790-0200, by striking out the figure “\$27,047,810” and inserting in place thereof the following figure:— “\$25,960,139”.

The amendment was *rejected*.

Messrs. Baddour and Berry, Ms. Tucker and Mr. Tarr moved to amend the bill in section 2, in item 8910-0619, by striking out the figure “\$39,014,292” and inserting in place thereof the following figure:— “\$39,114,291”.

After debate, the amendment was adopted.

Messrs. Glodis, Hart, Shannon, Baddour and Lees moved to amend the bill by striking out section 208 and inserting in place thereof the following section:—

“SECTION 208. Chapter 41 of the General Laws, as so appearing, is hereby amended by striking out section 108L and inserting in place thereof the following section:—

Section 108L. There is hereby established a career incentive pay program offering base salary increases to regular full-time members of the various city and town police departments, uniformed members of the department of state police appointed under section 10 of chapter 22C of the General Laws and state police detectives appointed under said section 10, as a reward for furthering their education in the field of criminal justice.

Only graduates of criminal justice or law enforcement programs that meet or exceed the guidelines for criminal justice and law enforcement programs as set forth by the board of higher education shall be eligible for the police career incentive pay program. Any degree programs pursued for police career incentive pay increases shall require the submission of a letter of intent to the chancellor of the board of higher education to seek approval as a police career incentive pay program. The president of a New England association of schools and colleges-accredited institution or a board of higher education-approved institution with an approved criminal justice or law enforcement program shall submit a letter of intent to the chancellor of the board of higher education indicating the institution’s intent to seek approval of a criminal justice degree program during the first year of the implementation of the guidelines. The letter of intent shall include a statement of commitment to implement guidelines for criminal justice and law enforcement programs.

Any application to seek approval as a police career incentive pay program participating institution shall include the following: (1) a profile of the program, (2) a self-assessment of the program, and (3) an application fee to cover the evaluation costs of the review process.

Each institution shall pay an evaluation fee to the board of higher education’s police career incentive pay program quality assurance trust fund to cover the costs of review of a program. In addition to the fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If the committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees will be determined by the total number of degrees awarded to all students enrolled in the criminal justice and law enforcement program being reviewed based on an average of the 3 years immediately before the submission of the application. Fees shall be set in the following manner: \$1000 for a degree program with an average enrollment of not more than 20 students per year, \$1500 for a degree program with an average enrollment between 20 and 50 students per year, \$2000 for a degree program with an average enrollment between 51 and 100 students per year, \$2500 for a degree program with an average enrollment between 101 and 150 students per year, \$3000 for a degree program with an average enrollment between 151 and 200 students per year, and \$3500 for a degree program with an average enrollment above 200 students per year.

Once an application is submitted, the following timetable shall apply: (1) not more than 30 business days after application submission, the board of higher education shall determine whether or not the application is complete and notify the institution; (2) not more than 30 business days after notification, the board of higher education shall appoint an external evaluation committee in accordance with the guidelines for criminal justice and law enforcement academic programs, set forth by the board; (3) not more than 30 business days after committee appointment, said committee shall submit a report to the board of higher education staff; (4) not more than 30 business days after receipt of the report by the board of higher education, the committee’s final report shall be sent to the institution for a response; and (5) not more than 30 days after receiving the institution’s response, the staff of the board of higher education shall evaluate materials submitted by the institution, the committee’s written report, the written response by the institution and any additional information submitted by the institution, and based on its review, the board staff shall make a recommendation to the board for deferral, approval or disapproval. If the board recommends disapproval, the board shall provide a statement of reasons for the decision.

Programs approved by the board of higher education shall be included on an approved program list for 5 years. The institutions shall annually submit a status report on their approved programs to the board. Programs receiving deferrals from the board shall be notified of specific conditions that must be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least 1 calendar year following the board’s determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in conjunction with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) The committee shall review the materials submitted by the program, shall, under most circumstances, visit the institution and shall

submit a report to the board containing recommendations regarding the program's request for approval. (2) The number of reviewers on the committee shall be determined by size, number and level of program being reviewed and shall in no instance include fewer than 2 academicians. (3) To be eligible to serve as an evaluator, individuals shall have earned at least a master's degree in criminal justice or a closely related discipline. Academic team members shall have professional experience in college-level teaching, research, administration or other relevant activities with institutions of higher education. Practitioners shall have at least 5 years of full-time supervisory and/or administrative experience as criminal justice practitioners, as well as specific knowledge of, or experience in, criminal justice education. (4) No person shall serve as an evaluator who is employed by an institution deemed by the board to be in direct competition with the institution under review. (5) No person shall serve as an evaluator who has a present official or unofficial connection with the institution under review or has had such a connection within the previous 4 years, or who the board has reason to believe has an independent or pecuniary interest in the outcome of the board's final action. External evaluators shall have a disinterested professional commitment to the task of rendering objective findings and recommendations based upon empirical evidence and informed judgments. (6) Each committee shall have a chair who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing the committee's report with the other committee members. (7) The committee shall submit a written report, including recommendations to the board. Board staff shall forward a copy of the report to the institution to correct factual errors and respond to the content and recommendations within said report. (8) Evaluators will be given an honorarium by the board of higher education in addition to the evaluation fee and the evaluators' expenses. (9) Evaluators will be provided an orientation prior to conducting reviews.

Annually, each approved institution shall submit two copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement program(s). This report shall certify that the criminal justice program is being maintained and operated in accordance with the provisions and guidelines set forth by the board of higher education for criminal justice and law enforcement programs. If, at any time, in the judgment of the board staff, there is a reasonable probability of non-compliance with the board's guidelines by a particular institution, the board may review said institution to determine if continued approval of said institution is proper.

An institution that objects to an adverse decision may appeal the board's determination. Said appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel will be received by the board.

With the implementation of the guidelines for criminal justice and law enforcement programs, as approved by the board of higher education, said board shall certify career incentive pay increases only for graduates of New England Association of School and Colleges-accredited or board-approved law schools who have passed the Massachusetts bar examination.

Career incentive bonuses authorized by this section for degrees attained from programs approved by the board of higher education shall be granted annually in the following manner: \$6,000 for an associate's degree; \$7,500 for a baccalaureate degree; and \$8,500 for a master's degree or a law degree.

Any city or town which accepts this section and provides annual career incentive bonus payments for police officers shall be reimbursed by the commonwealth for one-half the cost of such payments upon certification by the board of higher education. A city or town which accepts the provisions of this section after August 1, 2002, however, and provides annual career incentive bonus payments for police officers, shall not be reimbursed by the commonwealth for the Commonwealth's share of those payments for any fiscal year before 2006. The board of higher education shall certify the amount of such reimbursement to be paid to such city or town police department of similar rank. Said information shall be filed with said board on or before September first of each year, on a form furnished by said board. The board of higher education shall also certify the amount of annual career incentive bonus payments to be allocated to the members of the department of state police appointed under section 10 of chapter 22C from information filed with said board on or before September first of each year by the colonel of state police. This information shall be filed on a form to be furnished by the board of higher education.

Notwithstanding any provision of this section to the contrary, police officers and members of the department of state police appointed under section 10 of chapter 22C of the General Laws and state police detectives appointed under said section 10, who have attained their degree pursuant to this section before January 1, 2004, irrespective of the date of certification of their eligibility for annual career incentive bonus payments under this section by the board of higher education and including those who transfer to any other city or town that has accepted this section, shall upon certification be paid career incentive bonuses pursuant to the provisions of this section in effect before January 1, 2004."

The amendment was adopted.

Mr. McGee moved to amend the bill by inserting after section 599A the following section:—

"SECTION 599B. There shall be a special commission for the purpose of making an investigation and study of the subject matter of Section 208 entitled 'Quinn Bill Reform.' The commission shall consist of the house chair and the senate chair of the joint committee on public safety, 2 members of the joint committee on public service, 2 members of the joint committee on education,

1 member of the senate committee on ways and means, and 1 member of the house committee on ways and means. The special commission shall investigate and study: i) the financial impact of Quinn Bill reform upon the cities and towns; ii) the impact of collective bargaining agreements upon the Quinn Bill reform, including compiling an inventory of collective bargaining agreements; iii) the impact on the program of the changes in rules for educational institutions initiated by the board of higher education; and iv) the impact of Quinn Bill reform upon minority police officers. The resources and assistance of the following commonwealth departments shall be made available to the commission to assist in conducting its investigation and study: i) the department of revenue, department of local mandates; ii) the joint labor management committee; iii) the board of higher education; and iv) the commission against discrimination. The special commission shall complete its investigation and study by October 31, 2003.”

The amendment was adopted.

Mr. McGee moved to amend the bill in section 208, by inserting after the words “January 1, 2004”, in the last sentence, the following words:— “, including those who transfer to any other police department that has adopted the provisions of this section.”.

The amendment was *rejected*.

Mr. Hedlund and Ms. Chandler moved to amend the bill by striking out section 208 and inserting in place thereof the following section:—

“SECTION 208. Section 108L of Chapter 41 of the General Laws, as most recently amended by section 48 of chapter 184 of the acts of 2002, is hereby further amended by adding the following 9 paragraphs:—

Only graduates of criminal justice or law enforcement programs that meet the guidelines for criminal justice and law enforcement programs as set forth by the board of higher education shall be eligible for the police career incentive pay program. Any degree programs pursued for police career incentive pay increases shall be required to submit a letter of intent annually to the chancellor of higher education to seek approval as a police career incentive pay program. The president of a New England Association of Schools and Colleges-accredited institution or board of higher education-approved institution with an approved criminal justice or law enforcement program shall submit a letter of intent to the chancellor of higher education indicating the institution’s intent to seek approval of its criminal justice degree program during the first year of the implementation of the guidelines. The letter of intent shall include a statement of commitment to implement guidelines for criminal justice and law enforcement programs for all students enrolling in a criminal justice or law enforcement program.

Any application to seek approval as a police career incentive pay program participating institution shall include the following: (1) a profile of the program; (2) a self-assessment of the program; and (3) an application fee to cover the evaluation costs of the review process.

Each institution shall pay an evaluation fee to the board of higher education’s police career incentive pay program quality assurance trust fund to cover the costs of review of its program. In addition to the fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If the committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees shall be determined by the total number of degrees awarded to all students enrolled in the criminal justice or law enforcement program being reviewed based on an average of the 3 years immediately prior to the submission of the application. Fees shall be set in the following manner: \$1,000 for a degree program with an average enrollment of not more than 20 students per year; \$1,500 for a degree program with an average enrollment between 20 and 50 students per year; \$2,000 for a degree program with an average enrollment between 51 and 100 students per year; \$2,500 for a degree program with an average enrollment between 101 and 150 students per year, \$3,000 for a degree program with an average enrollment between 151 and 200 students per year; and \$3,500 for a degree program with an average enrollment above 200 students per year.

Once an application is submitted, the following timetable shall apply: (1) not more than 30 business days after application submission, the board of higher education shall determine whether or not the application is complete and notify the institution; (2) not more than 30 business days after notification, the board of higher education shall appoint an external evaluation committee in accordance with the guidelines for criminal justice and law enforcement academic programs as set forth by said board; (3) not more than 30 business days after committee appointment, the committee shall submit a report to the board of higher education staff; (4) not more than 30 business days after receipt of the report by the board of higher education, the committee’s final report shall be sent to the institution with a response; (5) not more than 30 days after receiving the institution’s response, the staff of the board of higher education shall evaluate materials submitted by the institution, the committee’s written report, the written response by the institution and any additional information submitted by the institution and, based on its review, the board staff shall make a recommendation to the board for deferral, approval or disapproval. If the board finds a determination of disapproval, the board shall provide a statement of reason for the decision.

Programs approved by the board of higher education shall be included on an approved program list for 5 years. The institutions shall annually submit a status report on its approved programs to the board. Programs receiving deferrals from the board shall receive specific conditions that shall be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least 1 calendar year following the board's determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in conjunction with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) the committee shall review the materials submitted by the program, shall, under most circumstances, visit the institution and shall submit a report to the board containing recommendations regarding the programs request for approval; (2) the number of reviews on the committee shall be determined by size, number and level of programs being reviewed and shall have not less than 2 academicians; (3) to be eligible to serve as an evaluator, an individual shall have earned at least a master's degree in criminal justice or a closely related discipline. Academic team members shall have professional experience in college-level teaching, research, administration or other relevant activities with institutions of higher education. Practitioners shall have at least 5 years of full-time supervisory or administrative experience as a criminal justice practitioner, as well as specific knowledge of or experience in criminal justice education; (4) no person shall serve as an evaluator who is employed by an institution deemed by the board to be in direct competition with the institution under review; (5) no person shall serve as an evaluator who has a present or recent official or unofficial connection with the institution under review, or who the board has reason to believe has independent or pecuniary interest in the outcome of the boards final action; provided, however, that external evaluators shall have a disinterested professional commitment to the task of rendering objective finding and recommendations based upon empirical evidence and informed judgments; (6) each committee shall have a chair who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing with other committee members the committee's report; (7) the committee shall submit a written report, including recommendations, to the board; provided, however, that board staff shall forward a copy of said report to the institution to correct factual errors and respond to the content and recommendations within the report; (8) evaluators shall be given an honorarium by the board of higher education and all expenses shall be paid by the institution under review; and (9) evaluators shall be provided an orientation prior to conducting reviews.

Annually, each approved institution shall submit 2 copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement programs. This report shall certify that the criminal justice program is being maintained and operated within the guidelines set forth by the board of higher education for criminal justice and law enforcement programs. If, at any time, in the judgment of the board staff there is a reasonable probability of noncompliance with the board's guidelines by a particular institution, the board may review the institution to determine if continued approval of it is proper.

An institution may appeal an adverse decision of the board. The appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel shall be received by the board.

Following the implementation of the guidelines for criminal justice and law enforcement programs, as approved by the board of higher education, the board shall certify career incentive pay increases only for students who have graduated from New England Association of School and Colleges-accredited or board-approved law schools and who have passed the Massachusetts Bar Examination."

The amendment was *rejected*.

Mr. Glodis, Ms. Jacques and Mr. Magnani moved to amend the bill in section 2, in item 8950-0001, by adding the following words:—"; provided, that the board shall employ not less than 110 parole officers with a classification of parole officer A/B, parole officer C, or parole officer D".

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2, in item 8950-0001, by striking out the figure "\$12,658,144" and inserting in place thereof the following figure:— \$12,958,144"; and by adding the following words:— " provided further, that the parole board shall expend not more than \$300K for regional office leases in the cities of Brockton, Framingham, Lawrence, New Bedford, Quincy, Springfield, Worcester and the Mattapan section of the city of Boston; and provided further, that the parole board shall not expend funding for office leases in any locations other than those specified herein"; and in item 7061-0011, by striking out the figure "\$7,000,000" and inserting in place thereof the following figure:— "\$6,700,000".

The amendment was *rejected*.

Mr. Knapik moved to amend the bill in section 2, in item 9110-1660, by inserting after the words "the Committee to End Elder Homelessness, Inc;" the following:— "provided further, that not less than \$40,000 shall be expended for the WestMass ElderCare, Inc. in Holyoke for elderly care programs".

The amendment was *rejected*.

Mr. Morrissey moved to amend the bill in section 3, by reducing the local aid distribution of the following municipalities total by the following amounts: Attleboro, by \$5,000; Bourne, by \$10,000; Franklin, by \$10,000; Grafton, by \$5,000; Middleboro, by \$25,000; North Attleboro, by \$10,000; Sandwich, by \$5,000; Taunton, by \$100,000; Uxbridge, by \$15,000; Westfield, by \$100,000; Carver, by \$20,000; Clinton, by \$20,000; Dartmouth, by \$20,000; Dracut, by \$25,000; East Bridgewater, by \$45,000; Leominster, by \$140,000; Malden, by \$80,000; Mansfield, by \$20,000; Marshfield, by \$130,000; Methuen, by \$100,000; and by increasing the distribution of Rockland by \$955,000.

Mr. Rosenberg in the Chair, after debate, the amendment was *rejected*, by a vote of 1 to 21.

Ms. Chandler moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. There shall be a special commission to study the future of long-term health care in the commonwealth, established in fiscal year 2002, consisting of the house and senate chairs of the joint committee on health care or their designees; the house and senate chairs of the joint committee on human services and elderly affairs or their designees; the house and senate chairs of the joint committee on insurance or their designees; the chairs of the house and senate joint committee on housing and urban development; the chairs of the house and senate committees on ways and means or their designees; the chair of the house Medicaid committee or his designee; the house and senate minority leaders or their designees. The chairs of the joint committee on health care shall convene the special commission within 30 days after the effective date of this act; but the special commission may convene and release its recommendations regardless of whether the governor has made his appointments to the special commission. The commission shall meet until December 31, 2004 and shall release its first recommendations to the house and senate committees on ways and means no later than July 31, 2004.”

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 4, by adding the following sentence:— “The state secretary in his discretion may waive for good cause upon written request this increase in filing fees for executive and legislative agents who exclusively file to represent not for profit entities.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes past six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 31 — nays 5) [**Yeas and Nays No. 29**]:

#### **YEAS.**

|                         |                                |
|-------------------------|--------------------------------|
| Antonioni, Robert A.    | Menard, Joan M.                |
| Baddour, Steven A.      | Montigny, Mark C.              |
| Berry, Frederick E.     | Moore, Richard T.              |
| Brewer, Stephen M.      | Morrissey, Michael W.          |
| Chandler, Harriette L.  | Murray, Therese                |
| Creedon, Robert S., Jr. | Nuciforo, Andrea F., Jr.       |
| Creem, Cynthia Stone    | O’Leary, Robert A.             |
| Glodis, Guy W.          | Pacheco, Marc R.               |
| Hart, John A., Jr.      | Panagiotakos, Steven C.        |
| Havern, Robert A.       | Resor, Pamela                  |
| Jacques, Cheryl A.      | Rosenberg, Stanley C.          |
| Joyce, Brian A.         | Shannon, Charles E.            |
| Knapik, Michael R.      | Tucker, Susan C.               |
| Magnani, David P.       | Walsh, Marian                  |
| McGee, Thomas M.        | Wilkerson, Dianne — <b>31.</b> |
| Melconian, Linda J.     |                                |

#### **NAYS.**

|                    |                               |
|--------------------|-------------------------------|
| Hedlund, Robert L. | Tarr, Bruce E.                |
| Lees, Brian P.     | Tisei, Richard R. — <b>5.</b> |
| Sprague, Jo Ann    |                               |

#### **ABSENT OR NOT VOTING.**

|                     |                               |
|---------------------|-------------------------------|
| Barrios, Jarrett T. | Tolman, Steven A. — <b>3.</b> |
| Fargo, Susan C.     |                               |

The yeas and nays having been completed at a half past six o'clock P.M., the amendment was adopted.

Messrs. Montigny, Tarr and Joyce and Ms. Chandler moved to amend the bill in section 18, by striking out the last sentence of subsection (4) of section 16A½ of chapter 6A of the General Laws and inserting in place thereof the following sentence:— “Such information shall be a public record under chapter 66 except where it contains proprietary information, as determined by the secretary, or trade secrets under applicable state or federal law.”

After remarks, the amendment was adopted.

*Suspension of Senate Rule 38A.*

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

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Tarr, Ms. Wilkerson, Mr. Hedlund and Mrs. Sprague moved to amend the bill by striking out section 35.

The amendment was *rejected*.

Mr. Creedon moved to amend the bill by striking out sections 42 and 43.

The amendment was *rejected*.

Mr. Moore moved to amend the bill in section 44, by inserting after the word “health”, in line 5, the following words:— “, excluding the board of registration in medicine,”.

After remarks, the amendment was adopted.

Mr. Hedlund moved to amend the bill by striking out section 46 and inserting in place thereof the following section:—

“SECTION 46. Said chapter 10 is hereby amended by striking out section 47.”; by inserting after section 194 the following section:—

“SECTION 194A. Section 12 of chapter 30B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 59 and 60, the words ‘and the terms thereof have been approved as reasonable by the emergency finance board.’; by inserting after section 203 the following sections:—

“SECTION 203A. Section 5B of chapter 40 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 5 to 7, inclusive, the words ‘Emergency Finance Board established under section one of chapter forty-nine of the acts of nineteen hundred and thirty-three’, and inserting in place thereof the following words:— director of accounts.

SECTION 203B. Said section 5B of said chapter 40, as so appearing, is hereby further amended by striking out, in lines 25 through 27, inclusive, the words ‘Said board, in addition to the powers and duties otherwise conferred or imposed upon it, is authorized to perform further duties imposed by this section’.

SECTION 203C. Said section 5B of said chapter 40, as so appearing, is hereby further amended by striking out, in lines 32 to 35, inclusive, the words ‘The members of the board aforesaid when acting under this section shall receive from the commonwealth compensation to the same extent as provided for services under section one of chapter seventy-four of the acts of 1945’.

SECTION 203D. Section 44F of said chapter 40, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words ‘provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board’.”; by inserting after section 207 the following 2 sections:—

“SECTION 207A. Section 18 of chapter 40N of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words ‘of the emergency finance board established under the provisions of chapter 49 of the acts of 1933 or’.

SECTION 207B. Section 99E of chapter 41 of the General Laws is hereby amended by striking out, in lines 19 through 22, inclusive, the following words:— provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board.”; by inserting after section 208 the following 12 sections:—

“SECTION 208A. Section 7 of chapter 44 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out clause (3A), and inserting in place thereof the following clause:—

(3A) For remodeling, reconstructing or making extraordinary repairs to public buildings owned by the city or town, including original equipment and landscaping, paving and other site improvements incidental or directly related to such remodeling, reconstruction or repair, for a term not exceeding 20 years.

SECTION 208B. Said section 7 of said chapter 44, as so appearing is hereby further amended by striking out clause (9), and inserting in place thereof the following clause:—

(9) For the cost of equipment, 5 years or for such maximum term, not exceeding 15 years, based upon the maximum useful life of the equipment as determined by the board of selectman or mayor or city manager of the city or town.

SECTION 208C. Section 8 of said chapter 44, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words ‘as may be approved by the emergency finance board’.

SECTION 208D. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 56 to 58, inclusive, the words ‘the emergency finance board, established under chapter 49 of the acts of 1933’, and inserting in place thereof the following words:— ‘the majority of the members of a board composed of the attorney general, the state treasurer, and the director of accounts, or their designees’.

SECTION 208E. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 63 to 64, inclusive, the words ‘when approved by the emergency finance board, established under section 47 of chapter 10, for such number of years not exceeding ten, as said board shall fix’, and inserting in place thereof the following words:— when approved by the majority of members of a board composed of the attorney general, the state treasurer, and the director of accounts, or their designees, for such number of years not exceeding 10, as said board shall fix.

SECTION 208F. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out clause (15), and inserting in place thereof the following clause:—

(15) For the construction of sewers, sewerage systems, and sewerage treatment and disposal facilities, or for the lump-sum payment of the cost of tie-in to such services in a contiguous city or town, for a period not exceeding 30 years; provided however, that the city or town has an enterprise or a special revenue fund for sewer services and that the accountant or auditor or other officer having similar duties in the city or town, shall have certified to the treasurer that rates and charges have been set at a sufficient level to cover the estimated operating expenses and debt service related to the fund.

SECTION 208G. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 139 and 140 the words ‘and shall be subject to the approval of the emergency finance board’.

SECTION 208H. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in line 143, the words ‘emergency finance board,’.

SECTION 208I. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out in lines 152 and 153, the words ‘with the approval of the Emergency Finance Board, for the portion of the project so financed and such amounts as so approved’.

SECTION 208J. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 176 to 179, inclusive, the words ‘such accounts as may be approved by the emergency finance board established under section one of chapter forty-nine of the acts of nineteen hundred and thirty-three, and for such maximum term, not exceeding ten years, as the board shall fix’, and inserting in place thereof the following:— ‘for such maximum term not exceeding ten years’.

SECTION 208K. Section 10 of said chapter 44, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Except as otherwise authorized by law, a city or town shall not authorize indebtedness to an amount exceeding 5 per cent of the equalized valuation of the city or town. A city or town may authorize indebtedness in excess of 5 per cent but not in excess of 10 per cent of the aforesaid equalized valuation; but the amount of indebtedness so authorized shall be subject to the approval of the members of a board comprised of the attorney general, the state treasurer, and the director of accounts, or their designees, which approval may be given either before or after the authorization.

SECTION 208L. Section 1 of chapter 44A of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Board' and inserting in place thereof the following definition:—

'Board', a board comprised of the attorney general, the state treasurer, and the director of accounts, or their designees.”; by inserting after section 232 the following 6 sections:—

“SECTION 232A. Section 6 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words 'emergency finance board established under section 47 of chapter 10', and inserting in place thereof the following words:— board of selectmen or mayor or city manager of the city or town.

SECTION 232B. Section 14B of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

Copies of the agreement shall be submitted to the department of education, and subject to their approval, to the several towns for their acceptance.

SECTION 232C. Section 16 of said chapter 71, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words 'that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board and provided further'.

SECTION 232D. Said section 16 of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 100 and 101, the words 'not exceeding an amount approved by the emergency finance board'.

SECTION 232E. Section 16G½ of said chapter 71, as so appearing, is hereby amended by striking out, in line 8, the words 'emergency finance board', and inserting in place thereof the following words:— director of accounts.

SECTION 232F. Said chapter 71, as so appearing, is hereby amended by striking out section 16H.”; by inserting after section 495 the following section:—

“SECTION 495A. Chapter 49 of the acts of 1933 is hereby repealed.”; and by inserting after section 580 the following section:—

“SECTION 580A. In any other general or special law where the Emergency Finance Board is referred to, it shall mean a board comprised of the attorney general, the state treasurer, and the director of accounts, or their designees.”

The amendment was *rejected*.

Ms. Resor, Mr. Magnani and Ms. Jacques moved to amend the bill in section 2, in item 7112-0100, by adding the following words:— “; and provided further, that the sum expended for the regional economic research center shall not be reduced from fiscal year 2003 levels, except in proportion to reductions to the expenditures of Framingham State College as a whole”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill, in section 13, in proposed section 178O of chapter 6 of the General Laws, by adding the following 2 paragraphs:—

“The sex offender registry board shall assess upon every sex offender that has failed to register with the board a sex offender violator fine of \$500, in this section called the sex offender violator fine. The offender shall pay the sex offender violator fine upon his compliance with the registration provisions of sections 178C to 178Q, inclusive.

The sex offender registry board may waive payment of the sex offender violator fine if it determines that the payment would constitute an undue hardship on the offender or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that the offender is determined to be unable to pay the sex offender violator fine. The sex offender registry board shall establish by regulation procedures relative to the collection and waiver of such fine. The sex offender violator fine shall be collected by the sex offender registry board and shall be transmitted to the treasurer for deposit in the General Fund. The sex offender registry board shall account for all such fines received and report these fines annually to the secretary of administration and finance and the house and senate committees on ways and means.”

After remarks, the amendment was adopted.

Ms. Creem moved that no action be taken in the amendment; but objection was made thereto by Mr. Lees. Ms. Creem then moved reconsideration of the adoption of the amendment; and, after debate, it was *negatived*.

At ten minutes before seven o'clock, P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Rosenberg) declared a recess; and at two minutes past eight o'clock P.M., the Senate reassembled, the President in the Chair.

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Lees moved to amend the bill, in section 52, in section 4, by striking out the first paragraph and inserting in place thereof the following paragraph:—

“The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, 7 members appointed by the governor, reflecting regional geographic representation, and 3 members to represent public institutions of higher education. Of the appointed members, at least one shall be a representative of organized labor, at least one shall be a representative of the business community, and one shall be a member whom the governor shall choose from among no more than three full-time undergraduate students who shall be nominated, and who are currently enrolled at a public institution set forth in section five. Nominated students shall have maintained satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section 21. Of the 3 members chosen to represent public institutions of higher education, 1 shall be selected by vote of the board of trustees of the university of massachusetts who shall be a member of the board of trustees of the University of Massachusetts, 1 shall be selected by vote of the chairs of the boards of trustees of the state colleges who shall be a member of a board of trustees of a state college, and 1 shall be selected by vote of the chairs of the boards of trustees of the community colleges who shall be a member of a board of trustees of a community college. There shall be an office of the board consisting of a chancellor and employees appointed by said board.”; in section 52, in section 4, in the fourth paragraph by striking out the first sentence and inserting in place thereof the following sentence:— “No member of the board shall be principally employed within the public higher education system of the commonwealth.”; and in section 52, in section 4, in the seventh paragraph by striking out in the first sentence the number “5” and inserting in place thereof the following number “6”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill by striking out section 52.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill by striking out section 58 and inserting in place thereof the following section:—

“SECTION 58. Chapter 15A of the General Laws is hereby amended by inserting after section 9B the following section:—

Section 9C. Notwithstanding any general or special law to the contrary all tuition and fees received by a board of trustees of a state college or community college shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board of the institution may direct. In the case of the university, all tuition and fees received by an individual campus shall be retained in a revolving trust fund or funds established by the board of trustees for that individual campus and shall be expended as the campus administration and the board of trustees may direct. Any balance in the trust funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.”; by striking out section 60, and inserting in place thereof the following section:—

“SECTION 60. Section 15B of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:—

Boards of trustees in each segment of the higher education system shall prepare their budget request in accordance with funding formulas. The board of higher education shall develop the formulas for the institutions within the state and community college segments in consultation with the boards of trustees. The university trustees shall develop funding formulas for the university campuses in consultation with the campus administrations and the board of higher education. All funding formulas shall be periodically reviewed and revised as needed.”; in section 52, by striking out the words “Of the 3 members chosen to represent public institutions of higher education, 1 shall be selected by vote of the chancellors of the state university campuses, 1 by vote of the presidents of the state colleges, and 1 by vote of the presidents of the community colleges.” and inserting in place thereof the following words:—

“Of the 3 members chosen to represent public institutions of higher education, 1 shall be selected by vote of the chancellors and the president of the state university, 1 by vote of the presidents of the state colleges, and 1 by vote of the presidents of the

community colleges.”; in section 239, by striking out the words, “Said plans” in the last sentence, and inserting the following words:—

“As the flagship research campus of the University system, the Amherst campus should structure any such proposal to demonstrate how its adoption will serve to support the institution’s effort to achieve parity with its peer institutions and enhance its ability to compete with them for students, faculty, and research funding. All such plans”; and in section 594, by inserting after the words, “to establish such best practices within the Commonwealth” the following words:— “the support of training and orientation sessions offered by the board of higher education for all new appointees to campus and university boards of trustees”.

The amendment was adopted.

Mr. Glodis moved to amend the bill by striking out sections 67, 339 and 461; and by inserting after section 599 the following section:—

“SECTION 599A. There shall be a special commission to conduct an investigation and study of insurance payment intercept practices of state agencies. The study shall include a review of section 24D of chapter 175 of the General Laws and 830 CMR 175.24D as they relate to the possible development of intercept practices in other state agencies, including, but not limited to, the division of medical assistance and the department of transitional assistance. The study shall determine the feasibility of developing uniform and consistent standards for agency information sharing programs as well as inter-agency coordination of such intercept practices and procedures. The study shall also review the efficacy of the development of a single, unified system of payment intercept procedures that state agencies may utilize. The commission shall be chaired by the chairs of the joint committee on insurance or their designees, and shall include the commissioner of insurance, or his designee, the secretary of administration and finance, or his designee, the secretary of health and human services, or his designee, and one representative of the life insurance industry and one representative of the property and casualty insurance industry, to be appointed by the commissioner of insurance. The commission shall file its report and any recommendations with the joint committee on insurance and the clerks of the house and senate no later than December 15, 2004.”

The amendment was *rejected*.

Ms. Resor moved to amend the bill by striking out sections 76, 77, 79, 87, and 88.

The amendment was *rejected*.

Mr. Brewer and Ms. Resor moved to amend the bill in section 89, by striking out, in line 7, the words “the division of fisheries and wildlife”.

After remarks, the amendment was adopted.

Messrs. Tarr and Montigny moved to amend the bill by striking out sections 100 and 101.

The amendment was *rejected*.

Mr. Havern moved to amend the bill in section 50, by striking out, in lines 4 to 6, inclusive, the words:— “The commissioner and one associate commissioner shall serve terms coterminous with that of the treasurer. One associate commissioner shall serve a four-year term.” and inserting in place thereof the following words:— “The commissioner shall serve a term coterminous with the treasurer. The 2 associate commissioners serving on the alcoholic beverages control commission on May 1, 2003 shall remain the associate commissioners until January 2, 2005. The 2 associate commissioners shall thereafter be appointed by the treasurer for terms of four years.”

The amendment was adopted.

Messrs. Tarr and Hedlund moved to amend the bill in section 107, in line 1, by striking out the word “section” and inserting in place thereof the following word:— “sections”; and in chapter 21 of the General Laws, by adding the following section:—

“SECTION 11B. There shall be a special commission appointed to study water regulation and water conservation. The members of the commission shall be ex officio members of the water resources commission as identified in section 8A of chapter 21A of the General Laws; the chairman of the Massachusetts water resources authority or his designee; the director of the division of water supply protection or his designee; the director of the division of fisheries and wildlife; 2 members appointed by the speaker of the house of representatives, 1 of whom shall be the house chairman of the joint committee on natural resources and agriculture; 1 member appointed by the minority leader of the house; 2 members appointed by the senate president, 1 of whom shall be the senate chairman of the joint committee on natural resources and agriculture; 1 member appointed by the minority leader of the senate; and 5 members appointed by the governor, 3 of whom must come from a list of 9 nominees submitted by the board of trustees and directors of the Massachusetts Audubon Society, the Massachusetts Chapter of the Sierra Club, the Trust for Public Land, the Charles River Watershed Association, the Ipswich River Watershed Association, Conservation Law Foundation,

and the Environmental League of Massachusetts. The secretary of the executive office of environmental affairs shall be the chairman of the commission. The commission shall report on (1) the laws, regulations, and policies of the commonwealth dealing with water conservation, water resource protection, drought preparedness, and instream flow; (2) any inconsistencies or potential inconsistencies of these laws with the federal Clean Water Act; (3) recommendations for legislative, regulatory, and policy changes necessary to ensure the preservation of adequate instream flows to protect the native biological communities of the rivers and streams of the commonwealth and to ensure an adequate supply of water to meet the health, safety and economic needs of the public; (4) additional water conservation measures needed to improve the efficiency of residential, commercial, industrial, institutional and agricultural water use in the commonwealth, including, but not limited to, more aggressive leak detection and repair programs; (5) programs and policies to reduce the amount of water that is unaccounted for, including water meter responsibility; (6) the need for tax credits or other financial incentives to encourage water conservation; and (7) the need for assistance to cities and towns to address water conservation issues. The commission shall submit a report summarizing its findings and recommendations, including recommendations for legislative actions, to the secretary of administration and finance, the joint committee on natural resources and agriculture and the house and senate committees on ways and means no later than December 15, 2003.”

The amendment was adopted.

Mr. Lees moved to amend the bill in section 117, by inserting after the words “1 member appointed by the speaker of the house,” the following words:— “1 member appointed by the minority leader of the house;”, and by inserting after the words “1 member appointed by the president of the senate,” the following words:— “1 member appointed by the minority leader of the senate”.

The amendment was adopted.

Messrs. Tarr, Hedlund and Joyce moved to amend the bill in section 131, in section 10G of chapter 21A of the General Laws, by adding the following paragraph:—

“Nothing in this section shall be construed to restrict the powers conveyed by section 56 of chapter 91.”

The amendment was *rejected*.

Ms. Tucker moved to amend the bill in section 140 by inserting after the words:— “or designees of the commissioners of the departments of mental retardation, mental health, youth services and education”, in clause (10) of the proposed definition of “Local team”, in section 4 of the proposed chapter 22F, the following words:— “, and the office of child care services”; and by inserting after clause (11) of the proposed definition of “State team”, in section 4 of the proposed chapter 22F, the following clause:— “(11A) the office of child care services;”.

The amendment was adopted.

Messrs. Barrios and Antonioni moved to amend the bill in section 140 by inserting after clause (17) of the proposed section 4 of the proposed chapter 22F the following clause:—

“(18) a forensic registered nurse selected by the Massachusetts Nurses Association;”.

The amendment was adopted.

Mr. Berry moved to amend the bill by striking out section 179.

The amendment was *rejected*.

Mr. Tarr moved to amend the bill by striking out section 185.

The amendment was *rejected*.

Mr. Lees moved to amend the bill by striking out section 188.

After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund and Knapik and Mrs. Sprague moved to amend the bill by striking out section 216 and section 218.

Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter past nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 8 — nays 30) **[Yeas and Nays No. 30]**:

**YEAS.**

Hedlund, Robert L.  
Knapik, Michael R.  
Lees, Brian P.  
Magnani, David P.

Sprague, Jo Ann  
Tarr, Bruce E.  
Tisei, Richard R.  
Tucker, Susan C. — **8.**

**NAYS.**

Antonioni, Robert A.  
Baddour, Steven A.  
Barrios, Jarrett T.  
Berry, Frederick E.  
Brewer, Stephen M.  
Chandler, Harriette L.  
Creedon, Robert S., Jr.  
Creem, Cynthia Stone  
Glodis, Guy W.  
Hart, John A., Jr.  
Havern, Robert A.  
Jacques, Cheryl A.  
Joyce, Brian A.  
McGee, Thomas M.  
Melconian, Linda J.

Menard, Joan M.  
Montigny, Mark C.  
Moore, Richard T.  
Morrissey, Michael W.  
Murray, Therese  
Nuciforo, Andrea F., Jr.  
O'Leary, Robert A.  
Pacheco, Marc R.  
Panagiotakos, Steven C.  
Resor, Pamela  
Rosenberg, Stanley C.  
Shannon, Charles E.  
Tolman, Steven A.  
Walsh, Marian  
Wilkerson, Dianne — **30.**

**ABSENT OR NOT VOTING.**

Fargo, Susan C. — **1.**

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

Mr. Lees moved to amend the bill in section 2, by striking out item 7004-9024 and inserting in place thereof the following item:—

“7004-9024

For a program of rental assistance for low-income families and elderly persons through mobile and project-based vouchers; provided, that rental assistance shall only be paid pursuant to a program to be known as the Massachusetts rental voucher program; provided further, that the income of the households shall not exceed 200 per cent of the federal poverty level; provided further, that the department may award mobile vouchers to eligible households currently occupying project-based units, that shall expire due to the nonrenewal of project-based rental assistance contracts; provided further, that the department, as a condition of continued eligibility for vouchers and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices; provided further, that any household in which a participant or member of a participant's household shall fail to provide a social security number for use in verifying the household's income and eligibility shall no longer be eligible for a voucher or to receive benefits from the voucher program; provided further, that the vouchers shall be in varying dollar amounts and shall be set by said department based on considerations including, but not limited to, family size, composition, income level and geographic location; provided further, that notwithstanding any general or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of the mobile vouchers or the project-based units; provided further, that any household which is proven to have caused intentional damage to their rental unit in an amount exceeding 2 month's rent during any 1-year lease period shall be terminated from the program; provided further, that notwithstanding any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall be re-assigned within 90 days; provided further, that said department shall pay agencies \$25 per voucher per month for the costs of administering the program; provided further, that the costs of administration shall not exceed 6 per cent of the appropriation provided in this item; provided further, that the 6 per cent shall include, but not be limited to, all expenditures which may be made by the department to conduct or otherwise contract for rental voucher program inspections; provided further, that subsidies shall not be reduced for the cost of accommodating the cost of the inspections; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, or project-based voucher, but each household shall pay at least 30 per cent of its income as rent; provided further, that the department shall establish the amounts of the mobile vouchers and the project-based vouchers, so that the appropriation in this item is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further,

that ceiling rents shall not be enforced by the department; provided further, that the households holding mobile vouchers shall have priority for occupancy of the project-based dwelling units in the event of a vacancy; provided further, that the department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12-month contract which shall be executed by the participant and the department; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting and education, as defined in regulations promulgated by the department and to the extent such programs are available; provided further, that each participant shall be required to undertake and meet any such contractually established obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such 12-month contract on or before September 1, 2003 if his annual eligibility recertification date occurs between June 30, 2003 and September 1, 2003 and otherwise on or before his annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under particular circumstances; provided further, that the department shall submit an annual report to the secretary of administration and finance and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers by income level and the number and types of units leased that are funded from this item; provided further, that no funds shall be expended from this item in the AA subsidiary for the compensation of state employees; provided further, that the department may assist housing authorities, at their written request, in the immediate implementation of a homeless prevention program utilizing alternative housing resources available to them for low income families and the elderly by designating participants in the Massachusetts rental voucher program as at risk of displacement by public action through no fault of their own; provided further, that participating local housing authorities may take all steps necessary to enable them to transfer mobile voucher program participants from the Massachusetts rental voucher program into another housing subsidy program; and provided further, that the department of housing and community development shall strive to avoid a reduction in the value of the Massachusetts rental voucher from its value as of June 30, 2003  
.....24,001,702”.

The amendment was adopted.

Ms. Creem moved to amend the bill by striking out section 220 and inserting in place thereof the following section:—

“SECTION 220. Section 37 of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:—

The applicant shall, at the time of filing its abatement application, include and attach to it all supporting information, documents, explanations, arguments and authorities that will reasonably enable the commissioner to determine whether the applicant is entitled to the abatement requested. The applicant shall not be considered to have submitted a completed written abatement application until the date on which all such information reasonably requested from the applicant and reasonably necessary for a decision has been furnished to the commissioner. If the commissioner has made a written request to the applicant for additional information, not then contained in the taxpayer’s pending abatement application, and the applicant fails to provide such information within 30 days after such request, or within any extended period allowed by the commissioner, that application shall be considered incomplete and shall be denied without prejudice to its timely renewal. The commissioner shall give such applicant written notice that the denial is based upon the lack of sufficient information to grant the taxpayer’s abatement application. In a case in which the commissioner has denied an abatement application based upon incomplete supporting information, no interest under section 40 shall begin to accrue upon any such claim which is appealed to the appellate tax board or to a probate court under section 39 before the date on which a decision on such claim on the merits is rendered by the board or court in favor of the taxpayer.”

The amendment was adopted.

Ms. Creem moved to amend the bill by striking out section 223 and inserting in place thereof the following section:—

“SECTION 223. Subsection (a) of said section 40 of said chapter 62C, as so appearing, is hereby amended by adding the following paragraph:—

For the purposes of this section, the term ‘date of overpayment’ shall mean the later of the date when the commissioner shall have received a properly completed return and full payment of the tax due thereon, or the date when the commissioner shall have received any supplemental information requested from the taxpayer in support of the taxpayer’s application for abatement filed in accordance with this chapter. The commissioner shall not refund any tax, interest, penalty or overpayment nor shall the state treasurer make any such refund where any taxpayer fails to file a return within three years of the due date of such return, without regard to extensions.”

The amendment was adopted.

Messrs. Lees, Tisei, Tarr, Hedlund and Knapik and Mrs. Sprague moved to amend the bill by striking out section 230 and inserting in place thereof the following section:—

“SECTION 230. Section 31A of chapter 63 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraphs (k) and (l) and inserting in place thereof the following 2 paragraphs:—

(k) Paragraphs (a) and (f) shall not be available for the taxable years ending on or after December 31, 1993 but shall be available for the taxable years beginning on or after January 1, 2014.

(l) Paragraphs (i) and (j) shall be available only for the taxable years ending on or after December 31, 1993, but shall not be available for the taxable years beginning on or after January 1, 2014. A corporation shall not be eligible for this credit for more than 24 taxable years.”

The President in the Chair, after debate, the amendment was *rejected*.

Messrs. Hedlund, Tarr and Tisei moved to amend the bill by striking out section 257.

The amendment was *rejected*.

Messrs. Hedlund, Lees, Tisei, Tarr and Knapik and Mrs. Sprague moved to amend the bill in section 257, by inserting after the words “before a justice” the following words:— “; provided, that the fee shall be refunded if the decision of the magistrate is reversed in its entirety”.

The amendment was adopted.

Mr. Nuciforo moved to amend the bill in section 273 by inserting after the word “agreement” the following words:— “concerning the roadways and boulevards”; and by striking out the words “or any of its statutory management and maintenance duties and responsibilities”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 273 by striking out, in line 3, the words “or other”; by inserting after the word “agreement”, in line 3, the following words:— “concerning the roadways and boulevards”; and by striking out the words “or any of its statutory management and maintenance duties and responsibilities”.

The amendment was *rejected*.

Mr. Shannon moved to amend the bill in section 302, in the proposed section 2 of chapter 92A½ of the General Laws, by striking out the words “and the watershed system formerly under the care, custody and control of the division of water resources of the department of environmental management”.

The amendment was *rejected*.

Mr. Havern moved to amend the bill in section 302, section 11 of proposed chapter 92A½ of the General Laws, by inserting after the word “charges”, in line 2, the following words:— “relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission”; and by inserting after the word “division”, in line 8, the following words:— “relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission”.

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill in section 318 by striking all language following the word “certification,” in line 13, and inserting in place thereof the following:—

“The commissioner shall, in consultation with the multi-disciplinary advisory board, establish eligibility requirements for licensed medical professionals for certification as sexual assault nurse examiners. The requirements shall include, but not be limited to; current Massachusetts licensure as a registered nurse or medical doctor; a minimum of three years experience in the practice of nursing or as a medical doctor; participation in 45 hours of classroom instruction; passing of a written examination by a score of 85 per cent or higher; successful completion of pelvic and sexual assault exam preceptorships.

The commissioner shall, in consultation with the multi-disciplinary advisory board, establish eligibility requirements for annual re-certification of Sexual Assault Nurse Examiners.

The commissioner shall, in consultation with the multi-disciplinary advisory board, develop uniform standards and protocols for certified sexual assault nurse examiners to use in conducting forensic exams including protocols regarding reliability of evidence-gathering and cooperation with the district attorney, local law enforcement agencies, local community based social service agencies, and the courts to afford victims the rights and services described in chapter 258B. The commissioner also shall develop uniform protocols for medical/nursing care-giving, medical testing and prophylactic treatment for possible exposure to sexually

transmitted diseases, and appropriate discharge planning with referral to local law enforcement and community based agencies including rape crisis centers and post-discharge follow-up.

(c) In addition to the training and certification program, the commissioner shall operate a statewide program within the department of public health to deliver sexual assault nurse examiner services at designated sites throughout the commonwealth to provide on-call services or certified sexual assault nurse examiner's patients who seek medical treatment immediately following a sexual assault or rape. The commissioner shall, in consultation with the multi-disciplinary advisory board, establish eligibility guidelines for site designation. Certified sexual assault nurse examiners who provide services at a designated acute care hospital site as part of the department's sexual assault nurse examiner services program shall be regarded as public employees for purposes of chapter 258 and shall be regarded as an agent of the hospital for purposes of section 12F of chapter 112.

(d) The department of public health may make such rules and regulations as may be necessary for implementation of this section."; and by striking out section 479.

After remarks, the amendment was adopted.

Mr. Antonioni moved to amend the bill in section 338 by adding the following 4 sentences:—

"Notwithstanding the foregoing, prior authorization shall not be required where the recipient has previously been prescribed the generic equivalent of the drug for which they are now seeking prior authorization and such generic equivalent failed to satisfactorily address the recipient's medical condition as determined by the prescribing physician. In all such instances, the prescribing physician shall inform the division as to the recipient's medical history using established notification procedures and such nongeneric drug shall immediately be prescribed. If the division objects to the prescription then such notification shall be made to the prescribing physician and recipient. The division may then proceed with a hearing and during the pendency of the division's appeal the recipient shall continue to be prescribed the nongeneric drug."

The amendment was *rejected*.

Messrs. Lees and Tarr moved to amend the bill by striking out section 338.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes before ten o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 32) [**Yeas and Nays No. 31**]:

**YEAS.**

|                    |                        |
|--------------------|------------------------|
| Hedlund, Robert L. | Sprague, Jo Ann        |
| Knapik, Michael R. | Tarr, Bruce E.         |
| Lees, Brian P.     | Tisei, Richard R. — 6. |

**NAYS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O'Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |
| Glodis, Guy W.          | Panagiotakos, Steven C.  |
| Hart, John A., Jr.      | Resor, Pamela            |
| Havern, Robert A.       | Rosenberg, Stanley C.    |
| Jacques, Cheryl A.      | Shannon, Charles E.      |
| Joyce, Brian A.         | Tolman, Steven A.        |
| Magnani, David P.       | Tucker, Susan C.         |
| McGee, Thomas M.        | Walsh, Marian            |
| Melconian, Linda J.     | Wilkerson, Dianne — 32.  |

**ABSENT OR NOT VOTING.**

## Fargo, Susan C. — 1.

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

Mr. Tarr moved to amend the bill by striking out section 393.

The amendment was *rejected*.

Ms. Resor moved to amend the bill by striking out sections 409 and 410.

The amendment was *rejected*.

Ms. Fargo moved to amend the bill in sections 438, 439, 440, 441, 442, 443, and 444, by adding, in each instance, the following words:— “The licensing authorities shall deposit such portion of the fee into the Firearms Record Keeping Fund quarterly, not later than January 1, April 1, July 1, and October 1 of each year.”

The amendment was *rejected*.

Mr. Havern and Ms. Menard moved to amend the bill by striking out section 455.

The amendment was adopted.

Mr. Glodis moved to amend the bill by striking out section 460; and by inserting after section 599B the following section:—

“SECTION 599C. Notwithstanding any general or special law to the contrary, the commissioner of insurance shall study the feasibility of levying a \$100 fee on all life and health insurance agents licensed by the commonwealth, receipts of which shall be payable into the General Fund. The commissioner shall report the results of the study by filing the same with the clerks of the house and senate no later than January 1, 2004.”

After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Tarr, Hedlund and Knapik and Mrs. Sprague moved to amend the bill in section 471, by inserting after the word “practices”, in line 28, the following words:— “, including, but not limited to, the development of a system that allows individuals to make payments of applicable fines, fees and assessments by credit or debit card in all court systems throughout the commonwealth”.

The amendment was adopted.

Mr. Lees moved to amend the bill by striking out section 480.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 520, by adding the following words:— “; and provided further, that funds be expended for the construction of a sound barrier along interstate 93, on the northbound side, from Savin Hill Avenue to Andrew Square, in the city of Boston”.

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 532, subsection (b), by inserting after the words “such employees”, in line 8, the following words:— “including management employees”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 532, by striking out paragraph (b) of clause (16) and inserting in place thereof the following paragraph:—

“(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as

if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.”

After remarks, Mr. Morrissey moved that the amendment be amended by striking out the text and inserting in place thereof the following text:—

“Section 532 is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

“(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.”

The further amendment was considered; and it was adopted.

The pending amendment (McGee), as amended (Morrissey) was further considered; and it was adopted.

Mr. Joyce and Ms. Fargo moved to amend the bill in section 536 by adding the following subsection:—

“(c) The division of medical assistance shall seek a waiver from the uniformity provisions of 42 U.S.C. section 1396(w)(b) to mitigate the impact of the user fee on non profit continuing care retirement communities and non profit residential care facilities, but any facility included in the waiver calculation shall be established as a non profit entity.”

The amendment was *rejected*.

Messrs. Hart and Joyce moved to amend the bill in section 536 by adding the following paragraph:—

“(8) an amount sufficient to implement section 622 of chapter 151 of the acts of 1996.”

After remarks, the amendment was adopted.

Messrs. Berry and Hart, Ms. Melconian, Mr. McGee, Ms. Chandler and Mr. Pacheco moved to amend the bill in section 536, in clause (4) of subsection (2) by striking out, in lines 2 and 3, the words “as determined by the division of medical assistance, in consultation with the division of health care finance and policy” and inserting in place thereof the following words:— “both urban and geographically isolated, and provided that at least 30 days prior to implementing this provision, the division of health care finance and policy shall submit a report to the committees on ways and means for their respective approval setting forth the division’s recommendations for criteria defining the terms ‘under-bedded,’ ‘urban’ and ‘geographically isolated’ and said committees shall have a 30 day period to approve such recommendations”.

After remarks, the amendment was adopted.

Messrs. McGee, Barrios, O’Leary and Montigny moved to amend the bill in section 537, by adding at the end of clause (1) the following words:— “and further, to mitigate the effects of restricting eligibility to adult non-citizens by the changes in section 16D of chapter 118E as amended herein;”.

After remarks, the amendment was adopted.

Mr. Hart moved to amend the bill in section 542, in line 21, by striking out the figure “\$28,000,000” and inserting in place thereof the following figure:— “\$32,000,000”; and by inserting after the words “community health centers”, in lines 36 and 37, the following word:— “currently”.

The amendment was *rejected*.

Ms. Tucker moved to amend the bill in section 542, by striking out the words “acute hospitals with the highest relative volume of free care costs” and inserting in place thereof the following words:— “disproportionate share hospitals, as defined under section 1 of chapter 118G of the General Laws, with the highest relative volume of free care costs”.

After remarks, the amendment was adopted.

Mr. Hart moved to amend the bill in section 549, by inserting after the words “certain acute care hospitals”, in line 3, the following words:— “and visiting nurse associations”; and by striking out, in line 6, the word “and” and inserting in place thereof the following words:— “and, in the case of such acute hospitals and visiting nurse associations,”.

The amendment was *rejected*.

Mr. Pacheco moved to amend the bill in section 550, by inserting after the words “publicly owned or publicly operated providers”, in line 3, the following words:— “including but not limited to Neville Communities Home, Inc., Cape End Manor and Taunton Nursing Home”.

The amendment was adopted.

Mr. Joyce moved to amend the bill by striking out section 557 and inserting in place thereof the following section:—

“SECTION 557. (a) Notwithstanding section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of the department of conservation and recreation, may, subject to sections 40E to 40K, inclusive, of chapter 7 of the General Laws, lease and enter into other agreements, for terms not to exceed 5 years, providing for the use, operation, maintenance, repair or improvement of the following state-owned facilities together with the land and appurtenances associated therewith: Ponkapoag Golf Course in Canton and the Leo J. Martin Golf Course in Weston. There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. The renewal shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the state. The leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding the provisions of any general or special law to the contrary, shall be first offered to the municipality in which the golf course is located, and shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any such leases or other arrangements requiring improvements to be made to any buildings or surface areas shall include a description of the required improvements and, at a minimum, performance specifications. The leases and other agreements shall provide that any benefits to the commonwealth and the municipality in which the golf course is located and the costs of improvements and repairs made to the properties provided by the tenants or the recipients of the properties shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the division of capital asset management and maintenance for deposit into the General Fund. The lessees of the properties shall bear all costs deemed necessary or appropriate by the commissioner of the division of capital asset management and maintenance for the transaction, including without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

(b) The division of capital asset management and maintenance shall, if no lease agreement is reached with the municipality in which the golf course is located, solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to (1) a comprehensive list of all courses operated by the responsive bidder or offeror in the last four years, (2) commitment to honor terms of current membership agreements, (3) plans to implement a residential discount program, (4) reservation policies and reasonable rates, (5) the rating the course will attain, (6) holiday recognition, (7) required financial audits, (8) grievance process, (9) clubhouse license, (10) retain public access and (11) hours of operation.

(c) Notwithstanding any other provisions of this section, it shall be a mandatory term of any request for proposals issued by the commissioner and of any contract entered into by the state with any party regarding the subject matter of this section that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the courses and to preserve the safety and environmental conditions of the courses, that all employees currently working on the operation and maintenance of the courses be offered employment by any party entering into a contract and this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall attempt to reassign or relocate those employees who do not accept employment with the lessor, to comparable positions within the department subject to applicable collective bargaining agreements.

(d) Any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not apply to any selected offeror which is awarded a contract under this section, except as provided in this section.”

The amendment was *rejected*.

Mr. Tisei moved to amend the bill by striking out section 562.

After debate, the amendment was *rejected*.

Mr. Creedon moved to amend the bill in section 542, in paragraph 6, by striking out, in line 6, the words “85 per cent of free care costs for the 5 acute hospitals with the highest relative volume of free care costs” and inserting in place thereof the following words:— “90 per cent of the free care costs for the 2 acute Medicaid disproportionate share hospitals, as defined in section 1 of chapter 118G of the General Laws with the highest relative volume of free care costs, and 100 per cent in the free care costs for the 6 remaining acute Medicaid disproportionate share hospitals, as defined in section 1 of chapter 118G of the General Laws with the next highest relative volume of free care costs”; and, in paragraph 6, by inserting after the words “available for the purpose;”, in line 6, the following words:— “known programmatic changes in the Mass Health Program;”.

The amendment was *rejected*.

Mr. Barrios, Ms. Wilkerson and Mr. Shannon moved to amend the bill in section 552, by adding the following sentence:— “For Fiscal Year 2004, any unspent funds from the \$180 million in the limited medical assistance program shall be transferred to the Fiscal Year 2004 Uncompensated Care Trust Fund and shall be made available for distribution to hospitals for payment for uncompensated care costs incurred in hospital fiscal year 2004”.

The amendment was adopted.

*Communication.*

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

May 28, 2003.

Mr. Patrick F. Scanlan  
*Clerk of the Massachusetts Senate*  
State House, Room 335  
Boston, MA 02133

Dear Mr. Clerk:

I was absent from the Chamber for one hour due to a previous engagement during the formal Senate session on May 28, 2003, and therefore, was not present for three roll call votes relative to the General Appropriations bills.

Had I been present, I would have voted in the affirmative on the following amendments:

No. 203 Executive Office of Public Safety;  
No. 208 Increasing RMV Retained Revenue Account; and  
No. 224 Legislative Agent Registration Fee.

I would appreciate your assistance with the printing of this communication in the Senate Journal.

Thank you for your assistance with this request.

Sincerely,  
Jarrett T. Barrios,  
*State Senator*,  
Middlesex, Suffolk and Essex District.

**On motion of Mr. Barrios, the above communication was ordered printed in the Journal of the Senate.**

At a half past ten o'clock P.M., on motion of Mr. Havern, the President declared a recess until the following day at eleven o'clock A.M.

Thursday, May 29, 2003.  
[being the legislative session of Wednesday, May 28, 2003.]

Met at five minutes past eleven o'clock A.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

*Distinguished Guests.*

There being no objection, the President introduced, in the rear of the Chamber, students from Project Prove at Braintree High School. Project Prove is a program to teach independent living skills to special needs students. Two such students, Katie Sullivan and Caitlin Loiter, have served as interns in the office of Senator Michael W. Morrissey. They were the guests of Senator Morrissey.

There being no objection, during consideration of the Orders of the Day, the President introduced former State Senator and current mayor of the city of Amesbury, Nicholas J. Costello. Mayor Costello was accompanied by his son, Representative Michael A. Costello of Amesbury. He was the guest of Senator Baddour.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Senator Moore who introduced, seated in the gallery, Judith Cherrington and her third grade class from Our Lady of the Valley School in Uxbridge. The class, teachers and chaperones were on their annual visit to historical sites in Boston and John F. Kennedy's birthplace in Brookline. They were the guests of Senator Moore.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Senator Montigny, who introduced Congressman Harold Ford of Tennessee. Congressman Ford briefly addressed the Senate, signed the guest book and withdrew from the Chamber. He was the guest of Senator Montigny.

*Resolutions.*

The following resolution (having been filed with the Clerk) were severally considered forthwith and adopted as follows:—

Resolutions (filed by Ms. Creem) "on the retirement of Donna Kalikow";

Resolutions (filed by Mr. Hedlund) "congratulating Judeth Van Hamm, recipient of the second annual 'Hull History Hero' Award";

Resolutions (filed by Mr. Pacheco) "honoring Dr. and Mrs. M. R. Lunsford";

Resolutions (filed by Ms. Resor) "honoring Dr. Sally A. Zielinski"; and

Resolutions (filed by Messrs. Travaglini and Barrios) "on the retirement of Anne P. Umana."

PAPER FROM THE HOUSE.

A Bill relative to the deadlines for submission of nomination papers for municipal officers in the city of Lynn (House, No. 3859,— on House, No. 3748) [Local approval received on House, No. 3748],— was read.

**There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

*Report of a Committee*

By Ms. Murray, for the committee on Ways and Means, that the House Bill further regulating the expiration dates of gift certificates and certain mediums of exchange (on the residue of House, No. 3729),— ought to pass, with amendments, striking out section 3 and inserting in place thereof the following section:—

"SECTION 3. Said chapter 510 is hereby further amended by striking out section 8 and inserting in place thereof the following section:—

Section 8. Notwithstanding any general or special law to the contrary, a gift certificate, as defined in section 1 of chapter 255D of the General Laws, that has been issued but not redeemed as of the effective date of this act shall expire 7 years after its date of issuance. If the date of issuance is not clearly identified on its face, subject to section 75C of chapter 266 of the General Laws, a gift certificate shall be redeemable in perpetuity; provided, however, that in the case of an electronic card with a banked dollar

value, if the date of issuance is not clearly printed upon the sales receipt or otherwise made available to the purchaser or holder of the electronic card through means of an internet site or a toll-free telephone information line, it shall be redeemable in perpetuity.”; and by striking out section 4.

**There being no objection, the rules were suspended, on motion of Mr. Hart, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means.**

**After remarks, the bill, as amended, was ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act further regulating the expiration dates of gift certificates and certain other mediums of exchange.”**

*Orders of the Day.*

The Orders of the Day were considered as follows:

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Hart moved to amend the bill by striking out sections 563 to 567, inclusive, and inserting in place thereof the following three sections:—

“SECTION 563. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$50 for apprentice program sponsor verification on public bidding projects.

SECTION 564. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge an annual fee of \$300 to certify apprentice training sponsors.

SECTION 566. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$40 for an optician apprentice application.”

After remarks, the amendment was adopted.

Mr. Tisei moved to amend the bill by striking out section 567.

The amendment was *rejected*.

Mr. Berry moved to amend the bill in section 568, by striking out, in line 13, the word “may” and inserting in place thereof the following word:— shall; and by inserting after the word “retirees”, in line 13, the following words:— and the eligible surviving spouse or dependents of deceased employees.

After remarks, the amendment was adopted.

Messrs. Rosenberg and Morrissey, Ms. Chandler and Mr. Montigny moved to amend the bill in section 569, in subsection (a), by striking out the words “(v) shall have received his pay advices via the commonwealth’s human resources compensation information system or the University of Massachusetts’ human resources management information system;” and inserting in place thereof the following words:— “(v) shall have received his pay advices via the commonwealth’s human resources compensation management system or the University of Massachusetts’ human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws;” in subsection (a), by adding the following paragraph:—

“Persons eligible for early retirement under this section who are members of bargaining units whose bargaining contracts were approved and signed by both the commonwealth and the employee’s representative, but not funded, shall have their benefits calculated based on the 3 year average rate of regular compensation that would have been received if the contracts had been funded.”; and in subsection (f), by adding the following paragraph:—

“The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.”

The amendment was adopted.

Mr. Morrissey moved to amend the bill in section 569, in subsection (b), by striking out the words “September 1, 2003” and inserting in place thereof the following words:— “December 31, 2003”; and by striking out the words “November 1, 2003” and inserting in place thereof the following words:— “February 1, 2004”.

The amendment was *rejected*.

Mr. McGee moved to amend the bill in section 2, in section 569, by striking out in paragraph (c), the words “shall not be greater than 4 years” and inserting in place thereof the following words:— “shall not be greater than 5 years”.

The amendment was adopted.

Ms. Chandler moved to amend the bill in section 581, by inserting after the word “assistance”, in line 6, the following words:— “, including the possible provision of incentives to cities and towns to increase the production of affordable housing”.

The amendment was *rejected*.

Mr. Shannon moved to amend the bill in section 583, by striking out subsection (b) and inserting in place thereof the following subsection:—

“(b) The council shall approve grants funded through items 7030-1000 and 7030-1500 beginning in Fiscal Year 2005. Until such time, each respective agency will continue to make grant awards, as is the current procedure.”; and, in subsection (d) by striking out the words “December 1, 2003” and inserting in place thereof the following words:— “March 15, 2004”.

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 588, in paragraph (b), by striking out the number “16” and inserting in place thereof the following number:— “18”; by inserting after the words “1 member of the senate to be appointed by the senate president;” the following words:— “1 member of the senate to be appointed by the minority leader of the senate”; and by inserting after the words “1 member of the house of representatives to be appointed by the speaker of the house of representatives;” the following words:— “1 member of the house of representatives to be appointed by the minority leader of the house of representatives;”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 589, in paragraph (b), by inserting after the words “senate chair of the joint committee on energy” the following words:— “and the senate minority leader or his designee”; and by inserting after the words “house chair of the joint committee on energy” the following words:— “and the house minority leader or his designee”.

After remarks, the amendment was adopted.

Mr. Shannon moved to amend the bill in section 593, by inserting after the words “Massachusetts hospital association” the following words:— “, a representative of the Massachusetts Ambulance Association”.

The amendment was adopted.

Mr. Tarr moved to amend the bill in section 595, by adding the following paragraph:—

“The commission shall study the feasibility of developing unified systems for information management, admissions, and other functions for which economics of scale and efficiencies could be realized through restructuring and/or consolidation. In addition, the commission shall seek to identify opportunities for further interaction between the commonwealth’s institutions of higher learning and between those institutions and other public and private institutions and resources.”

The amendment was *rejected*.

Ms. Chandler and Mr. Tarr moved to amend the bill in section 602, subsection (e), by striking out clause (3) and inserting in place thereof the following clause:—

“(3) conduct a public hearing in the locality in which the property is located to consider potential reuses including, but not limited to, the production of affordable housing and appropriate restrictions if the property parcels exceed 2 acres or if the commissioner determines that a hearing should be held for a smaller parcel and shall provide reasonable public notice in advance of the hearing;” and in subsection (g), by inserting after the first sentence the following sentence:— “Proposals that would produce a significant number of units of affordable housing, as determined by the commissioner and by the director of the department of housing and community development, may receive a preference in any competitive process.”

The amendment was *rejected*.

Mr. Nuciforo moved to amend the bill by inserting after section 425 the following section:—

“SECTION 425A. Said chapter 138 of the General Laws, as so appearing, is hereby amended by striking out sections 17 to 17C, inclusive, and inserting in place thereof the following 2 sections:—

Section 17. Local licensing authorities shall grant licenses issued under sections 12 and 15, including seasonal licenses, and shall grant license transfers under section 23 without the approval of the commission. Approval by the local licensing authority shall not be unreasonably withheld.

Section 17A. The number of licenses issued in a city or town under sections 12 and 15 and in force and effect at any 1 time during a license year shall be determined by the city council in cities and the board of selectmen in towns.”

The amendment was *rejected*.

Mr. Tarr moved to amend the bill by inserting after section 481 the following section:—

“SECTION 481A. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby amended by striking out the definition of ‘Public employer’ and inserting in place thereof the following definition:—

‘Public employer’, the commonwealth and any county, city, town, educational collaborative, or district, including any public health district or joint district or regional health district or regional health board established pursuant to section 27A or 27B of chapter 111, or including any mosquito control district or project established pursuant to section 5A of chapter 252 and located within the department of food and agriculture, and any department, office, commission, committee, council, board, division, bureau, institution, agency or authority thereof which exercises direction and control over the public employee, but not a private contractor with any such public employer, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority, or any other independent body politic and corporate. With respect to public employees of a school committee of a city or town, the public employer for the purposes of this chapter shall be deemed to be the respective city or town.”

The amendment was *rejected*.

Mr. Moore moved to amend the bill by inserting after section 599C the following section:—

“SECTION 599D. To reduce the administrative duplication in financial reporting by health care providers, the executive office of administration and finance and the executive office of health and human services, in consultation with the Massachusetts Hospital Association and other provider associations, shall conduct a study of financial and operational reporting requirements by the providers to state agencies. The study shall identify and recommend methods for minimizing duplicative reporting requirements, including, but not limited to, those found in the Uniform Financial Statements and Independent Auditor’s Report (UFR) and the Division of Health Care Finance and Policy 403 cost report. By January 1, 2004, the agencies shall file the findings of the study, together with their recommendations for minimizing reporting requirements, with the house and senate clerk’s offices, house and senate committees on ways and means and the joint committee on health care.”

The amendment was adopted.

Messrs. Lees, Tarr, Knapik, Hedlund and Mrs. Sprague moved to amend the bill by inserting after section 212 the following section:—

“SECTION 212A. Chapter 58A of the General Laws is hereby amended by striking out section 5.”

After debate, the amendment was *rejected*.

Mr. Shannon moved to amend the bill by inserting after section 610 the following new section:—

“SECTION \_\_. Section 5 of chapter 151B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the words, in lines 23 to 66, inclusive, and inserting in place thereof the following words:— commissions staff, prompt investigation in connection therewith. If the commissioner shall determine after the investigation that no probable cause exists for crediting the allegations of the complaint, the commission shall, within 10 days from such determination, cause to be issued and served upon the complainant written notice of the determination, and the determination shall not be subject to chapter 30A. If the commissioner shall determine after the investigation that probable cause exists for crediting the allegations of a complaint, the commissioner shall immediately serve notice upon the respondent of its right to elect judicial determination of the complaint as an alternative to determination in a hearing before the commission. If a respondent so notified wishes to elect a judicial determination, he shall do so in writing within 20 days of receipt of the the notice. The person making the election shall give notice of the election to the commission and to all other parties to whom the probable cause finding relates. The commission, upon receipt of the notice, shall dismiss the complaint pending before it without prejudice and the complainant shall

be barred from subsequently bringing a complaint on the same matter before the commission. If any respondent in a complaint alleging discrimination in housing elects judicial determination as aforesaid, the commission shall authorize, and not later than 30 days after the election is made the attorney general shall commence and maintain, a civil action on behalf of the complainant in the superior court for the county in which the unlawful practice occurred. Any complainant may intervene as of right in the civil action. If any respondent in a complaint of discrimination other than housing elects judicial determination as aforesaid, the commission, not later than 30 days after the election is made, shall either commence a civil action on behalf of the complainant in the superior court for the county in which the unlawful practice occurred, or notify complainant in writing of his right to commence the action. The civil action shall not be barred by any statute of limitations if it is filed within 90 days of the date that the respondent elects judicial determination. Any complainant may intervene as of right in a civil action brought by the commission and the commission may intervene as of right in any civil action brought by any complainant. The commission may prosecute the complaint in court by one of its attorneys. If the court in the civil action finds that a discriminatory practice has occurred or is about to occur, the court may grant any relief which a court could grant with respect to the discriminatory practice in a civil action under section 9. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under said section 9 shall also accrue to that aggrieved person in a civil action under this section. If the commissioner shall determine after the investigation that probable cause exists for crediting the allegations of any complaint and no respondent has elected judicial determination of the matter, he shall immediately endeavor to eliminate the unlawful practice complained of or the violation of said clause (e) of said section 32 or said sections 92A, 98 and 98A by conference, conciliation and persuasion.”

The amendment was *rejected*.

Messrs. Knapik and Magnani moved to amend the bill by inserting after section 191, the following section:—

“SECTION 191A. Chapter 29 of the General Laws is hereby amended by inserting after section 29I, as appearing in the 2000 Official Edition, the following section:—

Section 29J. Notwithstanding any general or special law to the contrary except for sections 52 to 55, inclusive, of chapter 7, the commissioner shall in each fiscal year identify and pursue projects to optimize non-tax revenue management and collections by the commonwealth.

For the purposes of this section, ‘department’ or ‘participating department’ shall refer to any department, agency, board, commission, office, or institution under the executive control of the governor or other constitutional officer and determined by the commissioner to be participating in the revenue optimization projects authorized by this section; allocations to participating departments for the successful implementation of revenue optimizing projects, as determined by the commissioner, shall be known as ‘department incentive payments’; payments to private vendors for services in identifying and pursuing projects to optimize revenue shall be known as ‘vendor participation payments’; and non-tax revenue payments, and other charges directed to the Maximization Fund shall be known as ‘net additional revenue.’

The commissioner or his designee may contract with private vendors and to enter into interdepartmental service agreements to identify and pursue projects. Private vendors shall be compensated from the non-tax revenues collected by such projects in excess of the non-tax revenues established by said contracts as the minimum to be collected by each such project.

Departments shall be awarded department incentive payments under this section only if (1) the collection of a fee or any other non-tax revenue during the fiscal year is greater than the amount of revenue collected from said fee or other non-tax revenue during the preceding year, the base period, so called, and (2) the total non-tax revenue collected by such department in the fiscal year is in excess of the amounts projected for each department in section 1B of the general appropriation act of the fiscal year, or alternatively in excess of the most recent revenue estimate, should there be one, from the fiscal affairs division. Revenues that are attributable to a new fee or a newly reimbursable service or clientele shall be considered to have base period revenue of zero.

The comptroller shall deposit in the Maximization Fund all revenue under this section and may allocate from the fund without further appropriation at the direction of the commissioner, department incentive awards to participating departments an amount not to exceed 20 per cent of the total net additional revenue. Seventy-five per cent of said allocations shall be distributed to participating departments in proportion to the revenue collected by each individual department as a per cent of the total revenue collected under the provisions of this section. The remaining 25 per cent shall be distributed to participating departments at the discretion of the commissioner, regardless of the amount of revenues collected by the individual departments. The comptroller shall transfer to the General Fund at the close of the fiscal year any balance remaining in the Maximization Fund after providing for said allocations to participating departments, vendor participation payments, and other charges to the Maximization Fund, but no expenditure shall be made from the Maximization Fund that would cause the fund to be in deficit at the close of the fiscal year.

Departments may expend department incentive payments without further appropriation after obtaining the written approval of the commissioner or his designee of a plan detailing proposed expenditures, allocations, and reallocations provided that approved plans must be filed with the house and senate committees on ways and means not less than ten days in advance of any such

allocation or reallocation. All expenditures made pursuant to the provisions of this section shall be for one-time expenses that shall not recur in the current or a subsequent fiscal year, and shall not be used to supplant purposes authorized in any other item or appropriation act enacted in the current or a subsequent fiscal year. Any unexpected balance from said allocations at the end of each fiscal year shall, at the discretion of the commissioner or his designee, revert to the General Fund except to the extent that said approved spending plan includes multi-year expenditures.

The comptroller and the commissioner shall report not later than January 31 of each year, to the house and senate committees on ways and means on the status of the revenue optimization projects authorized by this section for the six-month period ending the preceding month. Said report shall detail, by vendor, project, and department, the amount of vendor participation payments, the net additional revenue retained by the commonwealth, the amounts allocated or reallocated to each participating department, and the estimated receipts, payments, and allocations for the fiscal year.

The comptroller and the commissioner shall report to the house and senate committees on ways and means, not later than September 30 of each year, the preceding detailed information for the fiscal year just ended, and include a plan detailing, by executive office and department, the net additional revenue estimated to be collected in the fiscal year under this section.”

The amendment was *rejected*.

Messrs. Knapik, Magnani and Joyce moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. The suggestion awards board, established under section 31A of chapter 7 of the General Laws, may make cash awards, under said section 31A, and according to the board’s published guidelines governing the selection process and criteria, to employees of the commonwealth who are instrumental in identifying or implementing ideas which reduce costs or increase revenues for the commonwealth. To the extent there is adequate funding available as may be determined by the secretary of administration and finance, such awards may be paid as approved by the secretary from the operating appropriations of each agency that realizes reduced costs, as a result of the employee’s suggestions or efforts. The amount of any such award shall equal not more than 10 per cent of the annual reduced costs or increased revenues generated by the employee’s suggestion, up to a maximum of \$5,000 for any 1 suggestion, unless a larger award is approved by the general court. All such awards shall be reported quarterly to the house and senate committees on ways and means, detailing the recipient of the award, and the amount of money saved or realized by the commonwealth. This section shall remain in effect until June 30, 2004.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, as twenty-six minutes before twelve o’clock noon, on motion of Mr. Knapik, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 32**]:

### **YEAS.**

|                       |                          |
|-----------------------|--------------------------|
| Antonioni, Robert A.  | Chandler, Harriette L.   |
| Baddour, Steven A.    | Creedon, Robert S., Jr.  |
| Barrios, Jarrett T.   | Creem, Cynthia Stone     |
| Berry, Frederick E.   | Fargo, Susan C           |
| Brewer, Stephen M.    | Glodis, Guy W.           |
| Hart, John A., Jr.    | Nuciforo, Andrea F., Jr. |
| Hedlund, Robert L.    | O’Leary, Robert A.       |
| Jacques, Cheryl A.    | Pacheco, Marc R.         |
| Joyce, Brian A.       | Panagiotakos, Steven C.  |
| Knapik, Michael R.    | Resor, Pamela            |
| Lees, Brian P.        | Rosenberg, Stanley C.    |
| Magnani, David P.     | Shannon, Charles E.      |
| McGee, Thomas M.      | Sprague, Jo Ann          |
| Melconian, Linda J.   | Tarr, Bruce E.           |
| Menard, Joan M.       | Tisei, Richard R.        |
| Montigny, Mark C.     | Tolman, Steven A.        |
| Moore, Richard T.     | Tucker, Susan C.         |
| Morrissey, Michael W. | Walsh, Marian            |
| Murray, Therese       | Wilkerson, Dianne —      |

**38.**

**NAYS — 0.**

## **ABSENT OR NOT VOTING.**

### **Havern, Robert A. — 1.**

The yeas and nays having been completed at twenty-two minutes before twelve o'clock noon, the amendment was adopted.

Mr. Pacheco, Ms. Resor, Ms. Fargo and Mr. Joyce moved to amend the bill by inserting, after section 26, the following section:—

“SECTION 26A. Chapter 7 of the General Laws is hereby amended by inserting after section 23A the following section:—

Section 23B. (a) Notwithstanding sections 22 to 23A, inclusive, and to the extent permitted by federal law, a state agency or a state authority may, when purchasing agricultural products, including but not limited to fruits, vegetables, eggs, dairy products and crops, make a preference for such products produced or harvested in the commonwealth, all other considerations being equal.

(b) Where a state agency or state authority makes a preference for agricultural products produced or harvested in the commonwealth, the state purchasing agent responsible for procuring such agricultural products on behalf of the state agency or state authority shall effectuate such preference unless the agent determines that:

- (1) procurement of agricultural products produced or harvested outside of the commonwealth is essential;
- (2) an agricultural product is not produced, harvested or otherwise available from any producer in the commonwealth at the time of the procurement; or
- (3) compliance with this section would eliminate the only bid or offer of an agricultural product or would result in inadequate competition.”; and by inserting after section 194 the following section:—

“SECTION 194A. Chapter 30B of the General Laws is hereby amended by adding the following section:—

Section 20 (a) Notwithstanding sections 1 to 19, inclusive, and to the extent permitted by federal law, a government body may, by a majority vote, make a preference for agricultural products, including but not limited to fruits, vegetables, eggs, dairy products and crops, produced or harvested in the commonwealth when procuring such products pursuant to its authority, all other considerations being equal.

(b) Where a government body by a majority vote makes a preference for the procurement of agricultural products produced or harvested in the commonwealth, the chief procurement officer or procurement officer responsible for procuring such agricultural products on behalf of the government body shall effectuate such preference unless the officer determines that:

- (1) procurement of agricultural products produced or harvested outside of the commonwealth is essential;
- (2) an agricultural product is not produced, harvested or otherwise available from any producer in the commonwealth at the time of the procurement; or
- (3) compliance with this section would eliminate the only bid or offer of an agricultural product or would result in inadequate competition.”

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 194 the following section:—

“SECTION 194A. Chapter 30A of the General Laws is hereby amended by inserting after section 9 the following section:—

Section 9A. (a) Notwithstanding any general law or special law or regulation to the contrary, there is hereby established within the executive office for administration and finance, but not subject to its control, an office of administrative hearings, hereinafter designated the office. The office shall serve as an independent agency within the executive office for administration and finance for purposes of conducting all administrative hearings in contested cases, excluding permitting, licensing and rate setting functions, before those state agencies and other governmental entities that may be expressly included herein.

(b)(1) In addition to the foregoing, the office:

- (i) shall conduct such alternative dispute resolution procedures as shall be required hereunder;
- (ii) shall conduct administrative hearings in matters for which the office is required to conduct such hearings under other laws; and

(iii) may, for a fee and under contract, engage in administrative hearings or alternative dispute resolution procedures in matters voluntarily referred to the office by any state, county or local governmental entity.

(2) All functions, duties, authority and jurisdiction heretofore exercised (i) by the division of administrative law appeals under section 4H of chapter 7 and other applicable laws and regulations; (ii) by the appellate tax board under chapter 58A and other applicable statutes and regulations; (iii) by the office of dispute resolution pursuant to section 51 of chapter 7 and other applicable laws and regulations; and (iv) by the civil service commission pursuant to chapter 31 and other applicable laws and regulations are hereby transferred to and vested in the office. The agencies specified in this section shall have no separate existence apart from the office of administrative hearings. All cases heard pursuant to this paragraph shall be subject solely to this chapter and all cases pending before the agencies prior to the effective date of this act shall be transferred for hearing to the office.

(c)(1) The office shall be under the general supervision and direction of a chief administrative law judge who shall be an attorney of the commonwealth for no less than 6 years and who shall otherwise be suited for the position by virtue of his experience. The chief administrative law judge shall be appointed by the governor for a term of 6 years and shall be eligible for reappointment.

(2) In addition to other duties the chief administrative law judge shall:

(i) protect and ensure the decisional independence of each mediator, hearing officer and administrative law judge;

(ii) adopt a suitable code of conduct and monitor the quality of all alternative dispute resolution and administrative hearings conducted by the office;

(iii) initiate proceedings for the removal of any mediator, hearing officer or any administrative law judge on grounds that shall include misconduct, material neglect of duty, inability to perform required duties, or incompetence in the conduct of office;

(iv) promulgate rules for reasonable sanctions, including the assessment of fines, costs and attorney's fees which may be imposed on a party, an attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case or exhibits misconduct that obstructs or tends to obstruct the conduct of any contested case;

(v) promulgate rules to insure an appropriate level of confidentiality in administrative hearings as may be warranted by extraordinary circumstances; and

(vi) promulgate such rules of procedure as required to implement this chapter.

(3) There shall be an executive director who shall be the administrative head of the office. In consultation with the director, chief hearing officer and chief administrative law judge, as appropriate, and except as otherwise provided herein, the executive director shall:

(i) administer and cause the work of the office to be performed in such manner and pursuant to such programs as may be appropriate;

(ii) organize the office and establish such administrative units as may be required or appropriate;

(iii) hire, assign and reassign administrative and support personnel within the office;

(iv) enter into contracts on behalf of the office;

(v) establish training programs and continuing education for mediators, hearing officers and administrative law judges;

(vi) establish a schedule of fees and chargebacks for entry and other purposes as well as criteria under which a claimant may seek the waiver of fees predicated upon hardship;

(vii) establish criteria upon which to perform an annual review of each mediator, hearing officer and administrative law judge; and

(viii) to the extent not otherwise provided herein, prescribe such time standards as needed to assure prompt hearing and resolution of all pending matters.

(d)(1) There shall be within the office: (a) a division of alternative dispute resolution under the supervision of a director; (b) a division of hearing officers under the supervision of a chief hearing officer; and (c) a division of administrative law appeals, under the supervision of a chief administrative law judge, that shall sit as a board of appeals as provided herein.

(2) Unless otherwise specified, mediators, hearing officers and administrative law judges of the agencies to which this chapter shall be made applicable, shall become employees of the office of administrative hearings.

(3) There shall be within the office, a division of alternative dispute resolution under the supervision of a director who shall be appointed by the secretary for administration and finance with the approval of the governor to a term of 6 years and who shall be eligible for reappointment. The director shall be a person who is suited for the position by virtue of education and experience. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. The director shall appoint such mediators as may be necessary to carry out the duties and functions of the division. The division shall seek to resolve by means of mediation all disputes in advance of any administrative hearing and shall perform such other duties as the chief administrative law judge may from time to time propose. Parties to contested matters filed with the office shall be required to participate in alternative dispute resolution proceedings prior to hearing; provided, however, that an option shall be provided by rule, to forego such alternative dispute resolution proceedings where not permitted by collective bargaining agreements or otherwise.

(4) There shall be within the office, a division of hearing officers under the supervision of a chief hearing officer who shall be appointed by the secretary for administration and finance with the approval of the governor to a term of 4 years and who shall be eligible for reappointment. The chief hearing officer shall be a person who is suited for the position by virtue of education and experience. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. All contested hearings shall be conducted by hearing officers who shall be appointed by the chief administrative law judge in consultation with the chief hearing officer and who shall be persons suited for the position by virtue of education and experience. The hearing officers shall conduct hearings in accordance with this chapter and shall have the following additional authority in connection with contested administrative hearings:

(i) to administer oaths;

(ii) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers and documents;

(iii) to entertain objections to subpoenas;

(iv) to rule upon objections to subpoenas, except that an order of any hearing officer may be reviewed by a 3-member board of administrative appeals before the completion of the contested case in accordance with procedural rules adopted by the chief administrative law judge; and

(v) to examine an individual under oath.

(5) There shall be within the office a division of administrative law appeals whose associate administrative law judges shall be attorneys at law of the commonwealth for not less than 5 years and who shall otherwise be suited for their positions by virtue of their experience. The associate members shall be appointed by the secretary for administration and finance with the approval of the governor for terms of 6 years and shall be eligible for reappointment. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. The division shall consist of a chief administrative law judge and associate administrative law judges who shall serve on 3-member panels, as shall be designated by the chief administrative law judge, to hear appeals from the division of hearing officers.

(6) Contested hearings hereunder shall be conducted by a designated hearing officer pursuant to such rules of procedure as the chief administrative judge shall cause to be made and promulgated. The parties shall not be bound by the rules of evidence. All relevant evidence shall be admissible, except as otherwise provided herein. The hearing officer may in his discretion exclude any evidence if he determines that its probative value is substantially outweighed by the risk that its admission, shall either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion. The hearing officer shall give effect to the rules of privilege recognized by law. Any party in a contested case may present his case by oral or documentary evidence, submit rebuttal evidence and conduct such cross examination as may be required in the discretion of the hearing officer, for a full and true disclosure of the facts.

(7) A board of appeals consisting of 3 administrative law judges shall convene as soon as may be practicable to hear the appeal from the division of hearing officers. The board shall affirm the decision of the hearing officer unless it finds after consideration that such decision is clearly erroneous based upon all the evidence and relevant law.

(8) The superior court shall have jurisdiction of appeals from the board of appeals in all matters in which the amount claimed exceeds \$25,000 in accordance with chapter 30A. The district court shall have jurisdiction of appeals from the board of appeals in all matters in which the amount claimed is \$25,000 or less. Appeals to the district court shall proceed in the same manner as appeals in the superior court under said chapter 30A.

(9) The office may provide services on a contract basis to any state, county or local governmental entity, including districts and authorities, to provide alternative dispute resolution services or conduct any hearing not otherwise covered by this chapter. To this end, the executive director may enter into contracts with such entities and they may contract with him. Such services shall be provided pursuant to an established fee schedule developed by the executive director, and updated as circumstances warrant.”; by inserting after section 580 the following section:—

“SECTION 580A. (a) Commencing July 1, 2004, section 9A of chapter 30A of the General Laws shall be made applicable to each of the following state agencies to the extent that it employs or engages commissioners, hearing officers, administrative law judges or other personnel in the adjudication of contested cases, unless specifically exempted herefrom by executive order:

- (i) department of employment and training;
- (ii) department of education, bureau of special education appeals;
- (iii) department of environmental protection;
- (iv) department of social services;
- (v) department of telecommunications & energy;
- (vi) department of youth services;
- (vii) division of insurance;
- (viii) division of medical assistance;
- (ix) division of professional licensure;
- (x) energy facilities siting board;
- (xi) massachusetts highway department.

(b) Except as provided otherwise in this section, commencing July 1, 2005 section 9A of Chapter 30A of the General Laws shall be made applicable to each agency that employs or engages commissioners, hearing officers, administrative law judges, or other personnel in the adjudication of contested cases, unless specifically exempted by executive order.

(c) Initial appointments upon the effective date of this act shall be on a staggered basis as follows:

- (i) director of the division of alternative dispute resolution, 2 years;
- (ii) chief hearing officer, 3 years; and
- (iii) chief administrative law judge, 4 years; associate administrative law judges, 1/3 to be appointed to 4-year terms, 1/3 to 5-year terms and 1/3 to 6-year terms.

Thereafter, reappointments or new appointments, other than those to fill a vacancy, shall be for 6-year terms; provided, that all existing administrative law judges upon the effective date of this act shall continue to serve the remainder of their terms.”; in section 2, by striking out items 1108-1011, 1100-1103 and 1310-1000; by striking out item 1110-1000 and inserting in place thereof the following item:—

“1110-1000

For the operation of the office of administrative hearings .....2,448,145”;

by striking out item 1100-1104 and inserting in place thereof the following item:—

“1100-1104

The office of administrative hearings may expend an amount not to exceed \$436,381 in revenues collected from fee charged to cities, towns or public instrumentalities and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the office of administrative hearings may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the cost of personnel .....436,381”;

in item 1310-1001, by striking out, in line 1, the words “appellate tax board” and inserting in place thereof the following words:— “office of administrative hearings.”; by striking out, in line 3, the word “board” and inserting in place thereof the following word:— “office”; and in item 1100-1108, in line 1, by striking out the words “dispute resolution” and inserting in place thereof the following:— “the office of administrative hearings”.

The amendment was *rejected*.

Mr. Berry moved to amend the bill by inserting after section 238 the following section:—

“SECTION 238A. Section 22 of chapter 74A of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words ‘and the payment of reasonable charges by said college for such use’ and inserting in place thereof the following words:— ; provided, however, that the assets of the institute that are associated with the program shall be available at no cost to the college.”

After remarks, the amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 59 the following new section:—

“SECTION 59A. Chapter 15A of the General Laws is hereby amended by inserting after section 19E the following section:—

Section 19F. The board of higher education shall, subject to appropriation, establish a student loan repayment program, to be known as the Clara Barton nursing loan repayment program, for the purpose of encouraging outstanding students to work in the profession of nursing or to teach nursing within the commonwealth by providing financial assistance for the repayment of qualified education loans. The board shall adopt guidelines governing the implementation of the program which shall include, but not be limited to, the following:

(1) eligibility for the program shall be limited to persons who have graduated in the top 25 per cent of their practical or diploma nursing program, undergraduate or graduate class, as certified by the college, university or school of nursing attended by the applicant;

(2) eligibility shall be limited to persons licensed to practice nursing in the commonwealth and entering the nursing profession after September 1, 2001 or to persons entering the teaching of nursing profession at a college, university or school of nursing within the commonwealth after such date;

(3) the commonwealth shall repay a participant’s student loan at a rate not to exceed \$200 per month for a period not to exceed 48 months. Participants who work less than full time shall receive loan repayment amounts in direct proportion to the percentage of full time worked;

(4) repayment shall be made to the participant annually upon the presentation by the participant of satisfactory evidence of payments under the loan;

(5) payments shall cover only loan payments made by the participants in the months during which the participant is employed as a nurse in, but not limited to, acute care hospitals, public health hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers, rehabilitation centers or nursing homes or as a home health, school or public health nurse in the commonwealth, or is employed to teach nursing at a college, university or school of nursing in the commonwealth. Payments shall not commence until participants have been employed as nurses in the commonwealth, or teachers of nursing at a college, university, or school of nursing in the commonwealth for a period of 1 year. Participants shall be employed as nurses in the commonwealth or as teachers of nursing at a college, university or school of nursing in the commonwealth for a minimum period of 4 years during the loan repayment period or shall reimburse the commonwealth for the expenses incurred during the repayment period;

(6) in the case of those employed as nurses, the board may limit the program to those who work in communities designated by the department of public health, in consultation with the federal department of health and human services and the center for health professions at Worcester State College, as underserved communities;

(7) the program shall set forth an affirmative action policy specific annual affirmative action goals. The board shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action policy and its success in meeting these goals.

The term ‘qualified education loan’ shall mean any indebtedness, including interest on such indebtedness, incurred to pay tuition or other direct expenses incurred in connection with the pursuit of a practical or diploma nursing program, an associate’s, baccalaureate, or graduate degree by an applicant, but shall be limited to a loan which was or is administered by the financial aid office of a practical or diploma nursing program, 2-year or 4-year college, university or school of nursing at which the applicant was enrolled as a practical or diploma nursing school student or as an undergraduate or graduate student and which loan has been secured through a state or federal student loan program or which was or is administered by a commercial or institutional lender.”

The amendment was adopted.

Messrs. Rosenberg and Magnani moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580B. Notwithstanding any general or special law to the contrary, there is hereby appropriated from the general fund \$37,300,000 for a reserve to support the operation and maintenance of public state and community colleges in the commonwealth. The amount shall be in addition to, and subject to the same terms and conditions of, appropriations for the operation and maintenance made in section 2. Such funds shall be disbursed to each campus, by the state comptroller, in an amount equal to the amount projected to be received in tuition by each campus during fiscal year 2004; provided, that this section shall not take effect if section 58, or any other law which provides for full tuition retention by the public state and community colleges, becomes effective as part of the General Appropriation Act for fiscal year 2004.”

The amendment was *rejected*.

Messrs. Lees, Knapik and Hedlund and Ms. Melconian moved to amend the bill by inserting after section 239 the following section:—

“SECTION 239A. Section 19C of chapter 78 of the General Laws, as so appearing, is hereby amended by inserting after clause (4) the following clause:—

(4A) In addition to the sums provided in clause (3) the Springfield public library, as the library of last recourse for reference and research services for the western regions of the commonwealth, shall be entitled to receive in state aid the sum of \$1.06 for each resident of western Massachusetts; consisting of the counties of Hampden, Hampshire, Berkshire and Franklin.”

After remarks, the amendment was *rejected*.

Messrs. Tisei, Shannon and Barrios moved to amend the bill by adding at the end thereof the following section:—

“SECTION 520A. Chapter 246 of the acts of 2002 is hereby amended, in section 2, in item 6033-9015, by inserting after the words ‘allocated for’ the following words:— ‘land acquisition and relocation costs and’.”

The amendment was adopted.

Mr. Tarr moved to amend the bill by inserting after section 519 the following 4 sections:—

“SECTION 519A. Item 2000-2013 of section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the words ‘in the city of Woburn’ the following words:— ; provided further, that not less than \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury, however, in the event that the town expends its own funding for acquisition of the property, it will be reimbursed.

SECTION 519B. Said item 2000-2013 of said section 2 of said chapter 236 is hereby further amended by striking out the figure ‘\$21,250,000’ and inserting in place thereof the following figure:— \$23,000,000.

SECTION 519C. Item 2100-2011 of said section 2 of said chapter 236 is hereby amended by striking out the words ‘; provided further, that \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury;’ and by striking out the figure ‘\$46,425,000’ and inserting in place thereof the following figure:— \$44,675,000.

SECTION 519D. Said item 2100-2011 of said section 2 of said chapter 236 is hereby further amended by striking out the figure ‘\$46,425,000’ and inserting in place thereof the following figure:— \$44,675,000.”

The amendment was adopted.

Ms. Chandler, Messrs. Berry and Barrios, Ms. Creem, Messrs. O’Leary, Tarr and Joyce moved to amend the bill by inserting after section 580A the following section:—

“SECTION 580B. (a) To provide five-year funding for the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws, the sums set forth in subsection (b), for the purposes set forth in said chapter 121D and subject to the conditions specified in this section, are hereby authorized for expenditure from the General Capital Projects Fund unless specifically designated otherwise, subject to the laws regulating the disbursement of public funds and the approval thereof.

(b)

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

7004-8020

For the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws  
.....100,000,00.

(c) To meet the expenditures necessary in carrying out subsection (b), the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$100,000,000. All of these bonds issued by the commonwealth shall be designated on their face, Affordable Housing Trust Fund Bond Act of 2003, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article 62 of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2031. All interest and payments on account of principal on the obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provision of this section, be general obligations of the commonwealth. The department of housing and community development may expend an amount not to exceed 2 per cent of these authorizations for administrative costs directly attributable to the purposes of this section, including costs of clerical and support personnel. The director of the department shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means detailing, by subsidiary, all personnel costs and administrative costs charged to expenditures made pursuant to this section.

(d) The director of the department of housing and community development shall submit annually to the house and senate committees on ways and means, the joint committee on housing and urban development and the house and senate committees on long-term debt and capital expenditures, a 5-year capital plan for fiscal years 2004, 2005, 2006, 2007 and 2008 for capital funds authorized by this section. This capital spending plan shall reflect a balanced allocation of capital funds authorized by this section.”

Mr. Havern in the Chair, after remarks, the amendment was adopted.

Ms. Melconian and Mr. Lees moved to amend the bill by inserting after section 520A the following section:—

“SECTION 520B. Section 18 of chapter 236 of the acts of 2002 is hereby amended by striking out the figure ‘2003’ and inserting in place thereof the following figure:— 2005.”

After remarks, the amendment was adopted.

Mr. Antonioni moved to amend the bill by inserting after section 580B the following section:—

“SECTION 580C. Notwithstanding section 40F½ of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of the division of capital asset management and maintenance shall be prohibited from declaring as surplus or from conveying state owned real property located in the town of Lancaster on which is located the Johnny Appleseed Visitor Center.”

The amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, the division of medical assistance may enter into contracts with certain home health agencies to provide home health services to medical assistance recipients. The division may enter into such contracts with only those home health agencies that: (i) are organized as not-for-profit entities; (2) according to the most recent agency-specific utilization data collected from the division, delivered 25 per cent of MassHealth reimbursed skilled nursing visits within a county designation, and more than 15 per cent of all MassHealth reimbursed home health aide services within a county designation; and (3) in the determination of the division, provide services that are essential to ensure access to home health services for medical assistance recipients. The division shall ensure that any home health agency that is a party to any such contract shall comply with any performance measures, outcome goals, cost effectiveness standards and other terms and conditions established by the division. In defining a prospective payment amount under this section, the division shall consider each agency’s specific date to determine an appropriate unit of service and the number, type and duration of visits provided within that unit and a general system design that provides for continued access to quality services through appropriate adjustments based upon a clinical assessment of each patient’s needs. In addition, the department of public health shall establish procedures to ensure appropriate access and quality of services provided under this system. The department shall conduct an assessment of this demonstration project after 6 months and shall report the findings to the house and senate committees on ways and means.”

The amendment was *rejected*.

Mr. Moore moved to amend the bill by inserting after section 335 the following section:—

“SECTION 335A. The first paragraph of section 12 of chapter 118E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following two sentences:— The division or department, as appropriate, shall adopt and amend regulations, in accordance with chapter 30A, for the administration of its duties and powers and to effectuate the provisions and purposes of this chapter. Regulations which restrict coverage or covered services shall be adopted only after public notice and hearing.”

The amendment was adopted.

Mr. Pacheco moved to amend the bill by inserting after section 580C the following section:—

“SECTION 580D. Notwithstanding any general or special law to the contrary, no funds from the Health Care Quality Improvement Trust Fund or appropriated in item 4000-0600 of any general appropriation act shall be used directly or indirectly by a recipient nursing home or health care facility for political contributions, lobbying activities, entertainment expenses or efforts to assist, promote, deter or discourage union organizing. As a condition of receiving monies from the fund or item 4000-0600, a nursing home or health care facility shall provide a certification to the division of medical assistance that no funds shall be used for such activities. If the division determines that a recipient of monies from the fund or item 4000-0600 has spent such monies in violation of this section, the recipient nursing home or health care facility shall be required to document the cost of such activity. The division of medical assistance shall conduct an investigation or audit if a complaint is filed by any person alleging a violation of this section. The division shall consider that there is a rebuttable presumption that such activities were funded in part from such monies and shall require the recipient nursing home or health care facility to provide all appropriate information and documentation showing that no such monies were used for activities in violation of this section. An expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, preparation, planning or coordination of, or carrying out an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity. An expense incurred in connection with:

- (1) addressing a grievance or negotiation or administering a collective bargaining agreement;
- (2) performing an activity required by federal or state law or by a collective bargaining agreement; or
- (3) obtaining legal advice about rights and responsibilities under federal or state law shall not be treated as paid or incurred for activities to assist, promote, deter or discourage union organizing.

Monies spent in violation of this section shall be reimbursed to the fund or the division of medical assistance as appropriate.”

The amendment was adopted.

Mr. Berry and Ms. Creem moved to amend the bill by inserting after section 335 the following section:—

“SECTION 335A. Section 12 of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law, rule or regulation to the contrary, the division shall not require prior authorization or impose any other restriction on medications used to treat mental illnesses, including but not limited to, schizophrenia, depression, bipolar disorder, and anxiety disorder, or attention deficit disorder/ attention deficit hyperactivity disorder. The division shall make available medications for persons with mental illnesses including atypical antipsychotic medications, conventional antipsychotic medications, and other medications used for the treatment of mental illnesses without restriction or without preference for one medication over another or one class of medications over another.”

The amendment was *rejected*.

Mr. O’Leary moved to amend the bill by inserting after section 580 the following new section:—

“SECTION 580A. Notwithstanding any federal or special law, rule or regulation to the contrary, the division of medical assistance may on a demonstration basis in the area defined and limited under the federally funded DOHHS HRSA CAP Grant 1-G92-OA 00005-02 provide benefits described in section 9C of chapter 118E to employees and employers who are described and limited under the terms of the program set forth in the demonstration, and may expend monies from any appropriation for benefits provided under said section 9C to also provide benefits specified in the demonstration expanding the income limits set forth in said section 9C from 200 percent to 300 percent of the federal poverty level; provided that the division shall seek to obtain a modification of its demonstration, as defined in subsection (1) of section 9A of chapter 118E, that would allow for federal reimbursement for some or all of the expenditures for providing the benefits specified in the demonstration; provided further, that the demonstration, without expenditure of monies from any appropriation for benefits provided under said section 9C, shall also be permitted to offer health coverage to employees between 300 percent and 400 percent of the federal poverty level. The sections 3 to 8, inclusive, of chapter 176J of the General Laws and 211 CMR 66.00 shall not apply to health coverage provided by carriers pursuant to this section.”

The amendment was *rejected*.

Mr. O’Leary moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law or regulation to the contrary, the office of health and human services, in establishing the rates effective January 1, 2002 and thereafter of medicaid reimbursement for long term care facilities

located on Martha's Vineyard, shall recognize those additional nursing, fixed and variable costs that result from operating a geographically isolated nursing facility located on Martha's Vineyard. The office under the second paragraph of section 12 and 14 of chapter 118E of the General Laws, may enter into contracts and amendments to the provider agreements with such long term care facilities to implement the rate adjustment provided for by this section."

The amendment was *rejected*.

Ms. Fargo moved to amend the bill by inserting after section 580 the following section:—

"SECTION 580A. The division of medical assistance shall seek a waiver from the uniformity provisions of 42 U.S.C. section 1396(w)(b) to mitigate the impact of the user fee on nonprofit continuing care retirement communities and non-profit residential care facilities; provided however that a facility benefiting from the waiver calculation shall be established as a nonprofit entity."

After remarks, the amendment was *rejected*.

Messrs. Tarr, Lees, Tisei and Knapik moved to amend the bill by inserting after section 332 the following section:—

SECTION 332A. Section 9C of said chapter 118E is hereby amended by striking out, in line 20, the word "200" and inserting in place thereof the following word:—"250".; and by inserting after section 580 the following section:—

"SECTION 580A. The Division of Medical Assistance shall develop a graduated system of eligibility based on levels for incomes below 200 percent of the federal poverty level, from 201 to 225 per cent of the federal poverty level, and from 226 per cent to 250 of the federal poverty level. This system shall provide proportionally for levels of assistance, which shall decrease progressively for those categories of eligibility above 200 per cent of the federal poverty level."

The amendment was *rejected*.

Mr. Tarr moved to amend the bill by inserting after section 599 the following section:—

"SECTION 599A. Notwithstanding the provisions of any general or special law to the contrary, Network Health shall study the feasibility of contracting with Northeast Health Services, Inc. and other relevant medical procedures for the delivery of health care services on Cape Ann."

The amendment was *rejected*.

Messrs. Tolman and Moore moved to amend the bill in section 2, in item 4000-0300, by inserting after the words "develop and implement said prior authorization program" the following words:—""; provided further, that the division shall file a quarterly report with the house and senate committees on ways and means and the joint committee on health care detailing the estimated savings resulting from the prior authorization of medications designed to treat epilepsy, the number of instances that an appeal for a nongeneric version of such medication was denied and any instances of hospitalization of an individual denied such nongeneric medication".

After remarks, the amendment was adopted.

Ms. Fargo moved to amend the bill by inserting after section 599D the following new section:—

"SECTION 599E. There shall be a Fernald Developmental Center Land Reuse Committee. The committee shall include the mayor of the city of Waltham or his designee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, the ward councilor from the city of Waltham representing the ward in which the campus is located, 3 citizens of Waltham to be appointed by the mayor of the city of Waltham, the state representative from the ninth Middlesex house district, the state representative from the tenth Middlesex house district, and the senator from the third Middlesex senate district. The commissioner of the division of capital asset management and maintenance shall appoint a representative from the division to be a non-voting member of the committee, and who shall attend each of the meetings of the committee. The committee shall be responsible for representing the interests of the town in all deliberations with the division of capital asset management and maintenance about the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a Comprehensive Reuse Consensus Plan for Fernald Developmental Center State Property, which shall provide a detailed description, by parcel, of how the property is to be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup, including, but not limited to, any building demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. Upon approval by the reuse committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be

submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of authorizing legislation, if any, necessary to effectuate the provisions of the reuse plan. If the reuse plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan, including, but not limited to, any restrictions or and requirements imposed by the plan. The reuse committee shall meet as necessary to complete said reuse plan, but shall not meet less than once per month.”

The amendment was adopted.

Mr. Joyce moved to amend the bill by inserting after section 232 the following section:—

“SECTION 232A. Section 1D of chapter 69 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law to the contrary, a school district, by vote of its school committee, may award a high school diploma to students eligible for special education programs and who have fulfilled the graduation requirements of the school district. In addition, should a school committee elect to award diplomas to special education students who have met all district requirements, the diplomas so awarded shall indicate that MCAS competency has been achieved where appropriate. Nothing in this paragraph shall require any district to award a high school diploma to any student who has not achieved a MCAS competency determination. A school committee may vote to award diplomas for any class scheduled to graduate in 2003 to 2006, inclusive.”

The amendment was *rejected*.

Subsequently, Mr. Joyce requested that no action be taken on this amendment, but objection was made thereto by Mr. Lees and Ms. Walsh.

Messrs. Moore and Joyce moved to amend the bill by inserting after section 517 the following section:—

“SECTION 517A. Paragraph (c) of section 197 of chapter 184 of the acts of 2002 is hereby amended by inserting after the word ‘any’ the following words:— beverages with added artificial or refined sweeteners, candy, processed foods containing more than 35 per cent of calories from fat, more than 10 per cent of calories from saturated fat or more than 35 per cent sugar by weight, fast food restaurants, or any.”

The amendment was adopted.

Mr. Hedlund moved to amend the bill by inserting after section 502 the following section:—

“SECTION 502A. Section 6 of chapter 46 of the acts of 1997 is hereby repealed.”

After remarks, the amendment was *rejected*.

Ms. Wilkerson moved to amend the bill by inserting after section 234 the following section:—

“SECTION 234A. Subsection (b) of section 5 of chapter 71A, as most recently amended by Section 1 of chapter 386 of the acts of 2002, is hereby further amended by striking out clause (2), and inserting in place thereof the following clause:—

(2) Children who need alternative instruction: It is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child’s overall educational progress and rapid acquisition of basic English language skills; or”.

The amendment was *rejected*.

Ms. Melconian and Mr. Lees moved to amend the bill by inserting, after section 580D the following section:—

“SECTION 580E. Notwithstanding any general or special law to the contrary, the commissioner of education may in an emergency situation accept an application for a capital school construction grant under chapter 70B of the General Laws and to place such project on the priority waiting list, so-called, at the reimbursement rate in effect on June 30, 2003; an emergency situation shall consist of (i) a school that has been determined to be underperforming by the board of education and has lost or is at risk of losing its accreditation; (ii) the commissioner determines that such project is needed to address significant facility deficiencies which cannot be cost effectively addressed through major reconstruction or repair work; and provided further, that such application meets all requirements of said chapter 70B and the regulations promulgated therefor.”

After remarks, the amendment was adopted.

Messrs. McGee and Magnani moved to amend the bill by inserting, after section 580 the following section:—

“SECTION 580A. Notwithstanding paragraph (nn) of section 89 of chapter 71 of the General Laws or any other general or special law to the contrary, for the fiscal year beginning July 1, 2003 and ending on June 30, 2004, the state treasurer shall exclude from the charter school tuition amount deducted from the total education aid of the district in which the student of a charter school resides, a proportional amount of total chapter 70 aid reduced in fiscal year 2004 from amounts received in fiscal year 2003. For the purposes of this section, such proportional amount shall be determined by the total number of students of a district attending a charter school in relation to the total number students in the respective charter school.”

The amendment was *rejected*.

Mr. Morrissey moved to amend the bill by inserting after section 580 the following new section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, at least 50 per cent of the commonwealth’s unrestricted general revenue sharing of the Jobs and Growth Tax Relief Reconciliation Act of 2003 shall go to local aid distribution.”

After debate, the amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. There shall be a special commission to study creating and funding an overburden aid category for cities and towns in the commonwealth which have been underfunded based on the Target Share concept. The commission shall consist of 3 members of the senate, 1 of whom shall be the minority leader or his designee, 3 members of the house of representatives, 1 of whom shall be the minority leader or his designee, the treasurer of the commonwealth, the commissioner of education, the secretary of administration and finance and 3 persons appointed by the governor, established for the purpose of making an investigation and the commission shall focus on methods to correct current inequities in the chapter 70 of the General Laws funding formula including, but not limited to, the emphasis placed on income and property wealth as a component of said chapter 70 formula.

Said commission may call upon officials of the commonwealth or its various subdivisions for such information as it may desire in the course of its investigation and study. Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives on or before October 1, 2003.”

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, the department of education shall report to the legislature on the effectiveness of the expanded program allotment, as defined in section 2 of chapter 70 of the General Laws. The report shall include, for every school district for which the allotment is calculated as part of its foundation budget, a comparison of how much the school district is allotted and how much the school district is actually spending in the category. The report shall further include a description of all programs currently being funded through this allotment, including but not limited to, after school programs, MCAS remediation programs, extended day programs, summer programs, and any enrichment programs designed to improve academic performance among low income at risk students in the districts receiving such funds. The report shall be provided to the house and senate chairs of the joint committee on education, arts, and humanities, and to the house and senate chairs of the house and senate committees on ways and means not later than December 31, 2003.”

The amendment was *rejected*.

Mr. Antonioni moved to amend the bill by inserting after section 209 the following section:—

“SECTION 209A. Said section 72 of said chapter 44, as so appearing, is hereby amended by inserting after the word ‘revenues’, in line 32, the following words:— provided, however, that a city shall deposit in a separate account for expenditure by the school committee not less than 50 percent of any such amount; provided further, that no school committee shall receive a smaller percentage of such amount than it received during fiscal year 1998, provided, further, that a school committee may make expenditures from said separate account for any lawful educational purpose without further appropriation; provided further, that any expenditure from said account on items qualifying as net school spending shall supplement, and not substitute for, the net school spending requirement of the district; and provided, further, that the receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70.”

The amendment was *rejected*.

Mr. Glodis moved that the bill be amended by inserting after section 462 the following 2 sections:—

“SECTION 462A. Subdivision (G) of section 110 of chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting at the end of subsection (G) the following sentence:— Beginning on January 1, 2004 this paragraph shall only apply to claims for reimbursement submitted electronically.

SECTION 462B. Subsection (e) of section 8 of chapter 176A of the General Laws, as so appearing, is hereby amended by adding the following sentence:— Beginning on January 1, 2004, this paragraph shall only apply to claims for reimbursement submitted electronically.”; by inserting after section 464 the following section:—

“SECTION 464A. The second paragraph of section 7 of chapter 176B of the General Laws, as so appearing, is hereby amended by adding the following sentence:— Beginning on January 1, 2004, this paragraph shall only apply to claims for reimbursement submitted electronically.”; and by inserting after section 465 the following 2 sections:—

“SECTION 465A. The second paragraph of section 6 of chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following sentence:— Beginning on January 1, 2004, this paragraph shall only apply to claims for reimbursement submitted electronically.

SECTION 465B. The last paragraph of section 2 of chapter 176I of the General Laws, as so appearing, is hereby amended by adding the following sentence:— Beginning on January 1, 2004, this paragraph shall only apply to claims for reimbursement submitted electronically.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 477 the following 3 sections:—

“SECTION 477A. Section 60G of chapter 231 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 10 and 11, the following words:— ‘prior to the judgment,’.

SECTION 477B. Said section 60G of said chapter 231, as so appearing, is hereby further amended by inserting after the word ‘compensated’, in lines 11 and 12 and in line 27, the following words:— ‘, replaceable, compensable or indemnifiable’.

SECTION 477C. Chapter 231 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 60H and inserting in place thereof the following section:—

Section 60H. In no action for malpractice, negligence, error, omission, mistake, or the unauthorized rendering of professional services, including without limitation sections under chapter 229, section 2, against a provider of health care, shall the amount of damages for pain and suffering, loss of companionship, embarrassment and other items of general damages exceed five hundred thousand dollars. If two or more plaintiffs have received verdicts or findings of such damages in a total amount, for all plaintiffs claiming damages from a single occurrence, transaction, act of malpractice injury, or death which exceeds five hundred thousand dollars, the amount of such damages recoverable by each plaintiff will be reduced to a percentage of five hundred thousand dollars proportionate to that plaintiff’s share of the total amount of such damages for all plaintiffs. Such limit shall apply regardless of the number of person liable jointly and/or severally for the said damages.”

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund and Knapik and Mrs. Sprague moved to amend the bill by inserting after section 451 the following section:—

“SECTION 451A. Section 15 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out the penultimate sentence and inserting in place thereof the following sentence:— Nothing in this section, or in section 18 or 24 shall bar an action at law for damages for personal injuries or wrongful death by an employee against any person other than (1) the insured person employing such employee and liable for the payment of the compensation provided by this chapter for the employee’s personal injury or wrongful death and such person’s employees; and (2) an employee leasing company, as defined in section 14A, and its client company if each are in compliance with this chapter.”

The amendment was *rejected*.

Messrs. Lees, Tarr, Knapik and Mrs. Sprague moved to amend the bill by inserting after section 230 the following new section:—

“SECTION 230A. Chapter 64C of the General Laws is hereby amended by inserting after section 10 the following section:—

Section 10A. It shall be unlawful for a public or private postal or package delivery service to knowingly deliver a tobacco product to a person under the age of 18 years. A tobacco product shall not be accepted for delivery by such a package delivery service if

the package does not have affixed thereto a label which plainly and visibly states that the package contains tobacco and that it is not for delivery to a person under age 18. A public or private postal or package delivery service that knowingly delivers a tobacco product directly to a purchaser shall:

- (a) deliver solely to the purchaser at the address given by the purchaser as specified on a valid Massachusetts driver's license, passport, state issued identification, United States military identification or immigration card;
- (b) require the signature of the purchaser;
- (c) receive and inspect the identification of the purchaser showing the purchaser's date of birth to verify that he is 18 years of age or older;
- (d) receive an attestation from the purchaser, on a form prepared by the delivery service, certifying that the information on the identification required under clause (a) truly and correctly identifies the purchaser, his current address and age, and the certification shall be retained on file by the distributor for not less than 1 year;
- (e) submit a copy of the invoice for each delivered package to the department of revenue which shall ensure that the appropriate excise taxes are paid. To be accepted by the delivery service, each invoice shall include the name and address of the purchaser, the brand and the type and quantity of tobacco.

Any person who delivers a tobacco product in violation of this section shall be fined not less than \$250 nor more than \$1,000 for each offense. A person who falsely certifies information required by this act shall be fined no less than \$100 or more than \$500 for each offense."

After remarks, the amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 37 the following section:—

"SECTION 37A. Section 35M of said chapter 10, as amended by section 5 of chapter 300 of the acts of 2002, is hereby further amended by striking out the second and third sentences and inserting in place thereof the following 2 sentences:— One hundred percent of the revenues collected by the board shall be deposited into the trust fund. All monies deposited into the fund shall be expended exclusively by the board for its operations and administration; and any unexpended balance at the end of the fiscal year shall not revert to the General Fund."

The amendment was *rejected*.

Mr. Hart moved to amend the bill by inserting after section 134 the following two sections:—

"SECTION 134A. Section 51 of chapter 111 of the General Laws is hereby amended by inserting after the word 'clinic,' in line 5, the following words:— (which term, under this section, shall include a clinic which as been designated by the department as a community health center pursuant to section 57E).

SECTION 134B. Said chapter 111 is hereby further amended by inserting after section 57D the following section:—

Section 57E. The department shall, after a public hearing, promulgate rules and regulations for the licensing and conduct of community health centers. For purposes of this section, the following words shall have the following meanings:

'Community health center under independent licensure,' a clinic which is designated as a community health center by the department for meeting the following requirements: (a) is licensed as a freestanding clinic by the department pursuant to section 51; (b) meets the qualifications for certification, or provisional certification, by the division of medical assistance, enters into a provider agreement pursuant to 130 CMR 405.404 or any successor provision thereto and receives payments from the Uncompensated Care Pool Trust Fund; (c) operates in conformance with the requirements of 42 U.S.C. 254b; (d) files cost reports as requested by the division of health care finance and policy; and (e) provider at a minimum the following basic services; (i) primary care services including adult/internal medicine, pediatrics, directly or through formal contractual arrangements, and obstetrics, directly or through formal contractual arrangements; (ii) ancillary services including social services, case management and nutritional counseling; and (iii) community outreach and public health programming through contracts, grants or other funding to populations at risk. Notwithstanding the above, organizations that do not meet the requirements of clause (a) or (c) above, but have been designated 'community health centers' by both the division of medical assistance and the division of health care finance and policy prior to January 31, 1999 shall continue to be designated as community health centers under independent licensure, if they continue to meet the requirements of clauses (b), (d) and (e) above.

'Community health center under hospital licensure,' a clinic which provides comprehensive ambulatory services and which is designated as a community health center by the department for meeting the following requirements: (a) is licensed as an outpatient clinic by the department of public health pursuant to section 51; (b) meets the qualifications for certification, or

provisional certification, by the division of medical assistance, enters into a provider agreement pursuant to 130 CMR 410.404 or any successor thereto and receives payments from the Uncompensated Care Pool Trust Fund; (c) is licensed under the license of a parent hospital which hospital has a formal written relationship with a not-for-profit corporation which operates the health center, the board of which is comprised of a majority of consumers or which meets the requirements of subsections (i) and (ii) of section 330(j)(3)(H) of the Public Health Service Act, 42 U.S.C. section 254(b)(j)(3)(H), or any successor provision thereto; and (d) provides at a minimum the following basic services: (i) primary care services including adult/ internal medicine, pediatrics, directly or through formal contractual arrangements, and obstetrics, directly or through formal contractual arrangements; (ii) ancillary services including social services, case management and nutritional counseling; and (iii) community outreach and public health programming through contracts, grants or other funding to populations at risk. Notwithstanding the above, clinics that do not meet the requirements of clause (c) above, but which were designated as 'community health centers' by both the division of medical assistance and the department of public health prior to September 30, 1998, shall continue to be designated as community health centers under hospital licensure, if they continue to satisfy the requirements of clauses (a), (b) and (d) above."

The amendment was *rejected*.

Mr. Hart moved to amend the bill by inserting after section 197 the following section:—

"SECTION 197A. Section one of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended, in line 476, by inserting after the word 'counsellor' the following words:— ' , school nurse certified by the department of education' ."

The amendment was *rejected*.

Messrs. Tarr, Tisei and Knapik moved to amend the bill by inserting after section 313 the following section:—

"SECTION 313A. Section 51 of chapter 111 of the General Laws, as appearing in the 2000 Official Edition, is amended by striking out the third paragraph."; and by inserting after section 599 the following section:—

"SECTION 599A. The Commissioner of the Department of Public Health shall undertake a survey and analysis of acute care, emergency room care, and nursing home availability in the commonwealth, for the purposes of developing a state wide strategy for the maintenance of adequate availability and levels of care for the next ten years throughout the commonwealth.

The survey and analysis shall examine the current and projected availability of such services by geography, levels of income, and levels and conditions of health insurance status. The analysis shall also review the current process and substance of licensing beds pursuant to paragraph three of section 51 of chapter 111 of the General Laws and to make legislative recommendations for a successor system.

The survey and analysis shall be employed in the development of a state-wide strategy to maintain adequate levels of acute and emergency care throughout the commonwealth for the next ten years, and to address the needs of persons of all levels of income, insured status, and in geographically practical and convenience venues.

The results of said survey and analysis, together with the strategy developed pursuant to this act and any legislative recommendation relating thereto, shall be filed with the clerks of the house and senate not later than January 1, 2004."

After remarks, the amendment was *rejected*.

Mr. Moore moved to amend the bill by inserting after section 318 the following section:—

"SECTION 318A. Chapter 112 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 39B the following section:—

Section 39C. The board may, upon application, made in such manner and form as it shall determine, register an establishment for transacting business as a long-term care pharmacy or home infusion pharmacy, and issue to such entity as it deems qualified to conduct long-term care pharmacy or home infusion, a license to operate. The board may deny such registration and refuse to issue such license, if, in its reasonable discretion, such entity would be inconsistent with or opposed to the best interests of the public health, welfare or safety, but no such registration shall be made or license issued in the case of a corporation, as defined in section 30 of chapter 63, unless it shall appear to the satisfaction of the board that the management of such entity is controlled solely by a registered pharmacist. Such license shall expire on December 31 of each uneven numbered year following the date of its issue, and the fee therefore, shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7. The board, in consultation with the department of public health shall promulgate regulations pertaining to the operation of long-term care and home infusion pharmacies in the commonwealth subject to the provisions of section 2 of chapter 30A. The board shall determine which regulations, applicable to a retail drug business under section 39 shall apply to long-term care or home infusion pharmacies. The board shall, within 150 days after the filing of an application, render a final decision denying or allowing registration. Failure to render such decision, except when such failure to act is caused by the delay of the

applicant, shall constitute an approval of the application and license shall be issued. For the purposes of this section, the term long-term care pharmacy shall mean a pharmacy which dispenses pharmaceuticals, sterile intravenous drugs and nutritional products ordered by physicians to patients in nursing homes, assisted living facilities, hospice programs and similar institutional sites of care. For the purposes of this section, the term home infusion pharmacy shall mean a pharmacy which dispenses pharmaceuticals, sterile intravenous drugs and nutritional products ordered by physicians to patients in their homes and other alternative healthcare sites.”

The amendment was *rejected*.

Mr. Pacheco moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, the property located in the town of Norfolk, as identified in chapter 519 of the acts of 1980 and formerly known as Pondville hospital, shall be added to the list of properties for which the department of public health has responsibility, pursuant to chapter 21E of the General Laws or any other applicable general or special law, for ensuring that all needed environmental remediation and related work is performed and that all contamination is eliminated from the property.”

The amendment was *rejected*.

Mr. Morrissey moved to amend the bill by inserting after section 456 the following section:—

“SECTION 456A. Section 1E of chapter 164 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following subsection:—

(e) Whenever a distribution company, gas company as defined in section 1 intends to transfer to another state any call center, billing center or complaint-handling functions or activities currently located within the commonwealth, it shall provide advance notice to the department no less than 60 days in advance of the transfer. Notice shall not be required if the transfer does not result in the net reduction of the number of Massachusetts-based employees responding to calls, processing bills or handling complaints. A company required to provide notice under this paragraph shall include in the notice sufficient information, data, or studies to demonstrate that the proposed transfer provides net benefits to its customers, considering all costs and savings and any impacts on service quality. The department shall promptly review the information, data or studies and, before the expiration of 60 days from its receipt, determine whether the proposed transfer is in the best interests of the company’s customers. If the department fails to make and issue an affirmative finding within 60 days from any notification, the company may not proceed with the transfer; but, a company may refile new notice at any time.

For the purpose of calculating service quality measures, a company’s service quality measurements shall be computed based upon actual monthly figures and shall not be calculated on a rolling basis.” and by inserting after section 451 the following section:—

“SECTION 451A. Chapter 159 of the General Laws is hereby amended by inserting after section 17 the following section:—

Section 17A. Whenever a telecommunications company which provides a service regulated by the department of telecommunications, as the service is defined in subsection (d) of section 12, intends to transfer to another state any call center, billing center or complaint-handling functions or activities currently located within the commonwealth, it shall provide advance notice to the department no less than 60 days in advance of any such transfer. Notice shall not be required if the transfer does not result in the net reduction of the number of Massachusetts-based employees responding to calls, processing bills or handling complaints. Any company required to provide notice under this paragraph shall include in the notice sufficient information, data, or studies to demonstrate that the proposed transfer provides net benefits to its customers, considering all costs and savings and any impacts on service quality. The department shall promptly review the information, data or studies and, before the expiration of 60 days from its receipt, determine whether the proposed transfer is in the best interests of the company’s customers. If the department fails to make and issue an affirmative finding within 60 days from any notification, the company may not proceed with the transfer; but, a company may refile new notice at any time.

For the purposes of calculating service quality measures, a company’s service quality measurements shall be computed based upon actual monthly figures and shall not be calculated on a rolling basis.”

The amendment was *rejected*.

Mr. Moore moved to amend the bill by inserting after section 499 the following section:—

“SECTION 499A. Chapter 180 of the acts of 1961 is hereby amended by inserting after the word ‘Worcester’ the following words:— between the Rhode Island state boundary and the intersection with Boston Road in Sutton.”

After remarks, the amendment was adopted.

Messrs. Brewer and Nuciforo moved to amend the bill by inserting after section 242 the following section:—

“SECTION 242A. Section 2D of chapter 85 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘Fund’, in line 14, the following sentence:— Signs erected before January 1, 2003 shall not be subject to fee increases.”

The amendment was *rejected*.

Mr. Knapik moved to amend the bill by inserting after section 580F the following section:—

“SECTION 580G. The office of vehicle management in the operational services division in the executive office for administration and finance shall renegotiate the current contracts regarding vehicle maintenance services, accident subrogation and fees. The office shall open for review and consideration the utilization of existing commonwealth operated vehicle maintenance facilities and personnel to perform preventive maintenance and basic repairs to all light duty vehicles. The office shall review all subrogation fees and explore the possibility of using existing commonwealth resources in order to execute the process of subrogation. The office shall submit a written report to the joint committee on transportation with any findings and recommendations by December 1, 2003.”

The amendment was adopted.

Mr. Knapik moved to amend the bill by inserting after section 64 the following new section:—

“SECTION 64A. Chapter 16 of the General Laws, as so appearing, is hereby amended by striking out section 14 and inserting in place thereof the following section:—

Section 14. (a) There shall be within the department of highways an outdoor advertising bureau, for the purpose of regulating and controlling, in the public interest, the erection and maintenance of billboards, signs or other advertising devices. The commissioner shall assign staff as he considers necessary to perform the duties of the bureau. The commissioner shall direct the bureau to develop and publish standardized criteria for the implementation of its regulations, to be updated as the bureau considers necessary. The bureau shall make an annual report to the general court and to the secretary for the preceding calendar year, setting forth the number of permits granted, the number of permits refused, the number of hearings held, the number of illegal signs removed, and other relevant matters.

(b) Wherever the name outdoor advertising board appears in any general or special law or in any order, rule or regulation or other document related to the exercise of its powers, or the performance of its duties, or to any custody and control vested in the board, the name shall mean and shall be construed as referring to the outdoor advertising bureau.

(c) Any function, right, power, duty or other statutory provision which before the effective date of this section, was assigned to, exercised by or performed by the outdoor advertising board shall be considered assigned to, exercised by or performed by the outdoor advertising bureau.

(d) All duties, responsibilities, obligations, rule and regulation making authority, licensing and permitting powers, and all other activities formerly mandated to, granted to or performed by the outdoor advertising board and all books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities, and other property, both personal and real, which immediately before the effective date of this section are in the custody of the board are hereby transferred to the outdoor advertising bureau, and all existing contracts, memoranda of understanding, leases, and other obligations of the outdoor advertising board which are in force on the effective date of this section shall become the obligations and shall be thereafter performed by the outdoor advertising bureau, and all orders, rules, regulations, other determinations, licenses, permits, certificates, approvals, and permissions granted by, and all legal and decisional precedents established by the outdoor advertising board shall continue in effect as if established or granted by the outdoor advertising bureau unless or until amended, modified, suspended, or revoked. All monies heretofore appropriated for the outdoor advertising board unexpended on the effective date of this section are hereby transferred to the outdoor advertising bureau and shall be available for expenditure by the bureau for the purposes for which such funds were originally appropriated.”

The amendment was adopted.

Mr. Knapik moved to amend the bill by inserting after section 64 the following 5 sections:—

“SECTION 64A. Chapter 16 of the General Laws, is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 1. (a) The executive office of transportation and construction shall include a department of highways purpose of constructing, maintaining and operating the roads and bridges of the commonwealth. The department will be under the direction of a commissioner who shall serve at the pleasure of the secretary and who shall be responsible for administering and enforcing

the provisions of this chapter relative to the administration and to each bureau or other section thereof under his control and supervision unless otherwise provided herein, subject to the supervision of the secretary.

The commissioner shall be exempt from chapter 31 and the position of commissioner shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. He shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as their construction, operation, financing or other relevant experience relative to the efficient exercise of his powers and duties.

The commissioner shall administer this section and chapter 81, and the rules, regulations and orders issued and promulgated thereunder, and all other laws of the commonwealth that grant powers to or impose duties upon the department of highways, subject to the supervision of the secretary.

(b) The commissioner shall establish a procedure for recommending to the secretary approval or disapproval of all contracts, including specifications, made by the department, and any changes, alterations, amendments, or modifications thereof and for contract appeals of all claims made under any contract with the department with the exception of claims subject to section 39Q of chapter 30. Any person aggrieved by a decision of the secretary acting in regards to contract appeals may bring suit against the commonwealth for recovery of damages based on such claim under chapter 258.

To assist the secretary and commissioner in performing this function, the governor may appoint and remove a person of legal training and experience, who shall be a member of the bar of the commonwealth, to the position of hearing examiner. The hearing examiner shall devote full time during business hours to the duties of his position. The position shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of chapter 30. The secretary may refer any dispute concerning contracts, contract specifications or the execution of contracts not subject to section 39Q of chapter 30 to the hearing examiner for a report of the matter including a recommendation as to the disposition of the dispute.

The hearing examiner shall hear all claims by contractors from determinations of the department with the exception of claims subject to section 39Q of chapter 30; and shall, after hearing, render to the secretary a report of the matter including a recommendation as to the disposition of the claim. The examiner shall at the request of the contractor or of the department or on his own motion summon witnesses and require the production of books and records and take testimony under oath. Such reports shall be maintained as public records in a place and form fully accessible to the public.

(c) The commissioner shall appoint and may remove all employees in the department, subject to the approval of the secretary. Except as provided herein or as otherwise provided by law, all such appointments and removals shall be made in accordance with the provisions of chapter 31. From time to time the commissioner may, subject to appropriation and regulation, employ such consultants as he may deem necessary.

The commissioner may appoint and remove without regard to chapter 31, but with the approval of the secretary, a chief engineer; 5 deputy chief engineers; and assistant chief engineer; a highway and structures engineer; a bridge engineer; highway engineers; district highway engineers; a chief counsel to serve in the office of the commissioner; a director to serve in the division of administrative services; 4 executive assistants to the commissioner; a personnel director; a director of the right of way bureau; and a director of public information. The total number of appointments to be made by the commissioner under this paragraph shall not exceed 35. No person holding an appointment under this paragraph shall be subject to the provisions of chapter 31 or section 9A of chapter 30. Nothing in this section shall be deemed to exempt the positions named herein from the provisions of sections 45 to 50, inclusive, of chapter 30.

So far as practicable in the judgment of the commissioner, appointments to the positions not classified under chapter 31 shall be made by promoting employees of the commonwealth serving in positions so classified. Any person appointed to the position of chief engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge engineer, highway engineer or district highway engineer, shall be a person of experience and skill as an engineer and shall be (i) an employee of the division holding an office or position classified under said chapter 31 with permanent status of senior civil engineer or higher; or (ii) a registered professional engineer; or (iii) a person who has received the degree of bachelor of science in an appropriate engineering discipline from an accredited college or university. Where an employee of the commonwealth having permanent status in a position classified under or having tenure by reason of section 9A of chapter 30 is so promoted to such unclassified position, upon termination of service in such unclassified position the employee shall be restored to the position from which he was promoted; or to a position equivalent thereto in the salary grade in the same state agency; or if he had been promoted in accordance with said chapter 31 during promotion in the unclassified position, to the position to which he was so promoted or to a position equivalent thereto in salary grade in the same state agency. In cases of restoration under said chapter 31, or under said section 9A of said chapter 30, such restoration shall be without impairment of civil service status or tenure under said section 9A, and without loss of the seniority, retirement and other rights to which uninterrupted service in the position would have entitled the employee, provided, however, that if his service in such unclassified position shall have been terminated for cause, the employee's right to be restored shall be determined by section 43 of said chapter 31. During the period of such appointment the

person so appointed shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

(d) There shall be within the department an outdoor advertising bureau, for the purpose of regulating and controlling, in the public interest, the erection and maintenance of billboards, signs or other advertising devices. The secretary shall assign such staff as he deems necessary to perform the duties of the outdoor advertising bureau. The bureau shall make an annual report for the preceding calendar year, setting forth the number of permits granted, the number of permits refused, the number of hearings held, the number of illegal signs removed, and other relevant matters, to the general court and to the secretary.

(e) The commissioner may promulgate rules and regulations to effectuate the purposes of this chapter.

SECTION 64B. Section 2 of said chapter 16 is hereby repealed.

SECTION 64C. Section 3 of said chapter 16, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words 'time for time', in line 4, the following words:— with the approval of the secretary.

SECTION 64D. Said chapter 16 is hereby further amended by striking out section 3A, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 3A. There shall be in the division a bureau of transportation planning and development that shall be under the supervision and control of the secretary of transportation. The secretary shall appoint, and with like approval may remove, an officer to be known as the director of transportation planning and development, who shall be the executive and administrative head of the bureau. He shall be a person with professional skill and experience in the field of transportation planning and shall not be subject to section 9A of chapter 30 or chapter 31.

The bureau shall serve as the principal source of transportation planning in the commonwealth, and in so serving shall conduct research, surveys, demonstration projects and studies in co-operation with the federal government, other governmental agencies, and appropriate private organizations and be responsible for the continual preparation of comprehensive and co-ordinated transportation plans and programs for submission to and adoption by the commission and for such review or consideration by other governmental agencies as may be required by law or deemed appropriate by the commission. The plans and programs shall be prepared in coordination with comprehensive urban development plans and in co-operation with the said other agencies so far as practicable.

SECTION 64E. Sections 4, 5, 13 and 14 of said chapter 16 are hereby repealed.”

The amendment was *rejected*.

Mr. Pacheco moved to amend the bill by inserting after section 580G the following section:—

“SECTION 580H. The proposed bridge on United States highway route 44 to span state highway route 58 in the town of Carver shall be designated and known as the Frank R. Mazzilli Bridge. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.”

The amendment was adopted.

Messrs. Lees and Tarr moved to amend the bill by inserting after section 599E the following section:—

“SECTION 599F. (a) There shall be a special commission to study the feasibility, costs and benefits of closing various state-owned human service facilities and using alternative private sector outpatient and group home facilities for those individuals displaced by a closure. In addition to these subjects, the report of the commission shall include an assessment of the impact of displacement on the number of clients served, a discussion on any long-term consequences for the overall quality of human services in the commonwealth, and recommendations for any action deemed appropriate. This report shall be submitted to the clerks of the senate and the house of representatives within 180 days of the effective date of this act.

(b) This commission shall consist of 9 members. Three members shall be appointed by the governor. Two members shall be appointed by the speaker of the house of representatives. One member shall be appointed by the minority leader of the house of representatives. Two members shall be appointed by the senate president. One member shall be appointed by the senate minority leader.”

The amendment was adopted.

Ms. Wilkerson moved to amend the bill by inserting after section 580H the following section:—

“SECTION 580I. Notwithstanding any general or special law to the contrary, the secretary of health and human services shall, pursuant to section 16 of chapter 6A and chapter 30A of the General Laws, promulgate regulations regarding the sharing of data, including personal data, between and among the executive office and its agencies not later than September 30, 2003. Such regulations shall ensure the confidentiality of client data and shall be consistent with federal and state laws regarding client privacy rights.”

The amendment was adopted.

Mr. Tolman moved to amend the bill by inserting after section 599F the following new section:—

“SECTION 599G. The secretary of the executive office of health and human services shall convene a planning process to identify the growing need for services by citizens of the commonwealth with Asperger’s syndrome or related disorders. The secretary shall use agencies within the executive office of health and human services to identify the number of persons with Asperger’s syndrome or related disorders, the potential service and support needs of persons with Asperger’s syndrome, and which state agency or agencies would share responsibility for persons with Asperger’s syndrome or related disorders. The secretary shall report to the joint committee on human services and elderly affairs and to the house and senate committees on ways and means detailing plans by the executive office of health and human services for persons with Asperger’s syndrome on or before June 30, 2004.”

The amendment was adopted.

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

“SECTION \_\_\_\_\_. Notwithstanding any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the town of canton for property currently under the care and control of the department known as the Indian Line Farm in the town of canton. The term of any lease agreement shall be for 10 years, with an option to renew for up to 10 additional years. Any lease agreement shall require that all costs, fees and expenses relating to the care and maintenance of the property shall be paid in full by the lessee and contain any other terms and conditions the department may require.”

The amendment was *rejected*.

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

“SECTION \_\_\_\_\_. Notwithstanding any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the North Randolph Little League for property currently under the care and control of the department, located adjacent to the existing North Randolph Little League field off High street near the Nike Missile Site in the town of Randolph. The term of any such lease agreement shall be for 10 years, with an option to renew for up to 10 additional years. Any lease agreement shall require that all costs, fees and expenses relating to the care and maintenance of the property shall be paid in full by the lessee and contain any other terms and conditions the department may require.”

The amendment was *rejected*.

Mr. Panagiotakos moved to amend the bill by inserting after section 580I the following section:—

“SECTION 580J. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell, may lease for an initial term of 25 years with an option for 10-year renewals to any person, corporation or organization the real property under the care, custody and control of the department of conservation and recreation located at 257 Father Morissette Boulevard, in the city of Lowell, and known as the Tremont Yard Building under such terms and conditions as may be imposed the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell. The lease shall require that any improvements or development be in accordance with the rules and regulations of the Massachusetts Historical Commission and the Lowell National Historic Board, shall provide a substantial public benefit and shall provide that the lessee preserve the historic canal water power system features located within the property, provide an interpretive display and make available to the general public such historic features at such times and under such reasonable and appropriate terms and conditions as may be imposed by the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell.”

The amendment was adopted.

Ms. Fargo moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law, administrative bulletin or regulation to the contrary, the metropolitan district commission or successor agency that will administer the Connors Memorial swimming pool in the city of Waltham, shall undertake the design and reconstruction of the pool. The project shall be completed under the supervision of the engineering and construction division of the commission or successor agency.”

The amendment was *rejected*.

Mr. Hart moved to amend the bill by inserting after section 580J the following section:—

“SECTION 580K. Notwithstanding any general or special law or regulation to the contrary, the term defined in that certain Determination of Applicability issued by the department of environmental protection dated as of February 11, 1999 and referred to as WRP File No. JD 98-6009, issued pursuant to 310 C.M.R.9 shall be extended, and that such activities allowed thereunder shall continue to be permitted, until a date 18 months following the filing of a certificate by the city of Boston, acting by and through the Boston redevelopment authority, to the clerk of the city of Boston, with a copy to the department, declaring that said authority has identified a water-dependent user for the area of land defined in said determination. The foregoing shall serve as a declaration of variance allowing the continuation of the activities described in the determination defined in the preceding sentence, for such period of time as defined by this section.”

After remarks, the amendment was adopted.

Ms. Walsh moved to amend the bill by striking out section 265.

After remarks, the amendment was adopted.

Mr. Nuciforo moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding sections 40E to 40K, inclusive, and section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of, and in consultation with, the department of conservation and recreation, may, utilizing such competitive proposal process as the commissioner of the division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years, to 1 or more proponents, for 1 or more skating rinks so as to provide for the continued use, operation, maintenance, repair and improvement of all of the following state-owned buildings and facilities together with the land and appurtenance associated therewith: Steriti Memorial Rink, Boston; Daly Memorial Rink, Brighton; Simoni Memorial Rink Cambridge; Emmons Horrigan O’Neill Rink, Charlestown; Veterans Memorial Rink, Somerville; Veterans Memorial Rink, Waltham; Porazzo Memorial Rink, East Boston; Allied Veterans Memorial Rink, Everett; Connery Memorial Rink, Lynn; LoConte Memorial Rink, Medford; Flynn Memorial Rink, Medford; Cronin Memorial Rink, Revere; Devine Memorial Rink, Dorchester; Shea Memorial Rink, Quincy; Murphy Memorial Rink, South Boston; Connell Memorial Rink, Weymouth; Reilly Memorial Rink, Brighton; Bajko Memorial Rink, Hyde Park; Kelly Outdoor Skating Rink, Jamaica Plain; Ulin Memorial Rink, Milton; Bryan Memorial Rink, West Roxbury. Such leases and other agreements shall be on terms acceptable to the commissioner of capital asset management and maintenance after consultation with the commissioner of environmental management and, notwithstanding any general or special law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any lease or other arrangement requiring improvements to be made to any buildings may include a description of the initially required improvements and, at a minimum, performance specifications. Ice time at department of environmental management owned skating rinks shall be allocated to user groups in the following priority order; general public skating; youth groups; high school hockey; and adult organizations or informal groups. Ice time may be allocated at the discretion of the lessees with the following restrictions: general public skating shall be booked at a minimum of 16 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender. Leases and other agreements shall provide that any benefits to the communities and the costs of improvements and repairs made to the properties provided by the lessees or the recipients of the properties shall be taken into account as part of the consideration for the leases or other agreements. All consideration received from the leases or other agreements shall be payable to the department of environmental management for deposit into the Second Century Fund, established in section 2EE of chapter 29 of the General Laws. The recipients of the properties shall bear all costs deemed necessary or appropriate by the commissioner of capital asset management and maintenance for the transactions, including without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.”

After remarks, the amendment was *rejected*.

Mr. Baddour, Ms. Murray and Messrs. Pacheco, Tarr and Magnani moved to amend the bill by inserting after section 139 the following section:—

“SECTION 139A. The General Laws are hereby amended by inserting after chapter 21K the following chapter:—

#### CHAPTER 21L.

## **Environmental Endangerment Act.**

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

‘Environmental violation’, a violation of the following statutes or regulations promulgated thereunder: sections 26 to 53, inclusive, of chapter 21; chapter 21C, chapter 21E; sections 142A, 142B and 150A of chapter 111 and section 40 of chapter 131.

‘Natural resources’, land, fish, wildlife, biota, air, water, groundwater and drinking water supplies belonging to, managed by, held in trust by, appertaining to or otherwise controlled by the commonwealth or any local government.

‘Organization’, a person other than an individual.

‘Person’, an individual, public or private corporation or authority, trust, firm, joint stock company, partnership, association or other entity and any officer, employee, or agent of such person and any group of persons.

‘Serious bodily injury’, bodily injury which creates a substantial risk of death or which involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ or mental faculty, reproductive or genetic damage or a substantially increased risk of cancer or other chronic ailment.

Section 2. (a) A person who knowingly or recklessly commits an environmental violation and thereby causes serious bodily injury to another human being:

(1) shall be punished by a fine of not more than \$100,000 or by imprisonment in the state prison for not more than 20 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$500,000 for a first offense and by a fine of not more than \$2,000,000 for any second or subsequent offense.

(b) A person who knowingly or recklessly commits an environmental violation and thereby causes a substantial risk of damage to natural resources or to the property of another person, in an amount exceeding \$25,000: (1) shall be punished by a fine of not more than \$100,000, or by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$250,000 for a first offense and by a fine of not more than \$500,000 for a second or subsequent offense.

Section 3. (a) The court: (1) shall, when sentencing an organization for an offense under clause (2) of subsection (a) of section 2 or for a second or subsequent offense under clause (2) of subsection (b) of said section 2; and (2) may, when sentencing an organization for a first offense under said clause (2) of said subsection (b) of said section (2) place the organization on probation and require as a condition of that probation that the organization pay for an environmental audit.

(b) The court shall appoint an independent expert with no prior involvement in the environmental management of the organization sentenced to conduct an environmental audit under this section. The prosecution and the defense may each submit names of suggested experts. The court shall consider any such submissions in making an appointment under this subsection.

(c) The environmental audit shall: (1) identify all causes of, and any factors that contributed to, the conduct that is the basis for the conviction and recommend specific measures to prevent a recurrence of such causes or factors; and (2) recommend a schedule for implementation of the recommendations under clause (1).

(d) The court shall order the defendant to implement each recommendation of the audit unless the court finds by clear and convincing evidence that: (1) the recommendation will not achieve the result the recommendation seeks to bring about: (2) the adverse environmental effects of implementing the recommendation outweigh the environmental benefits of the recommendation: (3) the technology does not exist to carry out the recommendation: or (4) there are alternative means to achieve the equivalent result at significantly less cost to the defendant. Any such alternative means shall be incorporated into the audit in place of the relevant recommendation and the court shall order the defendant to implement the audit as modified.

(e) The court may impose for an offense under this chapter a term of probation that is longer than the term otherwise permitted by law, if the court determines that the longer term is necessary to implement the environmental audit.

(f) The prosecutor, the auditor appointed under clause 2 subsection (b) or a governmental agency may suggest to the court that a failure to implement the audit has taken place. Whenever the alleged failure to implement an environmental audit is properly before the court, unless the defendant demonstrates that the failure did not take place, the court shall order appropriate sanctions.

(g) In addition to any other sanctions the court may impose for failure to implement an environmental audit, the court may: (1) hold any appropriate person in contempt; or (2) appoint a special master to conduct such affairs of the defendant as are necessary and relevant to implementation of the audit.”

The amendment was adopted.

Mr. Baddour moved to amend the bill by inserting after section 511 the following new section:—

“SECTION 511A. Item 8700-7997 of section 2 of chapter 289 of the acts of 1998, as amended by section 19 of chapter 245 of the acts of 2002, is hereby further amended by striking out the words ‘on the Newburyport Armory site.’ and inserting in place thereof the following words:— ‘in the city of Newburyport’.”

The amendment was adopted.

Mr. McGee moved to amend the bill by inserting after section 521 the following section:—

“SECTION 521A. Item 8000-0010 of section 2 of chapter 184 of the acts of 2002 is hereby amended by striking out the words ‘of the award to Saugus’.”

The amendment was *rejected*.

Mr. Tolman moved to amend the bill by inserting after section 242 the following new section:—

“SECTION 242A. Section 9 of chapter 89 of the General Laws, as so appearing, is hereby amended by striking out, in line 56, the words ‘fifty dollars’ and inserting in place thereof the following figure:— \$200.”

The amendment was *rejected*.

Mr. Barrios moved to amend the bill by inserting after section 208 the following:—

“SECTION 208A. Section 108L of said chapter 41, as so appearing, is hereby amended by adding the following sentence:— Notwithstanding any general or special law or regulation to the contrary, the board of higher education shall receive annually to expend for the ongoing administration of the police career incentive pay program, an amount equal to one quarter of 1 per cent of the amounts appropriated annually for reimbursement to the cities and towns of the commonwealth and to the state police for the commonwealth costs of payment to the cities, towns and state police under the police career incentive program.”

The amendment was *rejected*.

Mr. Joyce moved to amend the bill by inserting after section 599 the following new section:—

“SECTION 599A. There shall be a special commission to study of the feasibility and cost to the commonwealth in converting the state property known as Brookwood farm to a residence for the governor. The commission shall consist of the governor or his designee, the president of the senate or his designee, the speaker of the house of representatives or his designee and the chairs of the boards of selectmen in the town of Canton and the town of Milton. The special commission shall report to the general court the results of its investigation and study, together with recommendations and drafts of legislation necessary to carry out any recommendations, by filing the report with the clerk of the senate and the clerk of the house of representatives on or before September 15, 2003.”

The amendment was *rejected*.

Mr. Creedon moved to amend the bill by inserting after section 4 the following section:—

“SECTION 4A. Chapter 6 of the General Laws is amended by inserting after section 6A, as appearing in the 2000 Official Edition, the following section:—

6B. There is hereby established within the office of the governor an office of the governor’s counsel which shall represent and provide legal services to the executive offices and governor as the supreme executive magistrate of the commonwealth. The governor shall appoint a chief legal counsel who shall serve as counsel to the governor and manage, administer and coordinate all legal functions and affairs of the executive offices and state agencies. Notwithstanding section 31 of chapter 29, and subject to the approval of the governor, the chief legal counsel may assign deputy legal counsels, general counsels, deputy general counsels and assistant counsels to perform legal services based on his determination of the legal needs of the executive offices and state agencies. The chief legal counsel shall be responsible for the exercise of all powers and the performance of all duties assigned by law to the office of the governor’s counsel, subject to the approval of the governor, including:

- (1) Appoint and remove such deputy legal counsel and personnel as are necessary for the operation of the office of the governor's legal counsel;
- (2) render such legal advice, and such representation prior to initiation of any litigation in court, as are required concerning every matter and issue arising in connection with the exercise of the official powers and duties, and performance thereof, in the operation of each executive office, department, and state agency and, upon request and at the governor's legal counsel's discretion, each independent authority;
- (3) upon request, assist and cooperate fully with the attorney general and the counsel of each independent authority in the performance of their duties;
- (4) upon request of the attorney general and upon designation of the governor's legal counsel, deputy legal counsel, general counsels, deputy general counsels, or assistant counsels as special assistant attorneys general, initiate appropriate proceedings or defend any executive office, department, or state agency in any judicial tribunal, provided that such representation would not create a conflict of interest in the office of the governor's counsel as determined by the governor's chief legal counsel;
- (5) initiate appropriate proceedings or defend any executive office, department, or state agency in any administrative tribunal, provided that such representation would not create a conflict of interest in the office of the governor's counsel as determined by the governor's chief legal counsel;
- (6) upon the request of the governor, prepare requests for opinions of the justices of the supreme judicial court pursuant to Article 85 of the Articles of Amendment of the Constitution of the Commonwealth;
- (7) issue such rules, guidelines, and standards as are necessary to carry out the duties of the office of the governor's counsel provided for in this chapter;
- (8) qualify, procure, retain, and administer services of non-governmental attorneys;
- (9) nothing in this section shall be construed to derogate in any way from the powers and duties of the attorney general."

After debate, the amendment was *rejected*.

The President in the Chair, Messrs. Hedlund, Tarr, Knapik, Lees and Tisei moved to amend the bill by inserting after section 372 the following section:—

"SECTION 372A. Section 26 of chapter 118G of the General Laws is hereby repealed."

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Joyce and Hedlund moved to amend the bill by inserting after section 580 the following section:—

"SECTION 580A. The commissioner of the division of insurance shall in consultation with the commissioner of the department of public health, the secretary of health and human services, the commissioner of the department of medical security, the commissioner of the department of consumer affairs and business regulation and the secretary of administration and finance, to develop a system of uniform and standardized billing and payment to be utilized by every medical provider, hospital, insurer, health maintenance organization and any other entity making payment of any type for health care goods or services of any type in the commonwealth.

(1) Not later than 60 days following the passage of this act, the commissioner shall convene a planning group to assist in the development of said uniform payment system, hereinafter referred to as 'UPS'. The planning group shall be comprised of those individuals listed in this subsection 1 or their designee, together with the following: Three representatives of the Massachusetts Hospital Association, 1 of which shall represent a community hospital, 1 representative of a health maintenance organization doing business in the commonwealth, 1 of which shall represent a commercial insurer doing business in the commonwealth, 1 representative of the commonwealth's insurer of last resort, 1 representative of a preferred provider organization doing business in the commonwealth, 1 representative of the Massachusetts Nurses Association, 3 representatives of the Massachusetts Medical Society, 3 members of the senate, at least 1 of whom shall represent the minority party, and 3 members of the house of representatives, at least 1 of whom shall represent the minority party. The planning group shall, in the discretion of the commissioner, assist in the development and implementation of a UPS having the characteristics prescribed by subsection (2).

(2) The UPS developed pursuant to this act shall employ a single, standardized format for the making and payment of claims between any provider and any payer of health care goods and services rendered to any citizen of the commonwealth. The system shall include, but not be limited to, a universal format for the identification by code of particular conditions, treatments and goods, which format shall be maintained by any entity, including Medicaid, which delivers a contract for the payment of health care costs in the commonwealth. The format shall be designed so as to be usable in electronic or printed media, shall be

simplified and straightforward, shall be expendable to cover future health care developments, shall be modifiable to adapt to any changing circumstances, shall facilitate the timely making, processing, and payment of claims, and shall be commercially practicable.

(3) The UPS shall provide for the prompt notification of a claimant by a payer that a claim has been received, and that the information necessary to process the claim is either complete or incomplete.

(a) In the event that the claim is incomplete, then such notification shall include any and all remaining information necessary to the payment of the claim. Such information shall, in turn, be provided on a supplementary claim form which shall bear its date of submission, which shall not be later than 30 days after the original notification of the receipt of the claim. Payment shall be issued by the payer not later than 45 days following the receipt of the supplementary claim form.

(b) In the event that all claim information is complete, then payment shall be issued within 45 days.

(c) The planning group prescribed in subsection (1) may develop the specific details of this notification process, including any appeals and further allowances for defective claim information.

(4) The UPS shall be developed in a state suitable for implementation and reported to the clerks of the house and senate and to the governor of the commonwealth not later than 18 months following the passage of this act. Following said reporting, the General Court shall have 90 days to make recommendations to the commissioner, or take legislative action to delay implementation of said UPS.

(5) Not later than 24 months following the passage of this act, the commissioner shall implement the UPS developed pursuant to the provisions of this section, unless otherwise directed by the General Court.

(6) The commission shall maintain the planning group prescribed by subsection (1) for the purposes of monitoring the implementation of the UPS developed in this section making recommendations to the commissioner for any necessary changes to enhance or maintain the effectiveness of the UPS, and to assist in the issuance of reports relative to the UPS prescribed by subsection (6) of this section.

(7) The commissioner shall, for the 3 year period commencing upon the implementation of the UPS, issue quarterly reports relative to the operating effectiveness of the UPS, which shall include, but not be limited to:

(A) The costs of implementation and operation of the system, both to the private and public sectors;

(B) problems or difficulties encountered in implementing or operating the system;

(C) public comment received relative to the system, either in actual or summary format;

(D) average time periods for the making and payment of claims under the UPS; and

(E) any legislative recommendations.

The reports shall be delivered to the clerks of the house and senate and the governor of the commonwealth.

(8) Any insurer licensed by the division of insurance, or any health care provider practicing in the commonwealth may, in a written form approved and promulgated by the commissioner, petition for a change in the UPS, which shall be considered in a timely fashion by the commissioner.

The commissioner shall conduct a public hearing to receive public comment, in person and in writing, within ninety days of receiving the petition, and shall issue a ruling on the proposed change within 30 days of the conclusion of said hearing. The commissioner may, within his discretion, consolidate said hearings for the purpose of promoting efficiency. Any changes so approved shall be implemented in the next semi-annual modification period following the ruling.

The commissioner shall establish 2 semi-annual modification dates whereby any changes to the UPS shall be implemented. The commissioner may develop regulations pursuant to this act to ensure that adequate notice is given of any such changes, and that prompt compliance is accomplished with regard to such changes.”

The amendment was *rejected*.

Mr. Magnani moved to amend the bill by inserting after section 24 the following section:—

“SECTION 24A. Section 4A of Chapter 7 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:—

(d) The information technology division shall be headed by the chief information officer who shall also serve as assistant secretary for information technology. He shall be appointed by the secretary with the approval of the governor and may be removed in like manner. The chief information officer shall carry out such functions as the secretary may from time to time deem necessary for the administration of information technology systems within the executive department. The chief information officer shall be responsible for the efficient and economical administration of information technology systems within the executive department, including, but not limited to, setting information technology standards and policy, reviewing and approving the planning, design, acquisition and operation of information technology systems, assessing the performance of such systems and operations, managing central information technology systems, operations and infrastructure, managing the commonwealth's mailing operations and developing a strategic plan for the use of information technology.

For purposes of this section, the term 'infrastructure' shall include, without limitation, all data center, security, network, desktop and website portal services, website and application hosting, and shared services, including without limitation those facilitating user authentication and authorization and the use of electronic payments. The term 'infrastructure' shall not include the management of agency-specific software applications.

(1) The chief information officer shall periodically review the executive department's information technology assets, including, but not limited to, hardware, software, networks, websites, and telecommunications; track information technology needs; and integrate and coordinate the planning and budgeting of the executive department's information technology facilities in relation to its programmatic needs. He shall be responsible for the following with respect to the executive department: (i) allocation and disposition of its information technology assets; (ii) supervision and control of the planning, design, construction, removal, installation, repair and maintenance of information technology facilities and projects; (iii) information technology related business continuity planning; and (iv) approval of budgets for agency level information technology expenditures.

(A) The chief information officer may, in furtherance of the function of his office, accept and receive funds, grants and services from the federal government or its agencies, and from departments, agencies and instrumentalities of state and local government or from private individuals, trusts and estates.

(B) The information technology division shall be the central provider of all information technology infrastructure for the executive department, except where an agency's use of such infrastructure would be inconsistent with federal law. The secretary may charge agency appropriations for the cost of services centrally provided by the information technology division. The division may also make such information technology infrastructure available for the voluntary use of the general court, the judiciary, other constitutional officers consistent with standards set by the chief information officer.

(2) Information technology employees assigned to specific agencies shall report to a secretariat-level information officer, who shall report to the chief information officer. The chief information officer shall approve any planned information technology development project or purchase by an agency under the authority of the governor or any secretary, before funds may be obligated for such purpose. The chief information officer shall, prior to the procurement of new information technology systems, conduct a review of existing and proposed information technology systems to determine compatibility with other state information technology systems. The chief information officer shall keep a record of the projected cost of making newly procured information technology systems compatible with existing systems. The chief information officer shall report to the chairs of the senate and house committees on ways and means as well as the chairs of the senate and house committees on science and technology on the compatibility of newly acquired or developed systems with the enterprise standards and architecture as adopted by the chief information technology officer and the information technology advisory board.

The chief information officer shall develop and implement a set of standards for the procurement of information technology systems which shall require that: information systems be compatible to the greatest extent possible; such systems be designed to streamline and improve service delivery and reduce duplicative data entry; and provide cross-agency utilization to allow one-portal access to state services.

As to information technology procurements conducted by the operational services division, the chief information officer shall establish appropriate standards and policies for solicitations, and shall review and approve such procurements, in conjunction with the chief procurement officer.

(3) The chief information officer may establish within the division such bureaus, offices and other administrative units as are deemed necessary from time to time by the secretary for purposes of carrying out the functions of the division.

(4)(i). There shall be an information technology advisory board. The advisory board shall consist of 10 permanent members including the executive department's chief information officer, the chancellor of the board of higher education, the president of the University of Massachusetts, the chair of the senate committee on science and technology, the chair of the house committee on science and technology, the chief justice of the supreme judicial court, the attorney general, the treasurer, the comptroller, the secretary of the commonwealth, and the state auditor. The advisory board shall also have 6 temporary members whose representatives shall serve for 1 year terms, including 3 representatives from executive department agencies, 1 representative from a state authority, 1 representative from the Massachusetts municipal association, and 2 representatives from the private

sector, both of whom shall have expert knowledge in the area of information technology, 1 of whom shall represent the interests of business and the other the interests of consumers. Upon the expiration of the term of a temporary member, his successor shall be appointed for a term of 1 year. The governor shall appoint all temporary board members from executive department agencies and the private sector and they shall serve at his pleasure.

(ii). The board shall annually by July first of every year draft, recommend and present for signature to the governor, the speaker of the house of representatives, the president of the senate, the chief justice of the supreme judicial court and the constitutional officers, a memorandum of understanding among and acceptable to the executive department, legislature, judiciary and constitutional offices that shall include information technology standards and a strategic plan for the signatories' acquisition and use of information technology. In addition, the advisory board shall advise the executive department's chief information officer on information technology issues, including the development of an enterprise vision, strategy and direction for the use of information technology in the executive department, the development of policy, strategic planning, and project selection criteria, and information technology architecture, infrastructure, information technology investments and security. The advisory board shall also file annually on July first of every year, a report with the governor, the speaker of the house, the president of the senate, the constitutional officers, and the chief justice of the supreme judicial court, including its analysis and recommendations during the previous year.

(iii). The information technology advisory board's membership shall meet regularly on a schedule to be determined by its members, but in any case no fewer than 4 times a calendar year. The members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

The information technology division's staff shall provide such assistance as the board may deem necessary."

The amendment was adopted.

Mr. Magnani moved to amend the bill by inserting after section 580L the following section:—

"SECTION 580M. Notwithstanding any general or special law to the contrary, the information technology division may retain and expend amounts up to an additional 10 per cent of revenues collected under its intergovernmental service spending authorization after 10-day notification to the secretary of administration and finance, the comptroller, and the house and senate committees on ways and means and subsequent approval by the secretary of administration and finance."

The amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 580M the following section:—

"SECTION 580N. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall accept applications for abatement of tax on behalf of Old Colony Stationary Inc. of Whitinsville for the tax years 1994, 1995, 1996 and 1997. Such applications shall be considered timely if filed with the commissioner within 90 days from the effective date of this act. Any abatement paid pursuant to these applications shall not include payment of interest or of any costs related to the filing of such applications."

The amendment was adopted.

Mr. Glodis moved to amend the bill by inserting after section 213 the following section:—

"SECTION 213A. Said section 5 of said chapter 59, as so appearing, is hereby further amended by adding the following clause:—

Fifty-fifth. Notwithstanding any general or special law to the contrary, real estate owned or occupied by a private college, junior college or university shall be subject to taxation at the lowest municipal tax rate in which the real estate is located; provided, however, that real estate used exclusively for academic purposes shall, subject to existing filing requirements, be exempt from such taxes.

Real estate shall not be construed as being used exclusively for academic purposes unless the majority of use of the real estate is used for academic purposes. Dormitories, student and administrative housing, libraries, gymnasiums, athletic fields, student unions, theaters and cafeterias shall not be exempt from taxation.

Notwithstanding this clause, a municipality in which an affected educational institution maintains real estate may enter into a payment in lieu of taxes agreement instead of subjecting such real estate to property tax. Every 5 years, a municipality may revert between property taxation and payment in lieu of taxes agreements.

The commissioner shall promulgate regulations necessary to carry out this clause."

The amendment was *rejected*.

Messrs. Nuciforo and O’Leary moved to amend the bill by inserting after section 202 the following section:—

“SECTION 202B. Section 12 of Chapter 32B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law to the contrary, governmental units shall be exempt from any obligation to bargain over the decision to change, alter or eliminate any benefit or benefits offered by or through a joint purchase group to eligible employees of a governmental unit. To the extent a governmental unit, which is a member of a joint purchasing group, timely receives a request or requests to bargain over the impact of a change which has been voted upon by a joint purchase group, the governmental unit shall comply with its obligation to bargain over the impact of any such change, though pendency of any such collective bargaining negotiations shall in no way effect or limit a joint purchase group’s ability to make said benefit changes, alterations or elimination(s) to benefit plans offered to the eligible employees of each and every governmental unit which participated in the joint purchase group.”

After remarks, the amendment was *rejected*.

Mr. Nuciforo moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding chapter 60 of the General Laws or any other special or general law to the contrary, in any city or town having more than 5,000 inhabitants accepting this section, if a property tax remains unpaid after a demand has been made therefor, it shall be lawful for the collector of taxes to levy upon any bank accounts belonging to the assessed owner of such property. The commissioner of the department of revenue shall establish regulations or guidelines for the implementation of this section by any city or town.”

After remarks, the amendment was *rejected*.

On motion of Ms. Fargo, the Senate reconsidered the vote by which it had *rejected* Amendment No. 32, relative to compliance and tax registration laws and recovery of delinquent taxes.

On the recurring question of adoption of the amendment Ms. Fargo and Mr. Moore moved to amend the bill in section 2, by striking out item 1201-0130 and inserting in place thereof the following item:—

“1201-0130

The department of revenue may expend an amount not to exceed \$2,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of a tax returns or the payment of taxes due and payable to the commonwealth and for the costs of obtaining delinquent returns and collecting delinquent taxes for a prior fiscal year; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; provided further, that the commissioner of revenue shall expand the most wanted list, as published on the internet, to include a list of delinquent taxpayers, including individuals, trusts, partnerships, corporations and 121A corporations, if the delinquency amount is greater than \$25,000 and for a period of at least 6 months from the time the taxes were assessed; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purpose of the lists shall be to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3½ of chapter 90 of the General Laws  
.....2,640,000”.

The redrafted amendment was then adopted.

On motion of Ms. Wilkerson the Senate reconsidered the vote by which it had *rejected* Amendment No. 112, relative to prostate cancer screening and targeted health services.

On the recurring question of adoption of the amendment, Ms. Wilkerson moved to amend the bill in section 2, by striking out item 4513-1112 and inserting in place thereof the following item:—

“4513-1112

For a prostate cancer screening, education and treatment program; provided, that not more than \$99,000 shall be expended for the H.E.L.P. program for black male health; provided further, that screening, education and treatment shall have a particular focus on the high rate of prostate cancer among African American males; and provided further, that state employees previously paid from

this item shall be paid from item 4510-0099 or item 4510-0100 in fiscal year 2004  
.....1,000,000”.

The redrafted amendment was then adopted.

Messrs. Knapik, Lees, Hedlund, Tarr and Tisei, Mrs. Sprague and Mr. Joyce moved to amend the bill by inserting after section 599 the following new section:—

“SECTION 599A. There shall be a special commission to study and report on methods to reduce the cost of transportation for students with disabilities to out-of-district special education placements. The commission shall consist of the chairs of the house and senate committees on education, arts and humanities, the ranking minority members of the house and senate committees on education, arts and humanities, 1 representative each from the operational services division of the division of purchased services, the department of education, the Massachusetts Association of School Superintendents, the Massachusetts Association for Special Education Administrators, the Massachusetts Organization for Educational Collaboratives, the Massachusetts Association of C766 Approved Private Schools and The School Transportation Association of Massachusetts. The scope of the commission’s inquiry shall include, but shall not be limited to: the regulation of reasonable and allowable transportation costs by the operational services division, the use of educational collaboratives to coordinate and/or provide transportation services to students with disabilities to out-of-district programs and the establishment of regulations by the department of education to permit the exchange of student information necessary to coordinate transportation routes to out-of-district programs. The commission shall submit its report to the house and senate committees on ways and means and the joint committee on education, arts and humanities not later than December 31, 2003 along with drafts of any legislation.”

The amendment was *rejected*.

Mr. Barrios moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, no laid-off firefighter or fire alarm operator, who becomes employed as a firefighter or fire alarm operator in a department other than the department from which firefighter or fire alarm operator was laid off from, shall be required to reside within the limits of the city or town in which they are employed as a provision for continued employment.”

The amendment was *rejected*.

Mr. Hart moved to amend the bill by inserting after section 580N the following section:—

“SECTION 580O. Notwithstanding any special or general law, rule or regulation to the contrary, the Massachusetts Water Resources Authority shall not acquire, build, construct, develop or maintain a combined sewer overflow facility, of any size, using parcels of land in the area referred to as ‘Site J’ by the MWRA, located north of East First Street and east of Summer Street in the South Boston section of the city of Boston.”

The amendment was adopted.

Messrs. Hedlund and Tarr moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Section 1. Notwithstanding any general or special law to the contrary, the housing appeals committee established by section 5A of chapter 23 of the General Laws is prohibited from hearing or making any decision on appeals to comprehensive permit applications that have been denied by a municipal board of appeals as established by section 12 of chapter 40A of the General Laws.”; and by inserting after section 609 the following section:—

“SECTION 609A. Section 580A shall be in effect until December 31, 2003.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, as seventeen minutes before two o’clock P.M., on motion of Mr. Hedlund, as follows, to with (yeas 3 — nays 36) [**Yeas and Nays No. 33**]:

**YEAS.**

Antonioni, Robert A. Tarr, Bruce E. — **3.**  
Hedlund, Robert L.

**NAYS.**

Baddour, Steven A. Menard, Joan M.  
Barrios, Jarrett T. Montigny, Mark C.  
Berry, Frederick E. Moore, Richard T.

|                         |                          |
|-------------------------|--------------------------|
| Brewer, Stephen M. .    | Morrissey, Michael W     |
| Chandler, Harriette L.  | Murray, Therese          |
| Creedon, Robert S., Jr. | Nuciforo, Andrea F., Jr. |
| Creem, Cynthia Stone    | O’Leary, Robert A.       |
| Fargo, Susan C.         | Pacheco, Marc R.         |
| Glodis, Guy W. .        | Panagiotakos, Steven C   |
| Hart, John A., Jr.      | Resor, Pamela            |
| Havern, Robert A.       | Rosenberg, Stanley C.    |
| Jacques, Cheryl A.      | Shannon, Charles E.      |
| Joyce, Brian A.         | Sprague, Jo Ann          |
| Knapik, Michael R.      | Tisei, Richard R.        |
| Lees, Brian P.          | Tolman, Steven A.        |
| Magnani, David P.       | Tucker, Susan C.         |
| McGee, Thomas M.        | Walsh, Marian            |
| Melconian, Linda J.     | Wilkerson, Dianne — 36.  |

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

At thirteen minutes before two o’clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and at a quarter before three o’clock P.M., the Senate reassembled, Ms. Melconian in the Chair.

#### PAPER FROM THE HOUSE.

##### *Engrossed Bill.*

An engrossed Bill relative to the deadlines for submission of nomination papers for municipal officers in the city of Lynn (see House, No. 3859) (which originated in the House), **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.**

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

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Creedon moved to amend the bill in section 2, in item 0320-0010, by striking out the figure “\$985,582” and inserting in place thereof the following figure:— “\$1,005,582”.

The amendment was *rejected*.

Messrs. McGee, Morrissey and Moore, Ms. Jacques and Mr. Joyce moved to amend the bill in section 2, in item 1108-5200, by adding the following words:— “; and provided further, that notwithstanding any general or special law to the contrary, the commonwealth shall pay to all retirees, the spouses and dependents, who are insured under a medicare health benefits supplement plan and enrolled in medicare part B, an amount equal to the difference by which the share of the medicare supplement plan and medicare part B premiums paid by them exceeds the share of the premium that they would have paid under and equivalent health benefits plan without medicare coverage”.

The amendment was *rejected*.

Mr. Creedon moved to amend the bill in section 2, in item 1410-0251, by striking out the figure “\$2,093,735” and inserting in place thereof the following figure:— “\$2,135,727”.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 2, in item 2600-2000, by striking out the figure “\$100,000”, in line 16, and by inserting in place thereof the following figure:— “\$247,000”.

The amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 4403-2120, by inserting after the word “program”, in line 30, the following words:— “provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that no hotel or motel stay funded from this item shall establish tenancy on the part of the family”.

The amendment was adopted.

Messrs. Morrissey and Pacheco moved to amend the bill in section 2, in item 4512-0500, by inserting after the words “developmentally disabled;”, in line 4, the following words:— “that funds shall be expended for the administration of the Office of Oral Health and its programs, and provided further, that no less than \$200,000 shall be expended for the Taunton Oral Health Clinic”.

The amendment was adopted.

Mr. Tarr moved to amend the bill in section 2, in item 7004-0099, by adding the following words:— “; provided further, that the department of housing and community development, in coordination with local and regional housing authorities, shall study the feasibility of developing a statewide application system and waiting list for all state public housing resources and the Massachusetts rental voucher program that would permit application in multiple housing authorities through the submission of a single application form, while allowing each authority to continue to make its own eligibility and preference determinations to the extent permitted by law; and provided further, that the department shall file a report of its findings and recommendations with the house and senate committees on ways and means and the joint committee on housing and urban development not later than March 1, 2003”.

The amendment was adopted.

Mr. Baddour moved to amend the bill in section 2, in item 7007-0950, by inserting after the word “Council;” in line 29, the following words:— “and provided further, that not less than \$25,000 shall be expended for a grant to the Salisbury Chamber of Commerce”; and by striking out the figure “\$2,315,039”, and inserting in place thereof the following figure:— “\$2,340,039”.

The amendment was adopted.

Mr. Magnani and Ms. Melconian moved to amend the bill in section 2, in item 7061-0011, by inserting after the words “vocational regional school districts”, in line 14, the following words:— “; (4) to assist municipalities in offsetting extraordinary funding losses resulting from the opening of a new charter school within that municipality in the past 3 years”.

The amendment was adopted.

Mr. Knapik moved to amend the bill in section 2, in item 9110-1900, by adding the following words:— “; provided, that not less than \$15,000 shall be expended for the Grandparents as Parents Initiative”; and by striking out the figure “\$3,954,441”, and inserting in place thereof the figure:— “\$3,969,441”.

The amendment was adopted.

Ms. Walsh moved to amend the bill in section 2, in item 9110-1900, by adding the following words:— “; provided, that not less than \$30,000 shall be expended for a youth/elder outreach position at the Roche Family Community Center in West Roxbury”; and by striking out the figure “\$3,954,441” and inserting in place thereof the following figure:— “\$3,999,441”.

The amendment was adopted.

Ms. Wilkerson, Messrs. Morrissey and Hedlund, Ms. Tucker and Mr. Tarr moved to amend the bill by striking out section 35; and, in section 609, by striking out the words “section 35G of chapter 10”.

The amendment was adopted.

Ms. Fargo and Mr. Nuciforo moved to amend the bill by striking out section 173 and inserting in place thereof the following section:—

“SECTION 173. Notwithstanding any general or special law to the contrary, during fiscal year 2004 and 2005, the comptroller shall transfer to the General Fund the balance from amounts credited to the Health Protection Fund.”

The amendment was *rejected*.

Ms. Fargo and Ms. Tucker moved to amend the bill by striking out section 184 and inserting in place thereof the following section:—

“SECTION 184. Notwithstanding any general or special law to the contrary, during fiscal year 2004, the comptroller shall transfer to the General Fund the balance from amounts credited to the Tobacco Settlement Fund.”

After remarks, the amendment was *rejected*.

Mr. Glodis moved to amend the bill in section 244, by inserting after the word “Fund”, in line 5, the following words:— “; provided, that the registrar of motor vehicles may expend \$6 per citation, not to exceed \$1,259,000 in the aggregate, from revenues collected from the surcharge for the purposes of maintaining registry services, without further appropriation”.

After debate, the amendment was *rejected*.

Mr. Lees and Ms. Melconian moved to amend the bill in section 322, by striking out the words “an increase in the daily rate to be paid by each long-term care and domiciliary resident in” and inserting in place thereof the following words:— “, subject to the approval of the secretary of health and human services, all charges to each long-term care and domiciliary resident in.”

The amendment was adopted.

Mr. Morrissey moved to amend the bill by inserting after section 580O the following section:—

“SECTION 580P. Notwithstanding any general or special law to the contrary, funds appropriated in item 0526-0103 of section 2E of chapter 236 of the acts of 2000 shall be available for expenditure until June 30, 2005.”

The amendment was adopted.

Mr. Hart moved to amend the bill in section 534, in the second sentence, by inserting after the word “application” the following words:— “, and shall provide that upon completion of the verification and approval of an application, the carrier shall pay for all covered health care services provided to its insureds with payment retroactive to the date the credentialing application was submitted to the carrier, and that no carrier shall enter into a contract with a provider that waives such right to retroactive reimbursement”.

The amendment was *rejected*.

Mr. Havern moved to amend the bill by striking out section 534.

The amendment was *rejected*.

Mr. Montigny moved to amend the bill in section 552, by adding the following paragraph:—

“The division of medical assistance shall send program information and application materials to the last known address of persons who were enrolled in the MassHealth basic program before its termination on April 1, 2003, who meet the financial eligibility requirements for the program established by this section.”

The amendment was adopted.

Mr. Pacheco moved to amend the bill in section 569, in subsection (b), by striking out the date “August 1, 2003” and inserting in place thereof the following date:— “September 1, 2003”; and by striking out the date “September 1, 2003” and inserting in place thereof the following date:— “October 1, 2003”.

The amendment was adopted.

Mr. Baddour moved to amend the bill by inserting after section 580P the following new section:—

“SECTION 580Q. Each state and community college shall require that all students enrolled in 9 or more credits submit written documentation as evidence of adequate medical insurance coverage. A list of the names, addresses and social security numbers of all students indicating any form of MassHealth coverage shall be forwarded to the division of medical assistance for evaluation of alternative insurance options. The list shall be subject to privacy standards pursuant to public law 104-191, the Health Insurance Portability and Accountability Act of 1996.

The division shall purchase or assist in the purchase of group health insurance, including insurance offered through a college or university, on behalf of an eligible MassHealth member, provided that the division has determined that the purchase of such insurance is cost-effective. The division shall deny eligibility to any adult who refuses to enroll in other available insurance.”

After remarks, the amendment was adopted.

Ms. Fargo and Mr. Pacheco moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, the board of education shall not grant a commonwealth charter to any applicant for a period of 3 years, retroactive to January 1, 2003. The board of education shall not authorize additional enrollment of any previously approved commonwealth charter school beyond the effective date of this act.”

The amendment was *rejected*.

Messrs. Antonioni and Barrios, Ms. Resor, Ms. Creem and Ms. Wilkerson moved to amend the bill by inserting after section 234 the following sections:—

“SECTION 234A. Section 2 of chapter 71A of the General Laws, as appearing in section 1 of chapter 386 of the acts of 2002, is hereby amended by inserting after clause (d) the following clause:—

(d½) ‘English learner with limited formal schooling’, an English learner whose native language is not English, who has missed at least 2 years of schooling prior to enrolling in school in the United States and: (1) is at least 2 years below grade level in literacy both in the student’s native language and in English; or (2) is at least 2 years below grade level in mathematics, as determined by standardized assessment instruments.

SECTION 234B. Section 4 of said chapter 71A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed 1 school year; provided, however, that kindergarten English learners shall be educated in English language mainstream classrooms with assistance in English language acquisition including, but not limited to, English as a second language.

SECTION 234C. Said section 4 of said chapter 71A, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Foreign language classes for children who already know English, 2-way bilingual programs for students in kindergarten through grade 12 and special education programs for physically or mentally impaired students shall be unaffected.

SECTION 234D. Subsection (a) of section 5 of said chapter 71A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— If a parental waiver has been granted, the affected child may be transferred to classes teaching English and other subjects through bilingual education techniques or other generally-recognized educational methodologies permitted by law.

SECTION 234E. Subsection (b) of said section 5 of said chapter 71A, as so appearing, is hereby amended by adding the following clause:—

(4) English learner with limited formal schooling: school officials have determined that the student has limited formal schooling and it is the informed belief of the school principal and educational staff that an alternative course of educational study would be better suited to the student’s overall educational progress and rapid acquisition of basic English language skills.

SECTION 234F. Section 7 of said chapter 71A, as so appearing, is hereby amended by adding the following 2 paragraphs:—

English learners in any program shall be taught to the same academic standards and curriculum frameworks as all students, and shall be provided the same opportunities to master such standards and frameworks as other students. Districts shall regularly assess mastery of academic standards and curriculum frameworks.

The district shall send report cards and progress reports including, but not limited to, progress in becoming proficient in using the English language and other school communications to the parents or legal guardians of students in the English learners programs in the same manner and frequency as report cards and progress reports to other students enrolled in the district. The reports shall, to the maximum extent possible, be written in a language understandable to the parents and legal guardians of such students.

SECTION 234G. Said chapter 71A is hereby amended by inserting after section 7 the following section:—

Section 7A. The office of educational quality and accountability shall conduct on-site visits to school districts at least once every 5 years for the purposes of evaluating the effectiveness of programs serving English learners and to validate evidence of educational outcomes. The evaluation shall include, but not be limited to, a review of individual student records of all English

learners, a review of the programs and services provided to English learners and a review of the dropout rate of English learners formerly enrolled in the district within the prior 3 years.

In the event a review and evaluation undertaken under this section demonstrates that a district is failing to adequately improve educational outcomes for English learners, the commissioner may recommend to the board of education and any school within the district be declared underperforming under section 1J and 1K of chapter 69.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes before four o’clock P.M., on motion of Mrs. Sprague, as follows, to with (yeas 32 — nays 7) [**Yeas and Nays No. 34**]:

**YEAS.**

|                          |                       |
|--------------------------|-----------------------|
| Antonioni, Robert A.     | Jacques, Cheryl A.    |
| Barrios, Jarrett T.      | Joyce, Brian A.       |
| Berry, Frederick E.      | Magnani, David P.     |
| Brewer, Stephen M.       | McGee, Thomas M.      |
| Chandler, Harriette L.   | Melconian, Linda J.   |
| Creedon, Robert S., Jr.  | Menard, Joan M.       |
| Creem, Cynthia Stone     | Montigny, Mark C.     |
| Fargo, Susan C.          | Moore, Richard T.     |
| Hart, John A., Jr.       | Morrissey, Michael W. |
| Havern, Robert A.        | Murray, Therese       |
| Nuciforo, Andrea F., Jr. | Shannon, Charles E.   |
| O’Leary, Robert A.       | Tisei, Richard R.     |
| Pacheco, Marc R.         | Tolman, Steven A.     |
| Panagiotakos, Steven C.  | Tucker, Susan C.      |
| Resor, Pamela            | Walsh, Marian         |
| Rosenberg, Stanley C.    | Wilkerson, Dianne —   |

**32.**

**NAYS.**

|                    |                  |
|--------------------|------------------|
| Baddour, Steven A. | Lees, Brian P.   |
| Glodis, Guy W.     | Sprague, Jo Ann  |
| Hedlund, Robert L. | Tarr, Bruce E. — |

**7.**

Knapik, Michael R.

The yeas and nays having been completed at twenty-three minutes before four o’clock P.M., the amendment was adopted.

The President in the Chair, Ms. Walsh and Mr. Berry moved to amend the bill by inserting after section 21 the following section:—

“SECTION 21A. Chapter 10 of the General Laws is hereby amended by striking out section 42, as appearing in the 2000 Official Edition, and inserting in place thereof the following 4 sections:—

Section 42. There shall be established on the books of the commonwealth a separate fund to be known as the State Election Campaign Fund, consisting of all revenues received under section 6C of chapter 62, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The state treasurer shall deposit the fund in accordance with sections 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time after June 30 in any year in which elections are held for statewide elective office.

The state election campaign fund shall be expended only for the payment to eligible candidates, as determined under chapter 55C of amounts due on account of public financing on campaigns for statewide elective office and any unexpended balances shall be redeposited, as herein provided, pending the next year in which elections are held for statewide elective office.

Section 42A. On or before the eighth Tuesday before the primacy election in any year in which elections are held for statewide elective office, the balance of the state election campaign fund shall be determined by the comptroller as of June 30 of that year

and the state Election Campaign Fund shall thereupon be divided by the comptroller into primary and state election accounts as follows:

(a) Fifty percent of the fund shall be allocated to the primary election account which shall be further subdivided into as many primary candidate accounts as there are candidates for statewide elective office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section 4 of chapter 55C. Each primary candidate account of a candidate for governor so certified shall first be credited with \$750,000. If the primary election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the primary election account shall be proportionately allocated in equal amounts to the remaining primary candidate accounts.

(b) Fifty percent of the fund shall be allocated to the state election account. On or before the fourth Tuesday preceding the state election, the state election account shall be further subdivided into as many state election candidate accounts as there are candidates for statewide elective office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section 6 of chapter 55C; provided, however, that one state election candidate account only shall be established for each governor and lieutenant governor team of candidates. Each state election candidate account for a team of candidates for governor and lieutenant governor so certified shall first be credited with \$750,000. If the state election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the state election account shall be proportionately allocated in equal amounts to the remaining state election candidate accounts.

Section 42B. On or before the eighth, sixth, fourth and second Tuesday before the primary election in any year in which elections for statewide elective office are held the state treasurer shall without further appropriation distribute from each primary candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday before the primary election all primary candidate accounts established under section 43 shall be closed and any balances remaining shall be allocated to the general election account and shall be available for distribution as herein provided.

On or before the fourth and second Tuesday before the state election in any year in which elections are held for statewide elective office, the state treasurer shall without further appropriation distribute from each state election candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday' before the state election all state election candidate accounts established under section 43 shall be closed and any balances remaining shall be redeposited as provided in section 41 pending the next year in which statewide elections are held.

Section 42C. The state auditor shall conduct a post-audit of all accounts and transactions involving the state election campaign fund for any year in which elections are held for statewide elective office and shall conduct such other special audits and post-audits as he may deem necessary. The state auditor shall publish a report of any post-audit required by this section on or before April 1 of the year following any year in which elections are held for statewide elective office. The comptroller shall conduct a post-audit of the accounts and transaction of any candidate for state auditor.”; by inserting after section 209 the following 3 sections:—

“SECTION 209A. Subsection (b) of section 18C of chapter 55 of the General Laws, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:—

(1) each candidate or candidate’s committee that, during an election cycle, can reasonably expect to raise or spend more than \$50,000 for the offices of governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, auditor or \$5,000 for the offices of councillor, state senator and state representative.

SECTION 209B. Chapter 55A of the General Laws is hereby repealed.

SECTION 209C. The General Laws are hereby further amended by inserting after chapter 55B the following chapter:—

## **CHAPTER 55C.**

### **Limited Public Financing of Campaigns for Statewide Elective Office.**

Section 1. Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

‘Director’, the director of campaign and political finance as established by chapter fifty-five.

‘Candidate’, any candidate as defined by chapter 55.

'Statewide elective office', the office of governor, lieutenant governor, attorney general, secretary, treasurer and receiver general and auditor.

'Contribution', any contribution as defined by chapter 55.

'Qualifying contribution', any contribution made by an individual and deposited in a candidate's depository account as required by section nineteen of chapter 55 during the calendar year in which elections are held for statewide elective office or the next preceding calendar year except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds \$250 or would exceed \$250 when added to any such contribution previously made by the same individual during the calendar year in which elections are held for statewide elective office or the next preceding calendar year.

The same contribution may be a qualifying contribution for both the primary election and the state election in a year in which elections are held for statewide elective office but no contribution shall remain a qualified contribution after the end of any such year.

Section 1A. (a) On or before the last day for filing that candidate's nomination papers with the state secretary pursuant to chapter 53, every candidate for statewide elective office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree:

(1) in the case of primary candidates, to abide by the following limits on expenditures for the following elective offices in the campaign for the state primary:

|                                      |               |
|--------------------------------------|---------------|
| Governor .....                       | \$1,500,000   |
| Lieutenant Governor .....            | 625,000       |
| Attorney General.....                | 625,000       |
| Secretary .....                      | 375,000       |
| Treasurer and Receiver General ..... | 375,000       |
| Auditor .....                        | 375,000 ; and |

(2) in the case of all candidates for statewide elective office, to abide by the following limits on expenditures for the following elective offices in the campaign for the state election:

|  |             |
|--|-------------|
| Governor and Lieutenant Governor ..... | \$1,500,000 |
| Attorney General .....                 | 625,000     |
| Secretary .....                        | 375,000     |
| Treasurer and Receiver General .....   | 375,000     |
| Auditor .....                          | 375,000     |

The name of a candidate who fails to file any statement within the time required by this subsection shall not appear on the state primary ballot nor on the state election ballot, and the director shall inform the state secretary of any such failure.

(b) On or before the last day for filing withdrawals of nominations for the state primary, every primary candidate for statewide office who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that primary by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state primary ballot, and the director shall inform the state secretary of any such failure. The state primary campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(c) On or before the last day for filing withdrawals of nominations made at the state primary, every candidate for statewide office in the state election who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that election by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state election ballot, and the director shall inform the state secretary of any such failure. The state election campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(d) Any candidate appointed to fill a vacancy in a nomination for statewide elective office shall file the statement required by subsection (a) not later than the last day for filing the certificate of nomination to fill such vacancy. The time for opposing candidates to file the statements required by subsection (b) or (c), as the case may be, shall be extended accordingly.

(e) Any candidate who files a statement with the director under this section and who makes expenditures in excess of the limit established by this section, or in excess of the amount stated by said candidate pursuant to subsection (b) or (c), shall be punished by a fine of not more than the total of 2 times the amount of the expenditures in excess of said limit or said amount, as the case may be, in addition to the penalties provided by section 12.

Section 2. On or before the ninth Tuesday before the primary election in any year in which elections are held for statewide elective office the state secretary shall determine and certify to the director and the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the primary ballot and are opposed by one or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur following the filing of such certificates of nominations and nomination papers other than a vacancy caused by withdrawal of a candidate within the time allowed by law. On or before the fifth Tuesday before the state election in any such year the state secretary shall determine and certify to the director and to the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the state election ballot and are opposed by one or more candidates who have qualified for the state election ballot. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot, as provided with respect to candidates for the primary election, and any such candidates nominated at the primary election shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur other than a vacancy caused by withdrawal of a candidate within the time allowed by law. The state secretary shall promptly determine and certify to the director and state treasurer the name and address of any candidate that no longer qualifies for the primary or state election ballot or no longer has opposition because of death or withdrawal or ineligibility for office or because objections to certificates of nomination and nomination papers have been sustained or because of a recount or for any other like reason.

Section 3. The director shall determine and certify to the state treasurer those candidates for statewide elective office that are eligible for limited public financing as provided in sections 4 and 6 and shall determine and certify to the state treasurer the amounts due to each eligible candidate as provided in sections 5 and 7.

The director shall prescribe and make available forms on which statements of qualifying contributions shall be filed by candidates, which statements shall contain the name and address of each individual making a contribution, the amount of the contribution and date of deposit, the cumulative total of all contributions made by that individual during the calendar year in which elections are held for statewide elective office and the next preceding calendar year and shall contain such other information and shall be organized in such a manner as the director may reasonably require to expedite the determinations required to be made by the director by this chapter. The director shall notify candidates of any amounts determined by the director to be due from candidates under section nine and shall direct that such amounts be paid to the state election campaign fund. On or before January 30 of any year next following a year in which elections are held for statewide elective office the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section 3 of chapter 55 and shall make copies of such report available to any person upon payment of the reasonable cost of copying or reproduction.

Section 4. Any candidate for statewide elective office certified by the state secretary under section 2 as qualifying for the ballot and having opposition in primary election shall be eligible to receive limited public financing of his primary election campaign, to the extent provided by section 5, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

|                                      |          |
|--------------------------------------|----------|
| Governor .....                       | \$75,000 |
| Lieutenant Governor.....             | 15,000   |
| Attorney General.....                | 37,500   |
| Secretary.....                       | 15,000   |
| Treasurer and Receiver General ..... | 15,000   |
| Auditor.....                         | 15,000   |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth Tuesday.

Section 5. Any candidate eligible to receive limited public financing of his primary election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section 1, subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance

then remaining in the primary candidate account established for that candidate under section 42 of chapter 10; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

|                                      |           |
|--------------------------------------|-----------|
| Governor.....                        | \$750,000 |
| Lieutenant Governor.....             | 312,500   |
| Attorney General.....                | 312,500   |
| Secretary.....                       | 187,500   |
| Treasurer and Receiver General ..... | 187,500   |
| Auditor.....                         | 187,500   |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the eighth, sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

Section 6. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the state election shall be eligible to receive limited public financing of his state election campaign, to the extent provided by section 7, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

|  |           |
|--|-----------|
| Governor and Lieutenant Governor ..... | \$125,000 |
| Attorney General.....                  | 62,500    |
| Secretary.....                         | 25,000    |
| Treasurer and Receiver General.....    | 25,000    |
| Auditor.....                           | 25,000    |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said fourth Tuesday.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining eligibility for public financing of such candidate's state election campaign.

Section 7. Any candidate eligible to receive limited public financing of his state election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section one subject to section nine and subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the state election candidate account established for that candidate under section 43 of chapter 10; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

|                                       |           |
|---------------------------------------|-----------|
| Governor and Lieutenant Governor..... | \$750,000 |
| Attorney General.....                 | 312,500   |
| Secretary .....                       | 187,500   |
| Treasurer and Receiver General .....  | 187,500   |
| Auditor .....                         | 187,500   |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the fourth and second Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining the extent of public financing of such candidate's state election campaign.

Section 8. No candidate shall be eligible to receive public financing under this chapter unless and until the candidate deposits with the director a bond for the faithful compliance by such candidate and any political committee organized on his behalf with the provisions of this chapter. Such bond shall be in a form approved by the director, shall be signed by such candidate and the chairman and treasurer of any such committee, shall run to the commonwealth, shall be in force during the year in which

elections for statewide elective office are held and for the following calendar year. The bond deposited for the purpose of receiving public financing for the primary election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the primary election campaign. The bond deposited for the purpose of receiving public financing for the state election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the state election campaign, but in the case of a candidate for governor, the bond on behalf of said candidate shall be in the amount which the comptroller has credited to the account established on behalf of that governor and lieutenant governor team.

On determination by the director that a candidate has failed to make the payments to the state treasurer required by section 9 the director may request the attorney general to bring an action in the name of the state treasurer upon the bond of such candidate and his political committee and may recover for the benefit of the state election campaign fund, up to the sum of such bond, any such payments so required. Any such action shall be in addition to remedies otherwise available by law and no action on any such bond shall preclude the director from bringing such other civil or criminal proceedings as may otherwise be provided by law.

Section 9. Within two weeks following any primary or state election for statewide elective office any candidate who has received public financing under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository account as of the primary or state election less any reserve necessary to cover debts incurred to defray campaign expenditures incurred during such primary or state election. Except as provided in this section, any candidate having a surplus balance following any such primary or state election shall thereupon pay to the state treasurer for deposit to the State Election Campaign Fund an amount determined by multiplying such surplus balance by a fraction the numerator of which is the total amount of public financing received on account of such primary or state election campaign and the denominator of which is the sum of such public financing received and all contributions received by such candidate. No candidate having a surplus balance following the primary election shall be required to make any payment on account of such surplus if such candidate is certified by the state secretary under section 2 as qualifying for the ballot and having opposition in the state election and is certified by the director of campaign and political finance as eligible for public financing for the state election within 3 weeks following such primary election. In determining and certifying the amount to which any such candidate is entitled under section 7, the director shall reduce the amount that would otherwise be determined under that section by an amount equal to the amount that such candidate would be required to pay to the state treasurer under this section but for this sentence.

If the director determines that any portion of the payments made to an eligible candidate under this chapter was in excess of the aggregate amount of the payments to which the candidate was entitled he shall so notify the candidate and he shall thereupon pay to the state treasurer an amount equal to the excess amount.

If the director determines that any portion of the payments made to a candidate under this chapter for use in his primary election campaign or his state election campaign was used for any purpose other than to defray campaign expenditures in that campaign, or to repay loans the proceeds of which were used to defray campaign expenditures in that campaign, the director shall so notify the candidate and he shall thereupon pay an amount equal to the full amount so used to the state treasurer without regard to the source of the funds so used.

Any candidate who fails to pay an amount determined by the director to be due within 10 days of notice thereof shall be subject to a penalty of \$50 per day for every day that such amount remains unpaid.

Section 10. No candidate shall be required to accept public financing nor shall any candidate otherwise eligible for public financing be denied such financing solely because an opposing candidate declines to accept such financing.

Section 11. The director shall promulgate such rules and regulations as are necessary to effectuate the purposes of this chapter.

The director shall have the same power and authority to investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed and taken by candidates pursuant to this chapter as is provided by section 3 of chapter 55 pertaining to campaign contributions and expenditures.

Section 12. Violation by any person of any provision of this chapter shall, in addition to any civil liabilities established by this chapter, be punished by imprisonment for not more than 1 year or by a fine of not more than on \$1,000, or both.”; by inserting after section 215 the following section:—

“SECTION 215A. Section 6C of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words, ‘Massachusetts Clean Elections’ and inserting in place thereof the following words:— State Election Campaign.”; and by inserting after section 580K the following section:—

“SECTION 580L. Any funds in the Massachusetts Clean Elections Fund shall on the effective date of this act be transferred to the State Election Campaign Fund, established by section 42 of chapter 10 of the General Laws. Any funds in the Massachusetts Clean Elections Judgment Fund, established by section 174 of chapter 184 of the acts of 2002, shall be transferred to the General Fund.”

After debate, the amendment was adopted.

Ms. Creem, Messrs. Antonioni and Berry, Ms. Wilkerson, Ms. Fargo and Messrs. Joyce, Rosenberg and Pacheco moved to amend the bill by inserting after section 580Q the following section:—

“SECTION 580R. (1) Notwithstanding any general or special law to the contrary, the board of education shall take such action as necessary, including, as appropriate, promulgating emergency regulations to modify the process governing MCAS appeals for children with disabilities in sufficient time to apply to children with disabilities subject to the MCAS graduation requirement in 2003. The appeals process established by 603 CMR 30.05 shall be revised to include the following provisions: A child with an individual education plan shall be eligible for an MCAS appeal if the following criteria are met: (a) the child has taken the grade 10 MCAS at least 3 times in each subject area considered in the competency determination in which the student did not achieve a pass score or submitted a portfolio assessment through the MCAS Alternative Assessment at least 2 times without being granted a competency determination; (b) the child has maintained an adequate attendance level as established by the department, or the child’s days of absences from school in excess of the number allowed by the department are excused; (c) the child has demonstrated participation in academic support services made available and accessible by or approved by the school district under an individual student success plan or under any other plan designed to strengthen the student’s knowledge and skills in the subject at issue, or the child’s lack of participation in available academic support services has been related to the child’s disability.

(2) The regulations shall require that, at the request of the child’s parent or guardian or with the parent or guardian’s consent, the superintendent of schools for the school district in which the student is enrolled, or the superintendent’s designees, shall file an appeal on behalf of a child with an individual education plan. Denial of an earlier appeal shall not prevent a new appeal under this section.

(3) The regulations shall require that the superintendent include in the performance appeal evidence of the student’s knowledge and skills in the subject at issue, including: (a) documentation that the student has met the local graduation criteria established by the local school committee; (b) documentation that the child’s individual education plan team, with the approval of a parent or guardian of the child, recommends graduation for the student consistent with chapter 71B and the Individuals with Disabilities Education Act; (c) certification from the individual education plan team, including the parent or guardian, that the student’s MCAS scores do not accurately measure the student’s abilities; (d) a recommendation from 1 or more of the child’s teachers in the area of appeal, assessing the level of the student’s knowledge and skills in the subject area at issue; (e) where possible, a meaningful comparison of the child with a group of other students who passed the MCAS in the subject area of the student’s appeal; provided, however that, in the event of an inability to identify an appropriate set of students to enable a meaningful comparison with other students provision (e) shall be waived and shall not be reason for denying a performance appeal; and (f) other supporting information, such as work samples and scores of the student on other standardized tests in the subject area, evidence of acceptance to college courses, or other evidence of academic achievement which support a case for graduation consistent with the standards established pursuant to section II of chapter 69 of the General Laws.

(4) The commissioner shall grant the appeal for a child with an individual education plan unless the commissioner finds that there is compelling evidence in the documentation provided in clauses (a) to (f), inclusive, of subsection (3) that, contrary to the certification of the individual education plan team, the MCAS does accurately reflect the failure to have achieved knowledge and skills commensurate with a performance level required for the competency determination, in which case the commissioner must provide written documentation of such evidence to the individual education plan team, including the parents. Nothing in this section shall affect or in any way limit a child’s right available under chapter 71B of the General Laws or the Individuals with Disabilities Education Act.

(j) The commissioner of education shall take all steps necessary to: develop and implement a system to effectively monitor and enforce provisions of federal and state law which require provision of accommodations, modifications, and alternate assessments for children with disabilities participating in MCAS; develop and implement a system to effectively monitor and enforce provisions of federal and state law which ensure access to and meaningful participation in the general curriculum so that children with disabilities can meet the educational standards established in the learning standards set forth in the Massachusetts curriculum frameworks; establish policies and procedures to ensure that children with disabilities receive the accommodations, special education, related services, and supplementary aids and services necessary to participate in any MCAS tutorial, remedial, or academic support services made available by or approved by the school committee or the department; and develop and implement a system to effectively monitor and enforce provisions of federal and state law which require school districts to ensure that a continuum of alternative placements is available to provide a free and appropriate public education to meet the needs of children with disabilities who have not demonstrated competency on the grade 10 MCAS examination even though they have satisfied local graduation requirements.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes before five o’clock P.M., on motion of Ms. Creem, as follows, to wit (yeas 40 — nays 0) [**Yeas and Nays No. 35**]:

**YEAS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O'Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |
| Fargo, Susan C.         | Panagiotakos, Steven C.  |
| Glodis, Guy W.          | Resor, Pamela            |
| Hart, John A., Jr.      | Rosenberg, Stanley C.    |
| Havern, Robert A.       | Shannon, Charles E.      |
| Hedlund, Robert L.      | Sprague, Jo Ann          |
| Jacques, Cheryl A.      | Tarr, Bruce E.           |
| Joyce, Brian A.         | Tisei, Richard R.        |
| Knapik, Michael R.      | Tolman, Steven A.        |
| Lees, Brian P.          | Travaglini, Robert E.    |
| Magnani, David P.       | Tucker, Susan C.         |
| McGee, Thomas M.        | Walsh, Marian            |
| Melconian, Linda J.     | Wilkerson, Dianne —      |

**40.**

**NAYS — 0.**

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

Mr. Havern in the Chair, Ms. Resor and Mr. Brewer moved to amend the bill by inserting after section 394 the following section:—

“SECTION 394A. Section 2 of said chapter 131, as so appearing, is hereby amended by adding the following 3 clauses:—

(12) For the acquisition by purchase, lease, easement, or license of land or interests therein critical to nongame wildlife and endangered species for the multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses.

(13) For the management, inventory, preservation, protection, perpetuation, and enhancement of nongame wildlife and endangered species in the commonwealth.

(14) For supplementing funds provided to the natural heritage and endangered species program for the purpose of aiding in the protection of rare, threatened, and endangered species in the commonwealth.”

The amendment was adopted.

Mr. Baddour moved to amend the bill in section 2, in item 1108-5200, by inserting after the words “70 per cent of such premiums and rates” the following words:— “; provided, that, notwithstanding the other provisions of this item, the commonwealth’s share of such premiums for employees of the Massachusetts Bay Transportation Authority, to whom a collective bargaining agreement is in force on July 1, 2003 other than because of a rollover applies, shall be as provided in that agreement, until that agreement expires but not including any rollover period.”

The amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 2600-2000, by adding the following words:— “provided further, that not less than \$40,000 shall expended for the maintenance of the Red Rock park on Lynn Shore drive in the city of Lynn”.

The amendment was adopted.

Mr. Moore and Ms. Wilkerson moved to amend the bill in section 337 by adding the following 3 subsections:—

(4) Before determination of eligibility under the authority of subsection (3), the division shall review eligibility to assure that all federally eligible aliens are identified and their costs of coverage reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law.

(5) The division shall review all claims for services to aliens to assure that all emergency services are reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law, including coverage for chronic medical conditions, which, if left untreated, could reasonably be expected to place the persons' health in serious jeopardy, cause serious impairment to bodily functions or cause serious dysfunction of any bodily organ or part.

(6) Notwithstanding subsection (3), if appropriations permit, the division shall determine eligibility in accordance with subsection (1) and (2)."; and by inserting after section 599H the following section:—

“SECTION 599I. The division of medical assistance, in collaboration with the division of health care financing policy, shall develop a plan to design a cost-neutral pilot program of primary and preventive care and disease management of chronic conditions that will reduce the costs of federally mandated emergency care and the costs otherwise charged to the uncompensated care pool. Individuals eligible for said pilot program shall include recipients of emergency assistance for the elderly, disabled and children, elderly residents aged 65 or older, parents under age 65 who are victims of domestic violence, and adults under age 65 who are disabled, blind or chronically ill, including certain parents of dependent children who otherwise meet the disability criteria for exemption under subsection (e) of section 110 of chapter 5 of the acts of 1995 as determined by the department of transitional assistance. The division shall seek a waiver under Title 19 and Title 21 of the Social Security Act to cover non-citizens under this pilot program through special demonstration projects. The division shall report back to the house and senate committees on ways and means on the cost neutrality of the pilot program and how cost effective care may be extended to non-citizen adults who lost eligibility under subsection 3 of section 16D of chapter 118E of the General Laws by October 1, 2003.”

After remarks, the amendment was adopted.

Ms. Fargo moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, a nonacute care hospital licensed as a chronic disease hospital in the city of Waltham may transfer all of its beds to a campus of a healthcare facility in said city licensed by the department of public health or to a campus of an ambulatory care provider in said city, without regard to whether such beds have been in service prior to the date of the proposed transfer; provided, however, that such beds shall be transferred to a campus of a healthcare facility licensed by the department of public health or a campus of an ambulatory care provider located in said city.”

The amendment was *rejected*.

Ms. Fargo moved to amend the bill in section 520, by inserting after the words “Monument Street in the town of Concord”, the following words:— “; provided further, the department of highways shall construct sound barriers, at designated Area Number 21, Waterford Place in Chelmsford, designated Area Number 17, Smith Street/ Chelmsford Arms in Chelmsford, and designated Area Number 1, Ledgewood/Lido Lane in Bedford, as defined by HMMH Report Number 298280 as prepared for said department”.

The amendment was adopted.

Ms. Wilkerson moved to amend the bill by inserting after section 599I the following new section:—

“SECTION 599J. The secretary of elder affairs shall establish an advisory board charged with developing regulations to create uniform and coordinated administrative policies and procedures of the aging services access points system, including but not limited to, intake, billing, auditing and contracting. The purpose of the uniform system is to reduce administrative duplication, improve coordination and increase cost effectiveness of the contracting policies and procedures. The advisory board shall be chaired by the secretary of elder affairs or his designee, members shall include 2 representatives from Mass Home Care, 2 representatives from the Massachusetts Council for Home Care Aide Services, 2 representatives from the Home and Health Care Association of Massachusetts, 2 representatives from the Massachusetts Adult Day Services Association, 1 representative from a consumer advocacy organization and other representatives as deemed appropriate by the secretary. The advisory board shall file a written report with policy recommendations, including a plan for promulgating or amending existing regulations that may be needed to implement the recommendations, to the house and senate committees on ways and means and the governor no later than July 1, 2004.”

The amendment was adopted.

Mr. Montigny moved to amend the bill by inserting after section 116 the following 4 sections:—

“SECTION 116A. Section 42 of chapter 21, as so appearing, is hereby amended by striking out, in line 10, the words ‘twenty-five thousand dollars’ and inserting in place thereof the following figure:— \$50,000.

SECTION 116B. Said section 42 of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 12 and 13, the words ‘twenty-five thousand dollars’ and inserting in place thereof the following figure:— \$50,000.

SECTION 116C. Section 50B of said chapter 21, as so appearing, is hereby amended by striking out, in line 4, the words ‘twenty-five thousand dollars’ and inserting in place thereof the following figure:— \$100,000.

SECTION 116D. Said section 50B of said chapter 21, as so appearing, is hereby further amended by striking out, in line 28, the words ‘five thousand dollars’ and inserting in place thereof the following figure:— \$25,000.”; by inserting after section 133 the following 4 sections:—

“SECTION 133A. Section 16 of said chapter 21A, as so appearing, is hereby amended by inserting after the words ‘chapter 21E’, in line 27, the following words:— or consisted of knowingly making, or causing any person to make, any false, inaccurate, incomplete or misleading statement in any document submitted to or required to be kept by the department.

SECTION 133B. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word ‘interest.’, in line 139, the following sentence:— Notwithstanding any general or special law to the contrary, including the limitations and considerations set forth in this section, the department may require that the amount of a civil administrative penalty imposed pursuant to this section exceed the economic benefit realized by a person for non-compliance.

SECTION 133C. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word ‘dollars,’ in lines 142 and 143, the following words:— a failure to comply that is part of a pattern of noncompliance and not an isolated instance; knowingly making, or causing any person to make, any false, inaccurate, incomplete or misleading statement in any document submitted to or required to be kept by the department.

SECTION 133D. Said section 16 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word ‘penalty.’, in line 162, the following sentence:— Any person who fails to comply with or otherwise violates chapter 21E or any regulation adopted thereunder shall be liable for a civil administrative penalty not to exceed \$25,000 for each day the violation continues.”; by inserting after section 139A the following 2 sections:—

“SECTION 139B. Section 11 of chapter 21E of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words ‘twenty-five thousand dollars’ and inserting in place thereof the following figure:— \$50,000.

SECTION 139C. Said section 11 of said chapter 21E, as so appearing, is hereby further amended by striking out, in line 11, the words ‘twenty-five thousand dollars’ and inserting in place thereof the following figure:— \$50,000.”; by inserting after section 191, the following 2 sections:—

“SECTION 191A. Section 29F of chapter 29 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word ‘safety;’, in line 70, the following words:— or (ix) repeated or aggravated violation of any state or federal law protecting the environment.

SECTION 191B. Said section 29F of said chapter 29, as so appearing, is hereby further amended by inserting after the word ‘safety’, in line 82, the following words:— or environmental.”; by inserting after section 261 the following section:—

“SECTION 261A. Section 59 of said chapter 91, as so appearing, is hereby amended by striking out, in line 8, the words ‘one thousand dollars’ and inserting in place thereof the following words:— \$25,000 for each day such violation occurs or continues.”; and by inserting after section 393 the following 2 sections:—

“SECTION 393A. Section 23 of said chapter 130 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 9, the words ‘fish, fishspawn or seed therein’ and inserting in place thereof the following words:— marine fisheries resources and or habitat therein.

SECTION 393B. Said section 23 of said chapter 130, as so appearing, is hereby further amended by striking out, in lines 13 and 14, the words ‘one hundred and fifty nor more than five thousand dollars’ and inserting in place thereof the following words:— \$5,000 nor more than \$25,000.”

The amendment was adopted.

Mr. Morrissey moved to amend the bill by inserting after section 580R the following section:—

“SECTION 580S. The department of environmental protection shall issue a report on the feasibility of the creation of private wetland mitigation banks in the commonwealth. In support of that report, the department shall produce, within 180 days after the passage of this act, a report to the joint committee on natural resources of wetland mitigation banks where unavoidable losses of wetlands occasion the need for environmentally sound mitigation. The department is encouraged to identify operational wetland mitigation banks for demonstration purposes.”

The amendment was adopted.

Ms. Resor and Messrs. Brewer and Nuciforo moved to amend the bill by inserting after section 394A the following section:—

“SECTION 394B. Section 2A of said chapter 131, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

Said account shall be used only for the purchase of land containing wildlife habitat and for costs directly related to the administration of the wildlands stamp program. The director, subject to the approval of the fisheries and wildlife board, may annually expend not more than two million dollars, such expenditures from the wildlands acquisition account shall not be subject to appropriation.”; and by inserting after section 580LL the following section:—

“SECTION 580MM. Notwithstanding any general or special law to the contrary, the expenditure of funds for the wildlands stamp program and the Natural Heritage and Endangered Species program shall not take effect before fiscal year 2005 from the Inland Fish and Game Fund, unless the director of the division of fisheries and wildlife certifies to the office of the comptroller that revenue in Fiscal Year 2004 in excess of \$11,239,857 will be collected in the Inland Fish and Game Fund.”

The amendment was adopted.

Ms. Resor moved to amend the bill by striking out section 162.

The amendment was *rejected*.

Ms. Wilkerson moved to amend the bill in section 2, in item 4403-2120, by striking out the words “provided further, that the department shall strive to place eligible households in scattered site shelters in their home communities rather than in motels upon a determination that this action shall not entail additional costs to the family shelter program;” and inserting in place thereof the following words:— “provided further, that the department shall add up to 150 new units of scattered site shelter over and above those contracted for in Fiscal Year 2003 rather than in motels upon a determination that this action shall not entail additional costs to the family shelter program; provided further, that these new units shall be located in areas of greatest need to facilitate placement of eligible families within 20 miles of their home communities; provided further, that these new units shall be used to reduce the population placed in hotels and motels;”; and in item 4403-2120, by inserting after the words “any significant differences in the data for each type of shelter;” the following words:— “provided further, that said report shall also provide a status report on efforts to increase the number of units of scattered site shelter above the number contracted for in Fiscal Year 2003, any barriers encountered to increasing the number of units of scattered site shelter, and the plan of action or recommendations for overcoming any barriers encountered;”.

The amendment was adopted.

Mr. McGee moved to amend the bill in section 2, in item 7007-0900, by adding the following words:— “provided further, that not less than \$45,000 shall be expended to perform a cost assessment of an economic development project at South Harbor in the city of Lynn”.

The amendment was *rejected*.

Messrs. Shannon and McGee and Ms. Fargo moved to amend the bill by inserting after section 599J the following section:—

“SECTION 599K. There shall be a special commission to study charter school finance and make recommendations for setting an equitable formula that considers the actual cost per student, the variation in cost for different grade levels and different programs, the advisability of establishing a maximum amount for the average cost and the impact on existing charter schools, other public schools in the district and new charter schools. The commission shall consist of 17 members, including the house and senate chairs of the joint committee on education, arts and humanities, 3 members of the senate, 1 of whom shall be a member of the minority party, 3 members of the house of representatives, 1 of whom shall be a member of the minority party, 2 members to be appointed by the governor, 1 member to be appointed by the state auditor and 1 member to be appointed from each of the following organizations: the Massachusetts Association of School Committees; the Massachusetts Association of School Superintendents; the Massachusetts Municipal Association; the Massachusetts Teachers Association; the Massachusetts Federation of Teachers and the Massachusetts Charter School Association. The commission shall report its findings, along with recommended legislation, with the clerks of the senate and the house of representatives not later than December 31, 2004. The board of education shall establish rates for charter school tuition in accordance with any law enacted in response to the commission’s report.”

The amendment was adopted.

Mr. Glodis moved to amend the bill in section 557 by striking out paragraph (d) and inserting in place thereof the following paragraph:—

“(d) Any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements, except the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, shall not apply to any selected offerer which is awarded a contract pursuant to this section, except as provided in this section.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill, in section 600, by striking out the words “, transfer the costs of personnel, from subsidiary codes AA and DD, between items 7002-0010, 7002-0100, 7002-0200, 7002-0600, 7006-0000, 7006-0020, 7006-0040, 7007-0100, 7007-0300, 7007-0900, and 7007-1500; provided that the secretary provides the committee on ways and means with a written plan for any such transfer 30 days in advance; provided further, that this plan shall include the number of full time equivalencies and the amounts being transferred; and provided further, the secretary may make any such transfer during the period from July 1, 2003 to January 1, 2004” and inserting in place thereof the following words:— “and notwithstanding any general or special law to the contrary, transfer all appropriated monies between and among items 7002-0010, 7002-0100, 7002-0200, 7002-0600, 7006-0000, 7006-0020, 7006-0040, 7007-0100, 7007-0300, 7007-0900, and 7007-1500; provided, that the secretary provides the committees on ways and means with a written plan for any such transfer 30 days in advance”.

The amendment was adopted.

Mr. Berry moved to amend the bill by inserting after section 206 the following section:—

“SECTION 206A. Section 4E of chapter 40J, as appearing in the 2000 Official Edition, is hereby amended by inserting, after the words ‘shall include,’ in line 13, the following words:— ‘but not be limited to.’ Section 206B of said section 4E of said chapter 40J, as so appearing, is hereby further amended by inserting, after the words ‘paragraph (2)’, in line 141, the following words:— provided further, that any such expenditures from the fund must also meet the criteria set forth in clause (c) of this section.”; and by inserting at the end thereof the following section:—

“SECTION 206C. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by adding the following subsection:—

(l) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, and subject to this paragraph, the board shall, upon the written request of the governor, to transfer moneys in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition precedent to any such transfer, the commonwealth, acting by and through the division of energy resources or any successor agency, shall enter into an agreement with the corporation under which the commonwealth, at the direction of the corporation, shall enter into 1 or more contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, or with wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The corporation shall determine the particular type or types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the corporation of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the division of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 20 will not be diverted from the fund and that the rates of the mandatory charges pursuant to said section 20 will not be reduced during the term, which shall not exceed twenty years, of any contract entered into by the corporation for the purchase of such electricity or certificates below a level which will enable the corporation to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 20 shall be expended by the corporation as provided in subsection (a) and, in the discretion of the corporation, in furtherance of the public purposes of the corporation and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.”

The amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 202 the following section:—

“SECTION 202A. Chapter 32B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 9A and inserting in place thereof the following section:—

Section 9A. Any county, except Worcester county, by vote of the county commissioners, a city having a Plan D or Plan E charter by majority vote of its city council, any other city by vote of its city council, approved by the mayor, a regional school district by vote of the regional district school committee or a district by vote of the district at a district meeting, may provide that it will pay 50 per cent of the premium to be paid by a retired employee under the provisions of the first sentence of section 9. A town shall provide for such payment by vote of the town at a town meeting or if a majority of the votes cast in answer to the following question which shall be printed on the official ballot to be used at an election in said town is in the affirmative: ‘Shall the town pay one-half the premium costs payable by a retired employee for group life insurance and for group general or blanket hospital, surgical, medical, dental and other health insurance?’”

The amendment was *rejected*.

Mr. Rosenberg in the Chair, Mr. Lees moved that no action be taken on amendment number 292, striking out section 338 (previously rejected by a vote of 6 yeas to 32 nays — Roll Call No. 31), but objection was made thereto by Ms. Murray.

Mr. Lees then moved that the Senate reconsider the vote by which the Senate had *rejected* amendment No. 292; and, after extended debate, the question on reconsideration was determined by a call of the yeas and nays, at twenty-five minutes before six o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 33) [**Yeas and Nays No. 36**]:

**YEAS.**

|                    |                               |
|--------------------|-------------------------------|
| Hedlund, Robert L. | Sprague, Jo Ann               |
| Knapik, Michael R. | Tarr, Bruce E.                |
| Lees, Brian P.     | Tisei, Richard R. — <b>6.</b> |

**NAYS.**

|                         |                                |
|-------------------------|--------------------------------|
| Antonioni, Robert A.    | Menard, Joan M.                |
| Baddour, Steven A.      | Montigny, Mark C.              |
| Barrios, Jarrett T.     | Moore, Richard T.              |
| Berry, Frederick E.     | Morrissey, Michael W.          |
| Brewer, Stephen M.      | Murray, Therese                |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr.       |
| Creedon, Robert S., Jr. | O’Leary, Robert A.             |
| Creem, Cynthia Stone    | Pacheco, Marc R.               |
| Fargo, Susan C.         | Panagiotakos, Steven C.        |
| Glodis, Guy W.          | Resor, Pamela                  |
| Hart, John A., Jr.      | Rosenberg, Stanley C.          |
| Havern, Robert A.       | Shannon, Charles E.            |
| Jacques, Cheryl A.      | Tolman, Steven A.              |
| Joyce, Brian A.         | Tucker, Susan C.               |
| Magnani, David P.       | Walsh, Marian                  |
| McGee, Thomas M.        | Wilkerson, Dianne — <b>33.</b> |
| Melconian, Linda J.     |                                |

The yeas and nays having been completed at twenty-one minutes before six o’clock P.M., the motion to reconsider was *negatived*.

PAPER FROM THE HOUSE.

*Emergency Preamble Adopted.*

There being no objection, during consideration of the Orders of the Day, an engrossed Bill further regulating the expiration dates of gift certificates and certain other mediums of exchange (see House, No. 3729, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and,

a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 7 to 1.

**The bill was signed by the President and sent to the House for enactment.**

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Barrios, Ms. Jacques, Mr. Montigny, Ms. Tucker and Ms. Chandler moved to amend the bill in section 2, in item 4513-1000, in line 5, by inserting after the word “including” the following:— “not less than \$132,699 for”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eighteen minutes before six o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 37**]:

**YEAS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O’Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |
| Fargo, Susan C.         | Panagiotakos, Steven C.  |
| Glodis, Guy W.          | Resor, Pamela            |
| Hart, John A., Jr.      | Rosenberg, Stanley C.    |
| Havern, Robert A.       | Shannon, Charles E.      |
| Hedlund, Robert L.      | Sprague, Jo Ann          |
| Jacques, Cheryl A.      | Tarr, Bruce E.           |
| Joyce, Brian A.         | Tisei, Richard R.        |
| Knapik, Michael R.      | Tolman, Steven A.        |
| Lees, Brian P.          | Tucker, Susan C.         |
| Magnani, David P.       | Walsh, Marian            |
| McGee, Thomas M.        | Wilkerson, Dianne —      |
| Melconian, Linda J.     | <b>39.</b>               |

**NAYS — 0.**

The yeas and nays having been completed at a quarter before five o’clock P.M., the amendment was adopted.

Mr. Morrissey and Ms. Melconian moved to amend the bill by striking out sections 422 and 424; and by striking out section 425 and inserting in place thereof the following section:—

“SECTION 425. Section 16B of said chapter 138, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word ‘action’, in line 9, the following words:— ; provided however, that first time applications for a seasonal license, or a transfer of a seasonal license under sections 17A and section 17B shall complete the commission approval process within 30 days of receipt by the commission or be granted a provisional license until the time the commission approval process has been completed. In no event shall the provisional seasonal license be in effect beyond the season for which the application was filed.”

After remarks, the amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 519D the following 2 sections:—

“SECTION 519E. Item 2200-2013 of section 2 of chapter 236 of the Acts of 2002 is hereby amended by inserting after the words ‘expended for such personnel,’ the following words:— or contractors.

SECTION 519F. Item 2200-2015 of said section 2 of said chapter 276 is hereby amended by inserting after the words ‘shall not exceed the level expended for such personnel’, the following words:— and/or contractors.”

The question on adoption of the amendment was determined by a call of the yeas and nays, at ten minutes before six o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 1) [**Yeas and Nays No. 38**]:

### **YEAS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O’Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |
| Fargo, Susan C.         | Panagiotakos, Steven C.  |
| Glodis, Guy W.          | Resor, Pamela            |
| Hart, John A., Jr.      | Rosenberg, Stanley C.    |
| Havern, Robert A.       | Shannon, Charles E.      |
| Hedlund, Robert L.      | Sprague, Jo Ann          |
| Jacques, Cheryl A.      | Tarr, Bruce E.           |
| Joyce, Brian A.         | Tisei, Richard R.        |
| Knapik, Michael R.      | Tolman, Steven A.        |
| Magnani, David P.       | Tucker, Susan C.         |
| McGee, Thomas M.        | Walsh, Marian            |
| Melconian, Linda J.     | Wilkerson, Dianne —      |

**38.**

### **NAYS**

Lees, Brian P. — **1.**

The yeas and nays having been completed at six minutes before six o’clock P.M., the amendment was adopted.

Mr. Moore moved to amend the bill by inserting after section 599K the following section:—

“SECTION 599L. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall pursue administrative savings in the behavioral health program of the division of medical assistance. The administrative savings shall seek to reduce duplication in the oversight of service provision, and shall include but not be limited to: a reduction in the approval process of patients who need to be hospitalized; the development and implementation of self-management models for inpatient providers; and a recognition of national accreditation and Medicare status for licensure of inpatient behavioral health providers. The administrative savings shall also include initiatives to reduce the number of hospitalized children and adolescents who do not require inpatient hospital level of care, including but not limited to: an expedited approval process for appropriate residential step-down programs; the enforcement of a no-eject policy for residential settings; and allowance for out-of-state placements for extraordinary circumstances. The executive office shall also examine and make recommendations regarding whether there should be a financial assessment to offset the cost of providing hospital care on state agencies who have clients in hospitals who no longer require hospital level care. The executive office shall also examine and pursue appropriate models for increasing federal financial participation for the costs of the behavioral health program administrative vendor.

The secretary of the executive office shall report to the house and senate committees on ways and means the results of any administrative savings initiatives no later than December 1, 2003, which report shall include a list of administrative savings adopted and the projected amount of savings from the initiatives.”

The question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 1) [**Yeas and Nays No. 39**]:

**YEAS.**

|                         |                          |
|-------------------------|--------------------------|
| Antonioni, Robert A.    | Menard, Joan M.          |
| Baddour, Steven A.      | Montigny, Mark C.        |
| Barrios, Jarrett T.     | Moore, Richard T.        |
| Berry, Frederick E.     | Morrissey, Michael W.    |
| Brewer, Stephen M.      | Murray, Therese          |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr. |
| Creedon, Robert S., Jr. | O'Leary, Robert A.       |
| Creem, Cynthia Stone    | Pacheco, Marc R.         |
| Fargo, Susan C.         | Panagiotakos, Steven C.  |
| Glodis, Guy W.          | Resor, Pamela            |
| Hart, John A., Jr.      | Rosenberg, Stanley C.    |
| Havern, Robert A.       | Shannon, Charles E.      |
| Hedlund, Robert L.      | Sprague, Jo Ann          |
| Jacques, Cheryl A.      | Tarr, Bruce E.           |
| Joyce, Brian A.         | Tisei, Richard R.        |
| Knapik, Michael R.      | Tolman, Steven A.        |
| Magnani, David P.       | Tucker, Susan C.         |
| McGee, Thomas M.        | Walsh, Marian            |
| Melconian, Linda J.     | Wilkerson, Dianne —      |

**38.**

**NAYS**

Lees, Brian P. — **1.**

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

Ms. Resor moved to amend the bill by inserting after section 580S the following section:—

“SECTION 580T. The secretary of environmental affairs shall coordinate the delivery of services of the departments and divisions under his control to ensure the protection of the air, water, land, and other natural resources of the commonwealth and to provide support for the acquisition, management, utilization, and conservation of habitat for native flora and fauna. The secretary shall continue to assure the health and viability of the commonwealth's biodiversity for future generations. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) provide assistance to the departments and divisions under his control, including the administration of funds to cities and towns, for the acquisition of interests in land for conservation purposes; (2) develop partnerships with private, non-profit and other entities that will augment the commonwealth's stewardship and acquisition of such lands; (3) monitor and enforce all conservation restrictions held by the commonwealth; (4) enforce all laws and regulations promulgated for the protection of watersheds, lakes, ponds, rivers, streams, coastal and inland wetlands; (5) develop natural resource management plans for all state forests, parks, reservation, and wildlife management areas; (6) ensure that sustainable forestry management practices are employed on all state-owned lands, and that such practices are coordinated with private forest land management practices to achieve landscape-scale goals; (7) promote the sustainable economic development of the private agricultural and forestry resources of the commonwealth and (8) promote research and monitoring to establish ecological benchmarks for assessing the health and viability of the commonwealth's biodiversity.”

The question on adoption of the amendment was determined by a call of the yeas and nays, at one minute before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 40**]:

**YEAS.**

|                      |                     |
|----------------------|---------------------|
| Antonioni, Robert A. | Melconian, Linda J. |
| Baddour, Steven A.   | Menard, Joan M.     |
| Barrios, Jarrett T.  | Montigny, Mark C.   |
| Berry, Frederick E.  | Moore, Richard T.   |

|                         |                          |
|-------------------------|--------------------------|
| Brewer, Stephen M.      | Morrissey, Michael W.    |
| Chandler, Harriette L.  | Murray, Therese          |
| Creedon, Robert S., Jr. | Nuciforo, Andrea F., Jr. |
| Creem, Cynthia Stone    | O’Leary, Robert A.       |
| Fargo, Susan C.         | Pacheco, Marc R.         |
| Glodis, Guy W.          | Resor, Pamela            |
| Hart, John A., Jr.      | Rosenberg, Stanley C.    |
| Havern, Robert A.       | Shannon, Charles E.      |
| Hedlund, Robert L.      | Sprague, Jo Ann          |
| Jacques, Cheryl A.      | Tarr, Bruce E.           |
| Joyce, Brian A.         | Tisei, Richard R.        |
| Knapik, Michael R.      | Tolman, Steven A.        |
| Lees, Brian P.          | Tucker, Susan C.         |
| Magnani, David P.       | Walsh, Marian            |
| McGee, Thomas M.        | Wilkerson, Dianne —      |

**38.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Panagiotakos, Steven C. — 1.

The yeas and nays having been completed at five minutes past six o’clock P.M., the amendment was adopted.

Mr. Joyce, Ms. Creem, Messrs Hart and Barrios and Ms. Fargo moved to amend the bill by inserting after section 599L the following section:—

“SECTION 599M. The division of health care finance and policy shall conduct a study on the additional costs incurred by nursing and rehabilitation facilities that currently provide kosher food to residents. The division shall submit a report not later than November 1, 2003 to the house and senate committees on ways and means and the joint committee on health care detailing these additional costs and recommendations, if any, on increased rates of payment to these facilities in order to offset any such costs.”

The amendment was adopted.

Messrs. Lees and Knapik moved to amend the bill by inserting after section 580T the following 2 sections:—

“SECTION 580U. (a) An employee of a county sheriff’s department or the sheriff’s department of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, or Worcester, who is an active member in service and meets the eligibility requirements set forth in chapter 116 of the acts of 2002 as of the effective date of this section, shall be entitled to the early retirement incentive benefits as provided in said chapter 116. Notwithstanding said chapter 116, in order to receive the retirement benefits provided by this section, an eligible employee shall file his application for retirement with the state board of retirement or the local retirement system no earlier than September 15, 2003 and no later than December 1, 2003. The retirement date for eligible employees shall be January 1, 2004.

(b) Notwithstanding any general or special law to the contrary, a sheriff of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, or Worcester, or a county sheriff, may fill a vacancy caused by early retirement under this section to the extent of not more than 20 per cent for groups 1 and 2, and 80 per cent for group 4 of the positions vacated if the position to be filled is essential and critical to the operations of the department.

(c) Acceptance of this section is at the discretion of each individual sheriff but acceptance shall be made by September 15, 2003 by notification to the state board of retirement or local retirement system.

SECTION 580V. (a) Notwithstanding section 40 of chapter 15A of the General Laws, state and community colleges in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, shall offer an early retirement incentive program to employees enrolled in the optional retirement program described in said section 40. The state board of higher education will administer the program and develop regulations related to it by August 1, 2003. Eligible employees shall be paid a lump sum payment equal to 18 months of the annual salary received as of enactment of this section by each state and community college in equal installments on July 1 of 2004, 2005, 2006, 2007, and 2008.

(b) In order to receive the retirement benefit provided by this act, an eligible employee shall file his application for retirement with the board of higher education after August 1, 2003 and no later than October 1, 2003. The retirement date requested shall be December 31, 2003.

(c) Notwithstanding any general or special law to the contrary, state and community colleges may fill a vacancy caused by early retirement under this section to the extent of not more than 20 per cent, except for the position of chief executive officer of the state or community college, which must be refilled.”

The amendment was adopted.

Mr. Lees, Tisei and Knapik moved to amend the bill by inserting after section 4 the following section:—

“SECTION 4A. Section 7 of chapter 4 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 88 and 89, the words ‘, with respect to Suffolk county only’.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past six o’clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 18 — nays 21) [**Yeas and Nays No. 41**]:

#### YEAS.

|                         |                            |
|-------------------------|----------------------------|
| Barrios, Jarrett T.     | Knapik, Michael R.         |
| Berry, Frederick E.     | Lees, Brian P.             |
| Creedon, Robert S., Jr. | McGee, Thomas M.           |
| Creem, Cynthia Stone    | Menard, Joan M.            |
| Fargo, Susan C.         | Rosenberg, Stanley C.      |
| Glodis, Guy W.          | Sprague, Jo Ann            |
| Hart, John A., Jr.      | Tarr, Bruce E.             |
| Havern, Robert A.       | Tisei, Richard R.          |
| Jacques, Cheryl A.      | Walsh, Marian — <b>18.</b> |

#### NAYS.

|                        |                                |
|------------------------|--------------------------------|
| Antonioni, Robert A.   | Murray, Therese                |
| Baddour, Steven A.     | Nuciforo, Andrea F., Jr.       |
| Brewer, Stephen M.     | O’Leary, Robert A.             |
| Chandler, Harriette L. | Pacheco, Marc R.               |
| Hedlund, Robert L.     | Panagiotakos, Steven C.        |
| Joyce, Brian A.        | Resor, Pamela                  |
| Magnani, David P.      | Shannon, Charles E.            |
| Melconian, Linda J.    | Tolman, Steven A.              |
| Montigny, Mark C.      | Tucker, Susan C.               |
| Moore, Richard T.      | Wilkerson, Dianne — <b>21.</b> |
| Morrissey, Michael W.  |                                |

The yeas and nays having been completed at twenty-two minutes past six o’clock P.M., the amendment was *rejected*.

Ms. Creem, Mr. Creedon, Ms. Fargo and Messrs. Resenberg, Joyce, Montigny and Knapik moved to amend the bill by striking out section 335 and inserting in place thereof the following section:—

“SECTION 335. Said chapter 118E of the General Laws, as amended by section 96 of chapter 184 of the acts of 2002, is hereby further amended by inserting after section 9D the following section:—

Section 9E. The secretary of health and human services may apply for authority from the secretary of the United States Department of Health and Human Services, pursuant to section 1115 of the Social Security Act that authorizes the secretary to waive provisions of Title XIX of the Social Security Act, to implement measures that: (1) change to a later date the time currently provided by federal law for starting the penalty periods for persons who transfer assets for less than fair market value; (2) require excess assets to be spent on health care or other necessary living expenses; (3) to treat annuities similarly to trusts and require the commonwealth to be a beneficiary to the extent of MassHealth benefits provided; and (4) increase look-back periods for real estate transfers and transfers into irrevocable trusts; provided that any changes implemented as a result of a waiver authorized by

this section shall not apply to new applications submitted before the effective date of this section or the effective date of any waiver granted, whichever is later; and provided further, that transfers of assets up to \$300,000 from a primary residence shall not be affected by such waiver. The division or the department of elder affairs, as appropriate, may by regulation implement one or more of such measures under the terms and conditions approved by the secretary, provided that the division or the department, as appropriate, shall waive such measures to address hardships as determined by the division or department.”; and by inserting after section 580W the following section:—

“SECTION 580X. The office of elder services, in consultation with the division of medical assistance and the division of insurance shall develop a program of public education designed to inform elders of their options for long-term health care coverage and the consequences of transferring assets for less than fair market value prior to entering a nursing home. The program shall include information about Medicare coverage, MassHealth coverage, long-term care insurance and options for community-based long-term care.”

The amendment was adopted.

Mr. Glodis moved to amend the bill by inserting after section 465 the following new section:—

“SECTION 465A. The General Laws are hereby amended by inserting after chapter 176O the following chapter:—

#### **CHAPTER 176P.**

##### **Prepaid Legal Services.**

Section 1. The purpose of this chapter is to provide for the rules and procedures for the establishment and operation of prepaid legal companies, their representatives and prepaid legal plans. For purposes of this chapter, prepaid legal plans shall not be considered insurance products and a prepaid legal company and its representatives shall not be considered insurers and thereby, such company and its representatives shall not be subject to chapters 175, 175A, and 176H. This chapter shall apply to all companies and their representatives that are selling, soliciting, or negotiating prepaid legal plans as defined by this chapter to citizens of the commonwealth.

Section 2. The following words, as used in this chapter, shall have the following meanings:

‘Office’, the office of consumer affairs in the executive office of consumer affairs and business regulation.

‘Prepaid legal company’, a person or entity offering prepaid legal services to the general public or a segment of the general public.

‘Prepaid legal services’, legal services or reimbursement for legal services provided by the provider law firm or an attorney within the provider network. The services are provided in return for a predetermined, specified, periodic fee.

‘Provider law firm’, the law firm that the prepaid legal services company enters into a contract with to render the legal services covered by the membership contract.

‘Subscriber’, any person who has been enrolled in a prepaid legal services plan and is entitled to receive the benefits provided in the plan.

Section 3. (a) Before commencing business in the commonwealth, any prepaid legal services company must register with the office on a form prescribed by the office. The form shall be accompanied by a bond or letter of credit acceptable to the office in the amount of \$50,000, which shall remain in force so long as the prepaid legal services company does business in the commonwealth. Every company shall be directed to provide the office with a list of all of its representatives that will be directly involved in the negotiating, soliciting and selling of prepaid plans to the general public in the commonwealth. A company shall file the list no later than March first of each year commencing immediately after registration required by this subsection.

(b) A prepaid legal services company shall administer a product knowledge test to all of its representatives that will be directly involved in the selling, soliciting, and negotiating of prepaid legal plans in the commonwealth. The test shall be based specifically on the company’s plan and is designed to ensure that the company’s representatives are knowledgeable about the product. The company shall be responsible for conducting the examination and shall certify on a form filed with the office along with its registration and renewal application that the company has administered the examination in compliance with this chapter and section and that the representative has sufficient knowledge about the product. The company shall provide individual or group test results upon the request of the office.

(c) No later than March first of each year, commencing immediately after registration required by this chapter, a prepaid legal services company registered with the office shall file on a form prescribed by the office an updated registration statement to

include a sworn affirmation as to continuation of the bond or letter of credit and updated list of its representatives transacting business in the commonwealth as required by this chapter.

(d) Contracts offering prepaid legal services shall be filed with the office for approval before being offered to the general public or a segment of the general public. Approval shall only be withheld if the contract is false, misleading, unfair, deceptive, or is in violation of this chapter or other applicable law.

(e) Every subscription contract shall be in writing and shall contain the following provisions:

(1) a statement of the amount of benefits, reimbursement or indemnity to be furnished to each consumer/subscriber, and the period during which it will be furnished; and, if there are exceptions, reductions, exclusions, limitations or restrictions of such benefits reimbursement or indemnity, a detailed statement of such exceptions, reductions, exclusions, limitations, or restrictions;

(2) a statement of the terms and conditions upon which the subscription contract may be cancelled or otherwise terminated by the sponsor or the subscriber or by his employer or group;

(3) a statement describing the applicability or nonapplicability of the benefits of the plan to the family dependents of the subscriber; and

(4) a statement describing a procedure for settling disputes between or among the sponsor, participating or staff attorneys, and the subscribers.

Section 4. A consumer or subscriber aggrieved by a prepaid legal company or its representative may file a complaint with the consumer complaint information section under the public protection bureau in the office of the attorney general.”

The amendment was *rejected*.

Messrs. Lees, Hedlund and Knapik and Mrs. Sprague moved to amend the bill by inserting after section 4 the following section:—

“SECTION 4A. Clause Eighteenth of section 7 of chapter 4 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the last sentence.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 20 — nays 20) [**Yeas and Nays No. 42**]:

#### **YEAS.**

|                         |                               |
|-------------------------|-------------------------------|
| Baddour, Steven A.      | Montigny, Mark C.             |
| Brewer, Stephen M.      | Moore, Richard T.             |
| Chandler, Harriette L.  | Morrissey, Michael W.         |
| Creedon, Robert S., Jr. | Nuciforo, Andrea F., Jr.      |
| Hedlund, Robert L.      | O'Leary, Robert A.            |
| Jacques, Cheryl A.      | Resor, Pamela                 |
| Joyce, Brian A.         | Sprague, Jo Ann               |
| Knapik, Michael R.      | Tarr, Bruce E.                |
| Lees, Brian P.          | Tisei, Richard R.             |
| Melconian, Linda J.     | Tucker, Susan C. — <b>20.</b> |

#### **NAYS.**

|                      |                         |
|----------------------|-------------------------|
| Antonioni, Robert A. | Menard, Joan M.         |
| Barrios, Jarrett T.  | Murray, Therese         |
| Berry, Frederick E.  | Pacheco, Marc R.        |
| Creem, Cynthia Stone | Panagiotakos, Steven C. |
| Fargo, Susan C.      | Rosenberg, Stanley C.   |
| Glodis, Guy W.       | Shannon, Charles E.     |
| Hart, John A., Jr.   | Tolman, Steven A.       |
| Havern, Robert A.    | Travaglini, Robert E.   |
| Magnani, David P.    | Walsh, Marian           |

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

Mr. Baddour, Ms. Tucker, and Mr. Tarr moved to amend the bill by inserting after section 580V the following new section:—

“SECTION 580W. Notwithstanding any general or special law to the contrary, the executive office of administration and finance in cooperation with the executive office of environmental affairs and the department of environmental protection, shall meet its obligations under the biosolids improvement project for the Greater Lawrence sanitary district by June 30, 2006.”

The amendment was adopted.

*Suspension of Senate Rule 38A.*

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

At twenty-two minutes before seven o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Rosenberg) declared a recess; and, at six minutes before eight o'clock P.M., the Senate reassembled, the President in the Chair.

PAPER FROM THE HOUSE.

*Engrossed Bill.*

An engrossed Bill further regulating the expiration dates of gift certificates and certain other mediums of exchange (see House, No. 3729, amended) (which originated in the House), **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.**

*Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Ms. Melconian) “honoring the Sheet Metal Workers Union Local Number 63 on 100 years of history”;

Resolutions (filed by Ms. Wilkerson) “honoring Ms. Linda Cox”; and

Resolutions (filed by Ms. Wilkerson) “honoring Ms. Jeryl Oristaglio.”

*Communications.*

The Clerk read the following communications:

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

May 29, 2003.

Mr. Patrick F. Scanlan  
*Massachusetts Senate Clerk*  
State House, Room 335  
Boston, MA 02133

Dear Mr. Clerk:

On Wednesday, May 28, 2003 I was unavoidably absent from the State House and was, therefore, unable to be present for several roll call votes on amendments to Senate Bill 2004. Had I been present I would have voted in the affirmative on the following amendments:

Floor Number 12  
Floor Number 203

Floor Number 208  
Floor Number 224

Further, had I been present I would have voted in the negative on the following amendments:

Floor Number 1  
Floor Number 86  
Floor Number 121  
Floor Number 161  
Floor Number 267

I respectfully request that this letter be printed in the Senate Journal as part of the official record for May 28, 2003. Thank you for your assistance in this matter.

Sincerely,  
SUSAN C. FARGO,  
*State Senator,*  
Third Middlesex.

**On motion of Mr. Rosenberg, the above communication was ordered printed in the Journal of the Senate.**

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

May 28, 2003.

Mr. Patrick F. Scanlan  
*Clerk of the Senate*  
State House, Room 335  
Boston, MA 02133

Dear Mr. Clerk:

On Wednesday, May 28, 2003 I was absent for three roll call votes on amendments to the budget due to a prior commitment. If I had been present I would have voted in the affirmative on the following amendments:

- Amendment 203 EOPS Transferability
- Amendment 208 Increasing RMV Retained Revenue Account
- Amendment 224 Legislative Agent Registration Fee

I respectfully request that this communication be printed in the Senate Journal. Thank you very much.

Sincerely,  
STEVEN A. TOLMAN,  
*State Senator,*  
2nd Suffolk and Middlesex District.

**On motion of Mr. Havern, the above communication was ordered printed in the Journal of the Senate.**

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Messrs. Hedlund, Tarr, Knapik, Lees, Tisei and Mrs. Sprague moved to amend the bill by adding at the end thereof the following section:—

“SECTION \_\_\_\_\_. Section 2H of chapter 29 of the General Laws as amended by section 13A of chapter 177 of the acts of 2001, is hereby amended by inserting after the words ‘determination by’ the following language:— a two-thirds majority vote of.”

Mr. Shannon, for the committee on Bills in the Third Reading, reported, asking to be discharged from further consideration thereof.

The report was accepted.

The amendment was *rejected*.

Mr. Panagiotakos moved to amend the bill by inserting after section 599M the following section:—

“SECTION 599N. (a) There shall be a special commission charged with creating a 5-year comprehensive housing plan to end homelessness in the commonwealth. The commission shall consist of: 6 members of the house of representatives, 1 of whom shall be a member of the minority party and 1 of whom shall be designated co-chairperson; 6 members of the senate, 1 of whom shall be a member of the minority party and 1 of whom shall be designated co-chairperson; the secretary of the executive office of health and human services, or his designee; the director of the department of housing and community development, or her designee; the secretary of administration and finance, or his designee; the commissioner of the department of corrections, or his designee; the president of the Massachusetts Sheriff’s Association; and 2 housing advocates and 2 homeless advocates to be appointed by the governor.

(b) The plan shall include, but not be limited to, a compilation and analysis of the following information: (i) a determination of the number of units required by geographic area to house homeless individuals and families; (ii) the coordination of discharge planning from correctional, mental health and other institution, and the types of housing support systems required to ease or end homelessness; (iii) recommendations relative to the establishment of a program of coordinated community support services designed to enable homeless individuals and families to move towards independence and self-sufficiency, which community support services shall include, but not be limited to, the case management of the individual and family integration or reintegration into independent community living; and (iv) identification of the number of housing units affordable to very low income and extremely low income households according to the definition by the United States Department of Housing and Urban Development, or any successor agency. The coordinated services that the commission shall analyze as a part of an individual or family living plan designed to ease or eliminate homelessness shall include, but not be limited to, adult education, employment training and placement, family stabilization and reunification services, the Head Start program, child care and after-school services, substance abuse and mental health counseling and treatment, primary and preventive health care services, post criminal justice rehabilitation and reintegration services, housing and rental assistance, energy and conservation assistance, group adult foster care and other elder home care services and nutrition.

(c) For the purposes of this section, ‘homelessness’ shall mean the condition of any person who lacks a sanitary and safe 24-hour residence and who has a primary nighttime residence that is a publicly or privately operated, supervised shelter designed to provide temporary living accommodations including, but not limited to, the following: welfare hotels, congregate shelters, transitional housing or facility, institution, structure or dwelling that provides a temporary residence for individuals in need of custodial care and any public or private place not designed for, or ordinarily used as, regular living accommodations.

(d) The executive office of administration and finance shall provide staff for the commission. The commission shall file the results of its study, including a timeline for implementation, with the clerk of the house of representatives and the clerk of the senate, along with cost estimates and finance mechanisms to effectuate its recommendations no later than July 1, 2004. The commission shall also file a copy of its report with the joint committee on housing and urban development and the house and senate committees on ways and means no later than July 1, 2004.”

The amendment was adopted.

Ms. Wilkerson moved to amend the bill by inserting after section 520B the following 2 sections:—

“SECTION 520C. The first sentence of section 1 of chapter 256 of the acts of 2002 is hereby amended by striking out the words ‘subject to sections 40E to 40J, inclusive,’ and inserting in place thereof the following words:— ‘notwithstanding section 40F½’.

SECTION 520D. Said first sentence of said section 1 of said chapter 256 is hereby further amended by striking out after the words ‘General Laws,’ the word ‘to.’”

The amendment was adopted.

Mr. Hart moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Any electric distribution or gas company with more than 50,000 customers doing business in the commonwealth, excepting municipal light plants, shall be required to maintain and staff at least 4 customer billing and service centers which shall be open at least 5 days a week where customers can resolve billing disputes and make payments for services received. Companies, or their agents, shall not refuse cash payments nor shall they charge a surcharge for any payments.”

After remarks, the amendment was *rejected*.

Messrs. Tarr, Baddour, Hedlund and Joyce and Mrs. Sprague moved to amend the bill by inserting after section 189 the following section:—

“SECTION 189A. Chapter 29 of the General Laws is hereby amended by inserting after section 5F the following section:—

Section 5G. (1) The secretary of administration and finance, with the approval of the governor, shall on a quadrennial basis develop and submit to the clerks of the senate and house of representatives a zero-based budget, so-called, for each agency and department of state government.

The zero-based budget shall reflect the amount of funding deemed necessary to achieve the most cost-effective performance of each agency or department pursuant to an accompanying narrative delineating the tasks to be performed by that agency or department, together with goals and objectives for each agency or department for a period not to exceed four years. The budget shall have a zero dollar amount as its basis, and shall not reflect any prior appropriation amount, adjusted or otherwise.

(2) The zero-based budget shall be referred by the senate and house of representatives to the committees of subject matter jurisdiction relevant to each component of the budget. Such committees shall evaluate each such component, taking into account all available information, including that provided by public testimony in oral and written form. The evaluations of the committee shall then be reported to the senate and house committees on ways and means.

(3) The ways and means committees of the senate and house of representatives shall, jointly or individually, conduct at least 1 public hearing on the zero-based budget and shall also receive written and electronic testimony for a period of not less than 30 days on the budget.

The ways and means committees shall jointly develop and submit to the clerks of the senate and house of representatives a zero-based budget estimate not later than 60 days following the receipt of the zero-based budget estimate filed by the secretary pursuant to subparagraph (1).

The zero-based budget estimate shall be included in a joint resolution and placed before the members of the General Court for their consideration. Such joint resolution, if adopted, shall be employed in evaluating each annual budget considered by the General Court for the four years following its adoption.

(4) Zero-based budgeting shall mean, for the purposes of this section, a means of developing appropriations based on the cost-effective achievement of the tasks and goals of a particular agency or department without regard to prior appropriations, adjusted for inflation or otherwise. Any appropriation so developed shall to the extent possible, be accompanied by a brief description of said tasks and goals together with the performance measure of the achievement of those tasks and goals.”

The amendment was *rejected*.

Mr. Panagiotakos moved to amend the bill by inserting after section 599N the following section:—

“SECTION 599O. (a) The general court hereby finds that (1) the commonwealth has a moral obligation to make these innocent persons whole; (2) innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have difficulty achieving legal redress because of a variety of substantive and technical obstacles in state law; (3) these innocent persons should have an available remedy from the commonwealth, whose official criminal justice apparatus has seriously failed when an innocent person is convicted and incarcerated; (4) the provisions of this section are intended to permit a person who has already obtained relief from a wrongful conviction and who demonstrates that he did not commit the crime and is innocent, to make a claim against the commonwealth.

(b) There shall be a special commission charged with determining appropriate compensation for the wrongfully convicted by taking into account consideration of years incarcerated, severity and circumstances of incarceration, and any and all other factors the commission deems appropriate and relative for how the commonwealth can compensate the wrongfully convicted.

(c) The commission shall consist of 1 member of the senate appointed by the president of the senate; 1 whom shall be a member of the house of representatives appointed by the speaker of the house of representatives; 1 shall be the attorney general or his designee; 1 shall be the chief justice of the supreme judicial court or his designee; 1 shall be a member of the criminal defense bar appointed by the Massachusetts Bar Association; 1 shall be the secretary of public safety or his designee; 1 shall be the chairman of the parole board or his designee.

(d) The commission shall file a report of its findings and recommendations and legislation with the house and senate clerks not later than December 31, 2003.”

After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 194 the following four sections:—

“SECTION 194A. Section 1 of chapter 30A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the definition of ‘regulation’ following definition:—

(6) ‘Regulatory impact statement’ a statement by the promulgating agency which shall (a) identify the statutory change, problem, issue or deficiency addressed by the proposed regulation; (b) identify the methodology or approach, including identification of expert information and analysis, used to address the statutory change, problem, issue or deficiency; (c) identify specifically who is affected and to what extent by the proposed regulation; (d) identify when such regulation becomes effective, when such regulation will be changed, if known, and how and when the regulation will be reviewed in the future, if at all; (e) identify and describe the immediate and long term financial impacts of the regulation on the issuing agency, each affected person, party or group of affected parties, state government, and the public, including permitting costs, internal compliance costs, and indirect costs, if any; (i) identify the fiscal effect on the public and private sectors for the first and second year of the regulation’s existence, and provide a projection of fiscal impact over the first five years; and (g) identify and describe specifically the benefits of the regulation. Any data, including written information or material, statistics, measurements, calculations or other information used as the basis for reasoning, recommendation or conclusions, including any such information provided to the agency by a consultant, vendor or other third party, shall be part of the record and available to the public upon request.

SECTION 194B. Said section 1 of said chapter 30A is hereby further amended by striking out, in line 36, the words ‘(5) Regulations’ and inserting in place thereof the following words:— ‘(7) Regulations’.

SECTION 194C. Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:—

Every agency issuing rules and regulations shall maintain a notification list of persons and groups who are interested in the agency’s rulemaking and who request preliminary notification of agency rulemaking, with such request renewed annually by persons or groups in December. No later than 30 days prior to the notice of hearing described above, the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of rulemaking and to the appropriate committee of the general court that has legislative jurisdiction for the rule issuing agency, and to the ways and means committees of both the house of representatives and the senate. The preliminary notification of rulemaking shall (a) identify the rule to be noticed for hearing and the scope of the proposed rule, (b) provide the statutory authority for such proposed rulemaking, and (c) identify the person within the agency responsible for the rulemaking and who can be contacted for more information.

SECTION 194D. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:—

Every agency issuing rules and regulations shall maintain a notification list of persons and groups interested in the agency’s rulemaking and who request preliminary notification of agency rulemaking, such request renewed annually by persons and groups in December. No later than 30 days prior to the notice described above the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of agency rulemaking and to the appropriate committee of the general court that has legislative jurisdiction for the rule issuing agency and to the ways and means committees of the house of representatives and the senate. The preliminary notification shall (a) identify the rule to be noticed and the scope of the proposed rule, (b) provide the statutory authority for such proposed rulemaking, and (c) identify the person within the agency responsible for the rulemaking and who can be contacted for further information.

SECTION 194E. The second paragraph of section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following three sentences:— No rule or regulation so filed with the state secretary, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described above, approved by the secretary of economic development, and filed with the state secretary. No regulation shall be in effect for a period of more than 5 years from the date of adoption, except that the issuing agency may affirmatively extend the regulations so long as a new regulatory impact statement is completed before expiration of the regulations, proper notice is given to interested parties and a public comment period is provided. The secretary of economic development shall adopt regulations to further define and implement the use of regulatory impact statements in agency rulemaking.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. There is hereby established a special commission, to be called the Sunset Advisory Commission, to study and report to the legislature and governor on the following to determine whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees: the efficiency

with which the agency or advisory committee operates; the objectives intended for the agency or advisory committee and the problem or need that the agency or advisory committee was intended to address; the extent to which the objectives have been achieved; any activities of the agency in addition to those granted by statute and the granting authority for these activities; less restrictive or alternative methods of performing any function of the agency that could adequately protect the public; the extent to which the advisory committee is needed and is used by the agency; the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies; the active participation by the agency to effect statutory change; the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency; the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rule changes compatible with the objectives of the agency; the extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals; the applicable laws or rules of any state agency regarding purchasing goals and programs for historically underutilized businesses; and the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section.

The Sunset Advisory Commission shall consist of 3 members of the senate, 2 appointed by the senate president and 1 by the minority leader, and 6 members to be appointed by the governor, 3 of whom shall not be an elected or appointed public official, and 3 members of the house of representatives, 2 appointed by the speaker of the house and 1 by the minority leader. Each appointing authority may designate himself as 1 of the legislative appointees. The commission shall have co-chairmen as presiding officers to be elected by the members of the commission. The co-chairmen may not be from the same political party and shall serve for a period of 2 years. The co-chairmen, with the advice and consent of a majority of the commission members, shall establish the rules for completing their duties.”

The amendment was *rejected*.

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

“SECTION 5A. Said section 17A of said chapter 6, as so appearing, is hereby further amended by inserting after the word ‘construction’, in lines 5 and 6, the following words:— the secretary for commonwealth development.”; and by inserting after section 15 the following 2 sections:—

“SECTION 15A. Said section 2 of said chapter 6A, as so appearing, is hereby further amended by inserting after the word ‘services,’ in line 3, the following words:— ‘commonwealth development’.

SECTION 15B. Said chapter 6A, as so appearing is hereby amended by inserting after section 8A the following section:—

Section 8B. The executive office for commonwealth development shall serve as the coordinating agency in the commonwealth for the purposes of protecting, improving, and ensuring sustainable development and utilization of the natural and built environment of the commonwealth and of coordinating the environmental, transportation, housing and community development, and energy policies and programs of the commonwealth so that they protect, improve, and ensure the sustainable development and utilization of the natural and built environment of the commonwealth. The secretary shall serve as the chair of the commonwealth development coordinating council.”; in section 16, by striking out the words “Section 8B. (a) There shall be a commonwealth development coordinating council responsible for preparing a coordinated development policy for the commonwealth addressing housing, transportation, capital development, economic development, and the preservation of environmental resources in the commonwealth.” and inserting in place thereof the following:—

“Section 8C. (a) There shall be a commonwealth development coordinating council, chaired by the secretary of commonwealth development, responsible for preparing a coordinated development policy for the commonwealth addressing housing, transportation, capital development, economic development, and the preservation of environmental resources in the commonwealth.”; in section 2, by striking out item 0411-1001; and by inserting after item 7003-0701 the following item:—

“7004-0000 Executive office for commonwealth development 250,000”.

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 449 the following section:—

“SECTION 449A. Paragraph (a) of section 7 of chapter 150E of the General Laws, as so appearing, is hereby amended by adding the following sentence:— Notwithstanding an evergreen clause in a collective bargaining agreement, no employee shall retain seniority rights following the expiration date of a collective bargaining agreement unless a successor agreement is reached which contains such seniority rights.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 449 the following 2 sections:—

“SECTION 449A. The definition of ‘Employee’ in section 1 of chapter 150E of the General Laws, as so appearing, is hereby amended by striking out, the second sentence.

SECTION 449B. Said section 1 of said chapter 150E, as so appearing, is hereby amended by inserting after the definition of ‘Legislative body’ the following definition:—

‘Managerial employee’, any individual in a position in which the principal functions are characterized by at least 1 of the following: (1) responsibility for direction of a subunit or facility of a major division of an agency or assignment to an agency head’s staff; (2) development, implementation and evaluation of goals and objectives consistent with agency mission and policy; (3) participation in the formulation of agency policy; (4) a substantial role in the preparation or administration of collective bargaining agreements or substantial personnel decisions, or both, including staffing, hiring, firing, evaluation, promotion and training of employees; and (5) a substantial responsibility involving the exercise of independent judgment of an appellate responsibility not initially in effect in the administration of a collective bargaining agreement or in personnel administration.”

The amendment was *rejected*.

Ms. Walsh moved to amend the bill in section 2, in item 1108-5200, in line 46, by adding the following words:— “; provided further, that the group insurance rates established in this item shall apply only to fiscal year 2004”; and by inserting after section 599O the following section:—

“SECTION 599P. There shall be a commission to investigate and study public employee compensation, including, but not limited to the, health insurance, dental insurance, life insurance, education assistance, disability insurance, voluntary savings programs, and retirement benefits. The study shall include, but not be limited to, an analysis and comparison of public employee compensation in Massachusetts, including member contribution rates, eligibility, vesting, and portability, to other public and private employee compensation plans. The commission shall consist of 15 members as follows: the house and senate chairman of the joint committee on public service, who shall serve as co-chairs of the commission; 1 member of the senate appointed by the senate president and 1 member of the house appointed by the speaker of the house, or their designees, the secretary of administration and finance, or his designee; the executive director of the group insurance commission, or his designee; a representative of the Massachusetts Municipal Association; the chairman of the Public Employee Retirement Administration Commission, or his designee; a representative of the Associated Industries of Massachusetts, a representative of the Massachusetts Taxpayers Foundation, representative of the Massachusetts Association of Contributory Retirement Systems; the chairman of the state retirement board, or his designee and the chairman of the state teachers’ retirement board or his designees; a representative of the Massachusetts Teachers’ Association, and a representative of the American Federation of State, County, and Municipal Employees. The commission shall report to the general court the results of its study together with its recommendations and draft of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives, the joint committee on public service and the house and senate committees on ways and means on or before April 1, 2004.”

The amendment was adopted.

Mr. Montigny moved to amend the bill by inserting after section 580 the following new section:—

“SECTION 580A. In the interest of saving money on costly printing expenditures in these tight economic times, the senate committee on ways and means shall publish future budgetary recommendations in 4 point Times New Roman font.”

The amendment was *rejected*.

Messrs. Tisei, Lees, Knapik, and Mrs. Sprague moved to amend the bill by inserting after section 27 the following section:—

“SECTION 27A. Sections 52 to 55, inclusive, of chapter 7 of the General Laws are hereby repealed.”

After debate, the amendment was *rejected*.

Ms. Fargo moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. There shall be a special commission to study the following subject matters: the commonwealth charter school funding formula and funding sources; the feasibility of designating commonwealth charter school tuition as a separate line item in the state general appropriation bill; the budgetary impact of commonwealth charter schools on local school districts; the academic performance of commonwealth charter school; the demographics of commonwealth charter school enrollment; and the adequacy of the department of education’s oversight of commonwealth charter schools. The commission shall hold 5 statewide public hearings as part of its study.

The commission shall consist of 17 members. Eight members shall be appointed by the legislature, including the House and Senate chairs of the Joint Committee on Education, Arts, and Humanities, and 3 members appointed by the president of the senate, of which 1 shall be a member of the minority party, and 3 members appointed by the speaker of the house, of which 1 shall be a member of the minority party. Two members shall be appointed by the governor. One member shall be appointed by the state auditor. One member shall be appointed by each of the following organizations: the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, and the Massachusetts Charter School Association.

The commission shall file its report and proposed legislation, if any, with the clerks of the house of representatives and the senate by December 31, 2004.”

Pending the question on adoption of the amendment, Mr. Pacheco, Ms. Fargo and Mr. Magnani moved that the amendment be amended by striking out the text and inserting in place thereof the following:— by inserting after section 580X the following section:—

SECTION 580Y. Notwithstanding any general or special law to the contrary, the board of education shall not grant a commonwealth charter to any applicant for a period of 3 years, retroactive to January 1, 2003. Further, the board of education shall not authorize additional enrollment beyond the enrollment specified in the charter of any previously approved commonwealth charter school beyond the effective date of this act.”; and by inserting after section 599P the following section:—

“SECTION 599Q. There shall be a special commission to study the commonwealth charter school funding formula and funding sources and to investigate alternative funding formulas and funding sources. The commission shall also evaluate the budgetary impact on local school districts and the feasibility of designating commonwealth charter school tuition as a separate item in the state budget. The commission may also review the academic performance of commonwealth charter schools, the demographics of charter school enrollment, and the adequacy of the department of education’s oversight of the commonwealth’s charter schools.

The commission shall consist of 6 legislators including the house and senate chairs of the joint committee on education, arts and humanities, and 2 members appointed by the president of the senate and 2 members appointed by the speaker of the house, including 1 member in each chamber from the minority party; 2 members appointed by the governor, 1 member appointed by the state auditor, and 1 representative each from the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, and the Massachusetts Charter School Association.

The special commission shall submit its report and recommendation, if any, to the general court not later than December 31, 2005.”

The further amendment (Pacheco, et al) was then considered; and it was adopted.

The pending amendment (Fargo), as amended (Pacheco, et al), was then considered; and it was adopted.

Messrs. Hedlund, Knapik, Lees, Tisei and Mrs. Sprague moved to amend the bill by inserting after section 462 the following section:—

“SECTION 462A. Section 113B of said chapter 175, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word ‘registration’, in line 217, the following words:— or inspection.

SECTION 462B. 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 462C. 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 462D. 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*.

Ms. Melconian and Mr. Lees moved to amend the bill by inserting after section 242 the following section:—

“SECTION 242A. Section 2 of chapter 90 of the General Laws, as most recently amended by chapter 229 of the Acts of 2002, is hereby further amended by adding the following paragraph:—

The registrar shall furnish, upon application to owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design commemorating the Basketball Hall of Fame as the 'Birthplace of Basketball'. The registrar shall issue such plates at the direction of the Basketball Hall of Fame. There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be transferred within 90 days of receipt thereof to the Basketball Hall of Fame education program at the Basketball Hall of Fame in the city of Springfield."

After remarks, the amendment was adopted.

Messrs. Tisei, Lees and Knapik and Mrs. Sprague moved to amend the bill by inserting after section 580 the following section:—

"SECTION 580A. Notwithstanding any general or special law to the contrary, sections 52 to 56, inclusive, of chapter 7 of the General Laws shall not apply to the executive office of transportation and construction or the university of Massachusetts during fiscal year 2004; provided, however, that any agreement or combination or series of agreements entered into by the executive office of transportation and construction or the university of Massachusetts during fiscal year 2004 by which a non-governmental person or entity agrees to provide services to the executive office, the university or any agency or department under their auspices, valued at \$100,000 or more, which are substantially similar to and in lieu of, services theretofore provided, in whole or in part, by regular employees of the executive office, the university or any agency or department under its auspices shall not be for a term to exceed 2 calendar years. On or before July 15, 2004, the executive office and the university shall file a report with the secretary of administration of finance and the house and senate committees on ways and means detailing the number and nature of agreements entered into by the executive office or the university during fiscal year 2004. The report shall include, but not be limited to, the following: (1) a written statement of the services to be the subject of the agreement entered into, including the specific quantity and standard of quality of the subject services; (2) the term of the agreement; (3) the estimated cost of the services to be provided over the term of the agreement; and (4) the current cost to the commonwealth for the provision of the services as the services are provided by regular employees of the executive office, the university or any agency or department under the auspices of the executive office or university.

On or before August 15, 2005, the executive office and the university shall file a report with the secretary of administration of finance and the house and senate committees on ways and means which shall include, but not be limited to the following: (1) a comprehensive written analysis of the actual cost to the commonwealth that was incurred from the agreement during the term of the agreement, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance; (2) a comparison of the actual cost to the prior actual cost of the provision of the same services as previously provided by the regular agency employees that most recently provided said services; and (3) a comprehensive written analysis of the quality of the services that were provided by the entity during the term of the agreement and whether the quality, in the opinion of the executive office or the university, fell short of, equaled, or surpassed the level of quality which was provided by the regular agency employees that previously provided the services.

This section shall not apply to any agreement proposed during fiscal year 2004 by which a non-governmental person or entity seeks to provide services currently provided by the employees of the Massachusetts Bay Transportation Authority."

The amendment was *rejected*.

Messrs. Moore, Joyce, Tisei, Creedon and Magnani moved to amend the bill by inserting after section 516 the following section:—

"SECTION 516A. Section 80 of chapter 184 of the acts of 2002 is hereby amended by striking out, in line 3, the word 'seven' and inserting in place thereof the following figure:— 10."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before nine o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 43**]:

#### YEAS.

|   |  |
|---|--|
| Antonioni, Robert<br>A.                       | Menard, Joan M.                            |
| Baddour, Steven<br>A.                         | Montigny, Mark C.                          |
| Barrios, Jarrett T.<br>Berry, Frederick<br>E. | Moore, Richard T.<br>Morrисsey, Michael W. |

|                         |                         |
|-------------------------|-------------------------|
| Brewer, Stephen M.      | Murray, Therese         |
| Chandler, Harriette L.  | O'Leary, Robert A.      |
| Creedon, Robert S., Jr. | Pacheco, Marc R.        |
| Creem, Cynthia Stone    | Panagiotakos, Steven C. |
| Glodis, Guy W.          | Resor, Pamela           |
| Hart, John A., Jr.      | Rosenberg, Stanley C.   |
| Havern, Robert A.       | Shannon, Charles E.     |
| Hedlund, Robert L.      | Sprague, Jo Ann         |
| Jacques, Cheryl A.      | Tarr, Bruce E.          |
| Joyce, Brian A.         | Tisei, Richard R.       |
| Knapik, Michael R.      | Tolman, Steven A.       |
| Lees, Brian P.          | Tucker, Susan C.        |
| Magnani, David P.       | Walsh, Marian           |
| McGee, Thomas M.        | Wilkerson, Dianne — 39. |
| Melconian, Linda J.     |                         |

**NAYS — 0.  
 PAIRED.  
 YEA. NAY.**

Susan C. Fargo Andrea F. Nuciforo,  
 Jr.(present)2.

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

Messrs. Moore, Tisei, Joyce, Tarr, Creedon and Magnani moved to amend the bill by inserting after section 580Z the following section:—

“SECTION 580AA. All school facilities’ capital or major reconstruction projects, which have received final municipal approval by a favorable vote by the legislative body of any municipality, subject to its charter, on or before June 30, 2003, shall be placed on the priority waiting list for reimbursement pursuant to section 10 of chapter 70B of the General Laws at the rate for which it would have been eligible on January 31, 2003. The priority categories set forth in section 8 of said chapter 70B shall not be used to restrict any eligible project from placement on the priority list but may be used to rank new projects for placement on the priority list. Notwithstanding any general or special law to the contrary, the board of education shall not accept any application for the school building assistance program established in said chapter 70B of the General Laws, until after July 1, 2007.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes before nine o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 44**]:

**YEAS.**

|                      |                         |
|----------------------|-------------------------|
| Antonioni, Robert A. | Chandler, Harriette L.  |
| Baddour, Steven A.   | Creedon, Robert S., Jr. |
| Barrios, Jarrett T.  | Creem, Cynthia Stone    |
| Berry, Frederick E.  | Glodis, Guy W.          |
| Brewer, Stephen M.   | Hart, John A., Jr.      |

|                       |                          |
|-----------------------|--------------------------|
| Havern, Robert A.     | Nuciforo, Andrea F., Jr. |
| Hedlund, Robert L.    | O’Leary, Robert A.       |
| Jacques, Cheryl A.    | Pacheco, Marc R.         |
| Joyce, Brian A.       | Panagiotakos, Steven C.  |
| Knapik, Michael R.    | Resor, Pamela            |
| Lees, Brian P.        | Rosenberg, Stanley C.    |
| Magnani, David P.     | Shannon, Charles E.      |
| McGee, Thomas M.      | Sprague, Jo Ann          |
| Melconian, Linda J.   | Tarr, Bruce E.           |
| Menard, Joan M.       | Tisei, Richard R.        |
| Montigny, Mark C.     | Tolman, Steven A.        |
| Moore, Richard T.     | Tucker, Susan C.         |
| Morrissey, Michael W. | Walsh, Marian            |
| Murray, Therese       | Wilkerson, Dianne —      |

**38.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

**Fargo, Susan C — 1.**

The yeas and nays having been completed at eight minutes before nine o’clock P.M., the amendment was adopted.

Mr. Tolman, Ms. Fargo, Mr. Moore, Ms. Creem, Ms. Walsh and Mr. Montigny moved to amend the bill by inserting after section 491 the following section:—

“SECTION 491A. Chapter 270 of the General Laws is hereby amended by striking out section 22, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 22. (a) No person shall smoke in any public elevator, supermarket or retail food outlet, in or upon any public mass transit conveyances or indoor platform or enclosed outdoor platform or at any open meeting of a governmental body as defined in section 11A of chapter 30A, section 23A of chapter 39 and section 9F of chapter 34.

(b) No person shall smoke in any courthouse, school, college, university, museum, library, train, airplane, waiting area of an airport, waiting area of a health care facility as defined in section 9C of chapter 112, group child care center, school-aged day care center, or family day care center or on any premises where activities are licensed under section 38 of chapter 10 or in any public building. No person shall smoke in the state house or in any building owned by the commonwealth or in any space occupied by a state agency or department of the commonwealth, including any private office, so occupied. The provisions of the foregoing sentence shall not apply to residents of the Soldiers’ Home in Massachusetts and the Soldiers’ Home in Holyoke.

(c) No person shall smoke in any vehicle owned, leased, operated or occupied by the commonwealth or any political subdivision thereof.

(d) No person shall smoke in any workplace. For the purposes of this section, ‘workplace’ shall mean any enclosed indoor area, structure or facility or any portion thereof at which one or more employees perform services for their employer, including the personal residence of the employer during those hours when used as a child care or health care office. For the purpose of this section, ‘enclosed’ shall mean a space bounded by walls, with or without windows, continuous from floor to ceiling and enclosed by doors including, but not limited to, offices, rooms and halls. Workplaces shall include, but not be limited to, restaurants, bars, hotels, motels, inns, shopping malls and retail stores.

(e) The owner, manager or other person in charge of a facility, building, vehicle or place described in the preceding paragraphs shall conspicuously post such notices or signs at each entrance indicating that smoking is prohibited. Any owner, manager or other person in charge of such facility, building, vehicle or place that violates this section shall be fined \$100 for the first violation. A second violation, within 2 years, of the first offense, shall be assessed a fine of \$200. A third or subsequent violation, within 2 years of any previous violation, shall be assessed a fine of \$300. Each calendar day on which a violation exists shall be deemed to be a separate offense. The commonwealth or its agents including, but not limited to, the department of public health, the attorney general or the state police; any municipal government or its agent; any board of health or its agent; or any local police shall enforce this section. In the city of Boston, the commissioner of health and his authorized agents shall enforce this section. Any violation of this section shall be considered a civil violation. If the enforcing authority is a board of health or its

authorized agent, any violation of this section may be disposed of by the non-criminal method of disposition contained in section 21D of chapter 40 without an enabling ordinance or by-law. If the enforcing authority is any city or town or its agent, any board of health or its agent, or any city or town police department, fines assessed pursuant to this section shall be payable to the city or town in which the violation occurs. Any person aggrieved by the failure or refusal to comply with this section in any public building may complain in writing to the head of such department or agency occupying the area wherein such violation occurs. Such agency or department head shall respond, in writing, within 15 days, to the complainant that he has inspected the area described in the complaint and has enforced this section. Such agency or department head shall file a copy of the original complaint and his response thereto with the department of public health. Nothing in this section shall be construed to permit smoking in any area in which smoking is or may hereafter be prohibited by law including, without limiting the generality of the foregoing, any other provision of the law or ordinance or by-law or any fire, health or safety regulation.”

Pending the adoption of the amendment, Mr. Joyce moved that the amendment be further amended in proposed subsection (d) of section 22 of chapter 270 of the General Laws, by adding the following sentence:— “Notwithstanding any other provision of this section to the contrary, a public or private nursing home or convalescent home may designate an area, not abutting a patient care area, where smoking by residents shall be allowed.”

The further amendment (Joyce) was considered; and it was adopted.

The pending amendment (Tolman, Fargo, et al), as amended (Joyce) was then considered; and, after debate, it was adopted.

Mr. Brewer moved to amend the bill by inserting after section 580Y the following new section:—

“SECTION 580Z. Notwithstanding subsection (d) of section 16 of chapter 71 of the General Laws, the Pioneer Valley regional school district may borrow an amount not to exceed \$75,000 in anticipation of additional state reimbursements of construction costs at the Warwick community school. The term of the loan shall not exceed 4 years but, the amount of principal payment shall be required in the fiscal year after issuance. To the extent not inconsistent with the foregoing, the provisions of chapter 44 shall apply.”

The amendment was adopted.

Messrs. Nuciforo, Barrios and Shannon, Ms. Creem and Ms. Fargo moved to amend the bill by inserting after section 311, the following 2 sections:—

“SECTION 311A. (a) Chapter 94 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out sections 321 and 322 and inserting in place thereof the following 2 sections:—

Section 321. In sections 321 to 327, inclusive, the following definitions shall, unless the context clearly requires otherwise, have the following meaning:

‘Beverage’, noncarbonated water including flavored water, fruit and vegetable juices and drinks, coffee and tea drinks, sport drinks, soda water or similar carbonated soft drinks, mineral water, beer and other malt beverages, and other alcoholic beverages as defined in chapter 138, but shall not include dairy products.

‘Beverage container’, any sealable bottle, can, jar, or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage. This definition shall not include containers made of biodegradable material of less than 2.5 ounces. This definition shall include containers of 2 gallon capacity or less for carbonated beverages, malt beverages and alcoholic beverages as defined by chapter 138 and less than 1 gallon for noncarbonated water including flavored water, fruit and vegetable drinks, coffee and tea drinks, and sport drinks.

‘Bottler’, any person filling beverage containers for sale to distributors or dealers, including dealers who bottle or sell their own brand of beverage.

‘Consumer’, any person who purchases a beverage in a beverage container for use or consumption with no intent to resell such beverage.

‘Dealer’, any person, including any operator of a vending machine, who engages in the sale of beverages in beverage containers to consumers in the commonwealth.

‘Distributor’, any person who engages in the sale of beverages in beverage containers to dealers in the commonwealth including any bottler who engages in such sales.

‘Label’, a molded imprint or raised symbol on or near the bottom of a plastic product.

‘Plastic’, any material made of polymeric organic compounds and additives that can be shaped by flow.

'Plastic bottle', a plastic container that has a neck that is smaller than the body of the container, accepts a screw type, snap cap or other closure and has a capacity of 16 fluid ounces or more, but less than 5 gallons.

'Rigid plastic container', any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin and having a relatively inflexible finite shape or form with a capacity of 8 ounces or more but less than 5 gallons.

'Reusable beverage container', any beverage container so constructed and designed that it is structurally capable of being refilled and resold by a bottler at least 10 times after its initial use.

Section 322. Every beverage container sold or offered for sale in the commonwealth shall have a refund value of not less than \$.05, except alcoholic beverages as defined by chapter 138 in beverage containers greater than one pint, shall have a refund value of \$.15. The provisions of this section shall not apply to such containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

SECTION 311B. Section 323 of said chapter 94, as so appearing, is hereby amended by adding the following 2 paragraphs:—

(j) The handling fee will be increased from the current \$2.25 cents to at least \$.03 per unit delivered to distributors, and from \$.0225 to at least \$.025 cents per unit picked up by distributors. Distributors will be reimbursed by the commonwealth \$0.004 for every unit redeemed. If distributors elect to pick up containers from redemption centers, they will need to pick up containers at the redemption center no less frequently than once per week, unless the redemption center agrees to a less frequent pickup schedule.

(k) The executive office of environmental affairs shall convene a multi-stakeholder committee to evaluate the potential for illegal redemption of deposit containers (sold out of state with no deposit collected), and identify strategies to deter illegal redemption including more stringent enforcement and higher penalties. The executive office of environmental affairs will promulgate regulations within 6 months of the bills passage to implement new strategies to reduce illegal redemption.”

After debate, the amendment was *rejected*.

At eighteen minutes before ten o'clock P.M., on motion of Mr. Lees, the Chair declared a recess until the following day at eleven o'clock A.M.

Friday, May 30, 2003.

**[being the legislative session of Wednesday, May 28, 2003.]**

Met at ten minutes past eleven o'clock A.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

*Distinguished Guests.*

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Senator Panagiotakos, who introduced, seated in the Senate gallery, students from the history class of the Lowell High School ESL program. The students, accompanied by their teacher, John Crows, are studying state and federal government and were visiting the State House as part of their studies. They were the guests of Senator Panagiotakos.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) introduced, seated in the Senate gallery, Mr. Neil Plotnick and his Computer-Aided Design class from Malden High School. They were the guests of Senator Tisei.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) introduced, seated in the Senate gallery, eighth grade students from Millis Middle School in Millis. The students, accompanied by their teachers and chaperones, were visiting the State House as part of their annual scavenger hunt. They were the guests of Senator Jacques.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) introduced, seated in the Senate gallery, students of the fifth grade class from Presentation School, located on Oak Square in Brighton. They were accompanied by their teacher, Mr. Donovan. They were the guests of Senator Tolman.

PAPERS FROM THE HOUSE.

*Emergency Preambles Adopted.*

An engrossed Bill relative to the compensation of certain members of the General Court (see House, No. 3743), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid

before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 2.

**The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Francie R. Minder, an employee of the Department of Mental Retardation (see House, No. 3736), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 7 to 0.

**The bill was signed by the President and sent to the House for enactment.**

The House Bill relative to group insurance premiums for retired employees of the town of Webster retirees insurance premium rate (House, No. 428), — having been returned by His Excellency the Governor, in accordance with the provisions of Article LXVI of the Amendments to the Constitution, with recommendation of amendment (for message, see House, No. 3852), — came from the House, amended as follows:

Striking out all after the enacting clause and inserting in place thereof the following:

“The town of Webster shall pay ½ of the amount of the premium to be paid by a retired employee of the town under section 9 of chapter 32B of the General Laws.”; and by striking out the title and inserting in place thereof the following title: “An Act relative to group insurance premiums for retired employees of the town of Webster.”

**The rules were suspended, on motion of Ms. Menard, and the House amendment was considered forthwith and adopted, in concurrence.**

#### *Orders of the Day.*

The Orders of the Day were considered, as follows:

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Messrs. Tarr and Baddour and Ms. Tucker moved to amend the bill by inserting after section 599Q the following section:—

“SECTION 599R. A study commission shall be established to analyze and review available resources for corrections in the commonwealth, including the per capita cost of corrections per inmate at each of the 14 sheriff’s departments and the department of corrections. The commission shall be comprised of 1 representative from each of the 14 sheriff departments, 1 representative from the department of corrections, the secretary of administration and finance, or his designee, 3 members from the house committee on ways and means, at least 1 being a member of the minority party, and 3 members from the senate committee on ways and means, at least 1 being a member of the minority party. Said commission shall file a report with both the senate and house committees on ways and means not later than August 31, 2003.”

The amendment was adopted.

Mr. Morrissey moved to amend the bill by inserting after section 609 the following section:—

“SECTION 609A. Section 477 shall take effect on October 1, 2003.”

The amendment was adopted.

Ms. Fargo moved to amend the bill by inserting after section 230 the following 2 sections:—

“SECTION 230A. Section 30 of chapter 64C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth paragraph.

SECTION 230B. The fifth paragraph of said section 30 of said chapter 64C, as so appearing, is hereby amended by striking out the first sentence.”

The amendment was *rejected*.

Ms. Fargo moved to amend the bill by inserting after section 599 the following section:—

SECTION 599A. There shall be a 15 member special commission to study the use and effectiveness of the manufacturing and mutual fund corporation single-sales tax formulas, so-called. The commission shall consist of 4 members appointed by the president of the senate, including the chair of the senate committee on ways and means, the senate chair of the joint committee on

taxation, and 1 member appointed by the leader of the minority party; 4 members appointed by the speaker of the house of representatives, including the chair of the house committee on ways and means, the house chair of the joint committee on taxation, and 1 member appointed by the leader of the minority party; the secretary of administration and finance; the secretary of economic affairs; the commissioner of the department of revenue; 1 representative appointed by the executive director of the Massachusetts Budget and Policy Center, 1 representative appointed by the executive director of the Massachusetts Taxpayers Foundation, 1 representative appointed by the president of the Associated Industries of Massachusetts, and 1 representative appointed by the president of the Massachusetts AFL-CIO.

The commission shall study the impact of the single-sales tax formulas on job growth, business expansion, state tax revenues, and the overall contribution of the single-sales tax formulas to the economic climate in the commonwealth, and recommend retaining the single-sales tax formula or recommend a new tax formula. The commission shall include in its study an individual analysis of each corporation utilizing the single-sales tax formulas since the implementation of the single-sales tax formulas. The individual analysis shall include the annual employment level of the corporation; the annual total of salaried workers employed by the corporation; the annual total of hourly-wage workers employed the corporation; a year-by-year account of the corporation's property and assets in the commonwealth, including the valuation of the corporation's property and assets; a year-by-year account of the transfer of jobs or operations into and out of the commonwealth by the corporation; and a year-by-year account of the sale and purchase of assets in the commonwealth by the corporation.

The commission shall file the results of its study, along with any legislation, with the clerks of the senate and the house of representatives on or before November 1, 2004."

After remarks, the amendment was *rejected*.

Mr. Lees moved that the bill be amended by inserting after section 229 the following section:—

“SECTION 229A. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as amended by section 13 of chapter 4 of the acts of 2003, and inserting in place thereof the following 2 paragraphs:—

1. ‘Domestic corporations’, (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that the term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to paragraph 2. A limited liability company having as its sole member a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; but any limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. ‘Foreign corporation’, corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B or sections 19F to 19W, inclusive, of chapter 175 or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that the term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax

purposes, shall be separately taxed under this chapter as a foreign S corporation.”; and by inserting after section 609 the following section:—

SECTION 609A. Section 229A shall be effective for tax years beginning on or after January 1, 2003.”

The amendment was *rejected*.

Mr. Nuciforo, Ms. Resor and Mr. Joyce moved to amend the bill by inserting after section 240 the following section:—

“SECTION 240A. Said chapter 81A of the General Laws, as so appearing, is hereby amended by inserting after section 4 the following section:—

Section 4A. The authority shall not allow any sign advertising any gasoline station, restaurant or other services to be erected or maintained on the Turnpike that is larger than 80 square feet in area, excluding supports, or is higher than 30 feet from the ground, measured from the highest part of the sign.”

After remarks, the amendment was adopted.

Ms. Menard in the Chair, Mr. Magnani, Ms. Creem and Ms. Resor moved to amend the bill by inserting after section 580AA the following section:—

“SECTION 580BB. Notwithstanding any general or special law to the contrary, a portion of any sums recovered by the cost recovery efforts of the commonwealth from the Central Artery/Tunnel Project shall be allocated to the Massachusetts Turnpike Authority for the purpose of funding the toll discount program established by the authority’s board of directors on June 28, 2002.”

After remarks, the amendment was adopted.

Mr. Magnani, Ms. Creem, Ms. Resor, Ms. Fargo and Ms. Jacques moved to amend the bill by inserting after section 240 the following 3 sections:—

“SECTION 240A. Section 4 of chapter 81A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 34 and 35, the words ‘to fix and revise from time to time and charge and collect tolls for transit over the turnpike’ and inserting in place thereof the following words:— to charge and collect tolls for transit over the turnpike; said tolls shall be fixed at the rates in place on January 1, 2003 and may be revised only when necessary to accommodate increases in the Consumer Price Index.

SECTION 240B. Said section 4 of said chapter 81A, as so appearing, is hereby further amended by striking out, in lines 44 and 45, the words ‘to fix and revise from time to time and charge and collect tolls for transit over the metropolitan highway system’ and inserting in place thereof the following words:— to charge and collect tolls for transit over the metropolitan highway system; said tolls shall be fixed at the rates in place on January 1, 2003 and may be revised only when necessary to accommodate increases in the Consumer Price Index.

SECTION 240C. Section 10 of said chapter 81A is hereby amended by striking out, in line 2, the words ‘and from time to time fix and revise.’; and by inserting after section 241 the following 2 sections:—

“SECTION 241A. Said section 10 of said chapter 81A is hereby further amended by striking out, in lines 36 and 37, the words ‘and from time to time fix and revise.’

SECTION 241B. Said section 10 of said chapter 81A is hereby further amended by adding the following paragraph:—

(c) Notwithstanding any general or special law to the contrary, the authority is hereby authorized to allocate turnpike revenues generated from the turnpike as necessary to fully fund the Boston Extension toll discount program as established by the authority’s board of directors on June 28, 2002 until such time as tolls are no longer collected on Boston Extension roadways.”

The amendment was *rejected*.

Mr. Magnani, Ms. Creem and Ms. Resor moved to amend the bill by inserting after section 241 the following section:—

“SECTION 241A. Chapter 81A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding after section 14 the following section:—

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

'Direct light', light emitting generally in a downward direction by a lamp, off a reflector or through a refractor of a luminaire.

'Full-cutoff luminaire', a luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire's lowest light-emitting part, in its mounted form.

'Glare', direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

'Lamp', the component of a luminaire that produces light.

'Light Pollution', general sky glow caused by the scattering of artificial light in the atmosphere.

'Light trespass', light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

'Lumen', a specific standard unit of measurement of luminous flux.

'Luminaire', a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

'Non-cutoff luminaire', a streetlight luminaire in which either the lamp and surrounding glass lens extends well below the horizontal plane of opaque shielding elements of the luminaire, or the lamp is situated on top of a post or on a pivoting support on the side of a building, causing light to be cast as glare outward and upward, beyond its useful range.

'Outdoor light fixtures', outdoor artificial illuminating devices, permanently installed or portable, used for flood-lighting, roadway and area lighting, general illumination or advertisement.

'Permanent outdoor luminaire', any fixed luminaire or system of luminaires that is outdoors and that is intended to be used for 7 days or longer.

'Roadway lighting', permanent outdoor luminaires that are specifically intended to illuminate roadways for automotive vehicles.

'Semi-cutoff luminaire', a luminaire that allows no more than 6 per cent of the light from the lamp to be emitted above a horizontal plane passing through the luminaire's lowest light-emitting part.

(b) The lessee, user or occupant of real property of the authority leased, used or occupied in connection with a business conducted for profit, shall retrofit existing permanent outdoor luminaires or install new permanent outdoor luminaires that meet the following conditions:

(1) the new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1800 lumens;

(2) if a lighting recommendation or regulation applies, the minimum illuminance specified by the recommendation or regulation is used;

(3) if no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards including, but not limited to, recommended practices adopted by the illuminating engineering society of North America;

(4) for roadway lighting unassociated with intersections of 2 or more streets or highways, a determination is made by the Massachusetts Turnpike Authority that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or information signs, or other passive means; and

(5) adequate consideration has been given to the conservation of energy and to the minimization of glare, light pollution and light trespass.

The requirements of this section shall not apply in any of the following circumstances, settings or locations:

(i) a federal law, rule or regulation preempts state law;

(ii) the outdoor lighting fixture is used on a temporary basis by emergency personnel requiring additional illumination for emergency procedures or used by repair personnel on a temporary basis for road repair;

(iii) special events or situations that may require additional illumination including, but not limited to, the illumination of historic structures, monuments or flags, however, all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible and to minimize upward lighting and light trespass;

(iv) when a compelling safety interest exists that cannot be addressed by any other method; and

(v) the lessee, user or occupant's permanent outdoor luminaires currently meet the above conditions.

(c) The division of energy resources, in consultation with the Massachusetts Turnpike Authority, shall promulgate regulations to implement and enforce this section.”; and by inserting after section 609 the following section:—

“SECTION 609A. Section 241A shall take effect on January 1, 2008.”

The amendment was adopted.

Mr. Tarr moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. The probate and family court department shall evaluate potential methodologies for, and the feasibility of, allocating funding to its registries through a system based in total or in part on the number and types of filings and other tasks completed by each registry or projected to be complete by each registry. Said department shall convey the findings of its evaluation to the clerks of the senate and house of representatives committees on ways and means not later than 8 months following the passage of this act.”

The amendment was *rejected*.

Mr. Creedon moved to amend the bill by inserting after section 599R the following section:—

“SECTION 599S. There shall be a special commission consisting of 2 members of the judiciary committee of the house of representatives, 2 members of the judiciary committee of the senate, the chair of the house committee on ways and means or his designee, the chair of the senate committee on ways and means or his designee, 1 justice of the district court department of the trial court, 1 criminal defense attorney, the president of the Massachusetts Academy of Criminal Defense Lawyers or his designee, the executive director of the committee for public counsel services or his designee, and the president of the Massachusetts Bar Association or his designee, for the purpose of making an investigation and study of the standards by which indigent counsel are appointed in the commonwealth, including but not limited to, the criteria by which justices determine eligibility for indigent counsel, the compensation of indigent counsel and the financial status of any defendant under consideration for appointment of counsel. The commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before the first Wednesday in November 2003.”

After remarks, the amendment was adopted.

Mr. Havern moved to amend the bill by inserting after section 580BB the following section:—

“SECTION 580CC. Notwithstanding any general or special law, rule, or regulation to the contrary, the Massachusetts water resources authority retirement system board may grant creditable service to a present employee who is a member of the retirement system who served as an employee of the United States house of representatives and who has completed 10 or more years of membership service; but, the creditable service shall be determined by the board and the service shall not be credited until the member has paid into the Massachusetts water resources authority retirement system, in one sum or in installments, upon terms and conditions as the retirement board may prescribe, make-up payments equal to the payments made by the member while in the employment of the United States house of representatives, plus the accrued interest on the payments.”

The amendment was adopted.

Mr. Baddour moved to amend the bill by inserting after section 198 the following section:—

“SECTION 198A. Subdivision (1) of section 4 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:—

(s) Notwithstanding the definition of ‘Employee’ in section 1, a person who served in a position paid through an 03 subsidiary account or as an employee paid by a similar account for any department, agency, board or commission of the commonwealth or 1 of its political subdivisions and who has served in the position or similar position for at least 10 years, may establish credit for such service; provided, that no credit shall be allowed unless such member has paid into the Annuity Savings Fund of the system, in 1 sum or in installments, upon such terms and conditions as the board may prescribe, an amount equal to that which would have been withheld as regular deductions for such previous period had he been a member of the retirement system during the period the service was rendered; plus regular interest.”

The amendment was *rejected*.

Messrs. Tolman and Barrios moved to amend the bill by inserting after section 580CC the following new section:—

“SECTION 580DD. A person who has been in the state retirement system for more than 35 years, with at least 10 or more of those years in the employment of the Massachusetts Water and Resources Administration; who, in the course of his state employment was exposed to asbestos or other hazardous materials; and who has been diagnosed with an extraneously cancer related illness as well as an extraneously cardio-vascular or cardiac related illness, shall be eligible for early retirement with surviving spouse benefits at a compensation rate equivalent to his current salary, if the individual makes application for an early retirement on or before December 31, 2003.”

The amendment was adopted.

Mr. Tolman moved to amend the bill by inserting after section 198 the following new section:—

“SECTION 198A. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after paragraph (O1/2) the following paragraph:—

(O3/4) Any member eligible to receive a retirement benefit pursuant to this chapter, who served as a member of a redevelopment authority for a city or town, in which position he received no compensation, may establish credit for such service by depositing in the annuity savings fund of the system of which he is a member a sum equal to the amount which would have been paid into such fund during such period if such position had been compensated at the rate of \$2,500 per year, plus regular interest to the date of payment. This paragraph shall apply only to persons who served as a member of a redevelopment authority in a city or town that accepts this paragraph, in a town or city by a vote of the local retirement board or any by its retirement board; but this paragraph shall not apply to any member first elected or appointed on or after January 1, 1990.”

The amendment was *rejected*.

Messrs. Creedon and Joyce moved to amend the bill by inserting after section 580DD the following section:—

“SECTION 580EE. Notwithstanding any general or special law to the contrary, before any change in the retirement contribution required to be paid by members of the retirement system, the public employee retirement administration commission shall file with the house and senate committees on ways and means an actuarial report on the fiscal impact of any increase or decrease of such retirement contribution.”

The amendment was adopted.

Mr. Tarr moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. The secretary of administration and finance and the commissioner of the department of capital asset management and maintenance shall study the feasibility of leasing the facility known as the Hynes Convention Center for market-rate consideration for a purpose suitable to the facility and the Commonwealth for a period of not less than five years. The study shall take into account the current costs of maintaining and operating said facility and the costs and benefits of various leasing arrangements. The secretary shall report the finding of said study to the clerks of the senate and house of representative not later than 6 months following the passage of this act.”

The amendment was *rejected*.

Ms. Fargo moved to amend the bill by inserting after section 189 the following new section:—

“SECTION 189A. Chapter 465 of the acts of 1956 is hereby amended by adding the following section:—

Section 36. (a) There shall be an advisory board to the authority consisting of a voting representative of each of the following cities and towns: Bedford, Braintree, Brookline, Cambridge, Chelsea, Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln, Lynn, Malden, Melrose, Medford, Milton, Nahant, Quincy, Revere, Somerville, Weymouth, Winthrop and Worcester provided that the city of Boston shall have 5 voting representatives, 1 of whom shall be a resident of the Beacon Hill or South End sections of the city of Boston, 1 of whom shall be a resident of the East Boston section of the city of Boston, 1 of whom shall be a resident of the Dorchester or Roxbury sections of the city of Boston, 1 of whom shall be a resident of the Charlestown or South Boston sections of the city of Boston, 1 of whom shall be a resident of the Roslindale, Jamaica Plain or Hyde Park sections of the city of Boston. The members of the advisory board shall consist of the chief executive officer of each city or town; provided however, that any chief executive officer, by writing filed with the authority, may appoint a permanent designee to serve in his stead as a member of the advisory board until the expiration of each term of office of the designating chief executive officer or the earlier vacancy of the office of the designating chief executive officer; provided further, that if the chief executive officer of the city of Boston opts to serve as the representative for the city of Boston to the advisory board, he shall be deemed to represent the forgoing sections of the city of Boston; provided further that a permanent designee shall be versed in at least 1 of the following 3 disciplines: environmental affairs, community/airport relations or public health. For the purpose of this section,

the term 'chief executive officer' shall mean the person designated as the chief executive officer under the provisions of a local charter or laws having the force of a charter, and otherwise the mayor in every city and the chairman of the board of selectmen or president of the town council, as the case may be, in every town.

(b) Except as otherwise proscribed in this section, each voting representative shall cast 1 vote on the advisory board. Each voting representative of the several sections of the city of Boston as listed in paragraph (a) shall cast 1 vote. If the chief executive officer of the city of Boston shall opt to serve as the representative to the advisory board for the city of Boston, he shall cast 5 votes.

(c) The advisory board may act at a regular periodic meeting called in accordance with its by-laws or at a special meeting called by the authority or if a majority of the cities, towns and sections of the city of Boston referred to in paragraph (a) choose to do so. For the purposes of the forgoing provision, each city, town and section of the city of Boston referred to in paragraph (a) shall count as 1. Except as specially provided in paragraph (f), a quorum of the advisory board shall consist of a simple majority of voting members present, and the advisory board may act, except as otherwise provided in paragraph (f), by affirmative casting of a majority of the votes represented in the quorum. The advisory board shall be deemed to be a governing body for the purposes of, and shall be subject to section 11A1/2 of chapter 30A of the General Laws.

(d) For the conduct of its business the advisory board shall adopt and may revise and amend by-laws. The advisory board shall annually elect a chairperson, a vice-chairperson, a secretary and such officers as the advisory board may determine. Each officer may be removed by a 2/3 vote of the advisory board without cause. In the event of a vacancy, the board shall fill the vacancy for the unexpired term. Each member of the advisory board shall serve without compensation but may be reimbursed, as an expense of advisory board, for all reasonable expenses incurred in the performance of his duties as approved by the advisory board.

(e) The purposes of the advisory board shall be as follows:

(i) to appoint 1 member of the board of directors of the authority, as provided for in section 2 of this chapter, and in the manner proscribed in paragraph (f) of this section;

(ii) to make recommendations to the authority on annual current expense expenditure budgets submitted to the advisory board under paragraph (j);

(iii) to hold hearings, which may be held jointly with the authority at the discretion of the advisory board and the authority, on matters relating to the authority;

(iv) to review the annual report of the authority and to prepare comments on the report to the authority and the governor, and to make such examinations of the reports on the authority's records and affairs as the advisory board deems appropriate; and

(v) to make recommendations to the governor and the general court respecting the authority and its programs. The advisory board shall have all powers necessary or convenient to carry out and effectuate the foregoing purposes.

(f) One member of the board of directors shall be appointed by the advisory board in accordance with section 2 of this chapter. The member of the board of directors so appointed may also be a member of the advisory board. The advisory board shall appoint successor members, who shall replace that member of the board of directors appointed by the advisory board whose term has expired or otherwise terminated. With respect to appointment of any member of the board of directors the advisory board shall act only if a special quorum is present consisting of 2/3 of voting members, and then only by an affirmative vote of 2/3 of the voting members.

(g) Within 30 days of receiving any proposed current expense budget of the authority or within 15 days of receiving any proposed amended expense budget of the authority, the advisory board shall hold a public hearing on matters relating to said budget for the purpose of ascertaining, for subsequent report to the authority if necessary, the views of the public on the budget expense.

(h) The advisory board shall provide for the appointment of an ombudsman who, with the assistance from such staff and consultants as the advisory board may authorize and appoint, shall act for and in the name of the advisory board in the following respects:

(i) preparation of analysis for the advisory board of the authority's current expense budgets, capital expenditure budgets and capital programs and their effect on the charges of the authority;

(ii) representation of the advisory board to the authority on all matters pertaining to authority's programs, operations, finances and charges;

(iii) reporting regularly to the advisory board on the activities of the ombudsman and other staff of the advisory board, on the affairs of the authority, and on the effect of the authority's program and operations on residents of neighboring communities.

(iv) exercising such other duties and responsibilities consistent with the powers of the advisory board as the advisory board may assign from time to time.

(i) The advisory board may incur annual expenses, not to exceed \$150,000 for expenses authorized under paragraph (c) and for personnel and office expenses. The annual expenses shall be paid by the authority.

(j) The authority shall provide any information, including but not limited to annual current expense expenditure budgets and capital expenditure reports, requested by the advisory board which are necessary for the discharge of its duties.

After debate, the amendment was *rejected*.

Messrs. Hedlund, Tarr, Knapik, Lees, Tisei and Mrs. Sprague moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. No funds shall be expended to further the restoration of the Greenbush commuter rail line until the secretary of administration and finance and the secretary of environmental affairs receives and reviews for accuracy the results of a study of the following:

(1) the economic and environmental impacts of diesel commuter rail lines in contrast with alternative forms of public transportation including, but not limited to, commuter boats, cars and electric commuter rail service, and including an analysis of each form of transportation and its impact on ozone depletion; and

(2) the cost of transit mandates required by agreement of the department of environmental protection, the executive office of transportation and construction, the department of highways and the Conservation Law Foundation, for the purpose of determining whether those costs should be reflected in the central artery financial program.

A report of the results of the review shall be filed with the joint committee on transportation and the clerks of the senate and house of representatives no later than December 30, 2003; provided, however, that the cost of the study shall not exceed \$100,000.”

The amendment was *rejected*.

Messrs. Hedlund and Tarr moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. No funds shall be expended to further the restoration of the Greenbush commuter rail line until such time as the Massachusetts Bay Transportation Authority completes a study on the feasibility of installing four-quadrant gates at all grade crossing on the Greenbush commuter rail line. A report of the results of the review shall be filed with the joint committee on transportation and the clerks of the senate and house of representatives on or before December 30, 2003; but the cost of the study shall not exceed \$100,000.”

The amendment was *rejected*.

Mr. Montigny moved to amend the bill by inserting after section 599 the following section:—

“SECTION 599A. (a) There shall be a transportation review advisory council to review and comment on proposed major transportation projects.

(b) The transportation review advisory council shall consist of 10 voting members including the governor or his designee; 3 members of the public at large appointed by the governor; the house and senate chairs of the committees on transportation, long-term debt and capital expenditures, and local affairs in the of representatives or their respective designees. The secretary of transportation shall serve as a non-voting member unless the secretary is named as the governor’s designee. The council shall elect a chair from among its membership.

(c) The transportation review advisory council shall establish criteria for evaluating major transportation projects under consideration by the commonwealth. The criteria for review shall be established on or before December 31, 2003. The secretary of transportation shall submit proposed criteria to the council on or before September 30, 2003. The council may hold public hearings in various regions of the commonwealth to receive public input regarding establishing criteria. The council shall accept written public comment until October 31, 2003.

(d) The secretary of transportation shall report to the council not later than July 15 of each year, beginning in the year 2004. The secretary’s report shall consist of a list of all major transportation projects under consideration by the commonwealth and a list of proposed projects for study that have the potential of being major transportation projects once a draft environmental impact statement has been completed. The report shall include the secretary’s plan for funding and implementation of each project.

(e) The transportation review advisory council shall review, utilizing the established criteria, each project listed in the report submitted under paragraph (d) of this section and shall make comment on the report to the governor and legislature by September 30, 2004 and by September 30 of each year thereafter.

(f) A major transportation project shall be any project that meets each of the following criteria:

- (1) involves the executive office of transportation and construction.
- (2) has a total cost of more than \$5,000,000.
- (3) is a critical element of the transportation system of its region and the state, and
- (4) is a project for which a draft environmental impact statement has been completed.

(g) The commonwealth shall not construct a major transportation project without first submitting the project to the transportation review advisory council. Within any 6 year period, the commonwealth may not construct transportation project consisting of separate contiguous projects that do not individually qualify as major transportation projects, but which in their entirety would constitute a major transportation project, without first submitting the project to the transportation review advisory council.”

The amendment was *rejected*.

Messrs. Baddour, Hart and Montigny moved to amend the bill by inserting after section 580EE the following section:—

“SECTION 580FF. Notwithstanding any general or special law to the contrary, the secretary of the executive office of transportation and construction shall make a report, including findings and recommendations by September 15, 2003 to the senate and house committees on ways and means and the joint committee on transportation with regard to the continuation of the design, planning and construction of the North-South Rail Link. The report shall include a specific recommendation as to whether continued and future commonwealth financial support is warranted for this project, including the identification of the estimated cost of the project for construction, equipment and maintenance, its relative benefit to the public and the prospects, if any, for financial support from the federal government. The secretary shall also report on the costs and effects, if any, of not constructing the North-South Rail Link on the economy, environment and transportation system of the commonwealth.”

After debate, the amendment was adopted.

Mr. Hart moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. If a person fails to appear in accordance with a notice to appear issued pursuant to a Massachusetts Port Authority regulation or fails to pay in a timely manner a violation issued pursuant to such regulation after having received notice thereof, the authority shall notify the registrar who shall place the matter on record and shall not renew the license to operate a motor vehicle or the registrations of any vehicles owned by such person until the matter has been disposed of in accordance with applicable law or regulations. If a person is found to be a resident of another state or jurisdiction, the registrar shall revoke the violator’s right to operate in the commonwealth until the matter has been disposed of in accordance with applicable law or regulation. The liability of lessors of motor vehicles for violations on facilities owned by the authority shall be governed by authority regulations in a manner consistent with section 20E of chapter 90 of the General Laws. The registrar shall prescribe the manner, form and content of any notice received from the authority to take such action.”

The amendment was *rejected*.

Mr. Magnani moved to amend the bill by inserting after section 580FF the following section:—

“SECTION 580GG. Notwithstanding any general or special law to the contrary, the executive office of transportation and construction shall submit to the joint committee on transportation not later than January 1, 2004 a study on the feasibility of building a berm or sound barrier along Gina Circle in Framingham.”

After debate, the amendment was adopted.

Mr. Rosenberg moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. There is hereby appropriated from the general fund \$93,500,000 for the operation and maintenance of the university of Massachusetts said amount to be in addition to the amount appropriated in line item 7100-0200 of Section 2. Said amount shall be subject to the same terms and conditions of said item: provided, that this section shall not take effect if Section 58, or any other provision of law which provides for full tuition retention by the university, becomes effective as part of the General Appropriation Act for fiscal year 2004.”

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill by inserting after section 239 the following new section:—

“SECTION 239A. Said chapter 75 is hereby amended by inserting after section 7, as appearing in the 2000 Official Edition, the following section:—

Section 7A. The trustees of the University of Massachusetts are hereby directed to file annually with the board of higher education and the senate and house committees on ways and means a budget for the office of the president of the university for the subsequent fiscal year. The budget shall detail revenues and expenditures by each category of expense that is proposed for the office of the president, the university of massachusetts building authority, the university of massachusetts foundation and any other entities or administrative units which may be created to fulfill the responsibilities of the central office. The budget submission shall also include proposed expenditures and projected revenues for all centrally managed, shared administrative services for the various campuses which is located in the President’s office or in any other location but under the control of the president’s office. Such budget submissions shall detail the number of employees within each entity or administrative unit, the source of funding for each entity or administrative unit, and any contributions required by the individual campuses to fund each budgeted expense. At the conclusion of any fiscal year in which the actual spending within a budgeted category deviates from the budget filed with the board of higher education and the committees on ways and means, the trustees shall file a report with said board and committees, which explains the deviation.”

The amendment was adopted.

Mr. Hart moved to amend the bill by inserting after section 321 the following 20 sections:—

“SECTION 321A. Section 1 of chapter 115 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 52 through 57, the definition of ‘Veterans’ agent’ or ‘Part-time veterans’ agent’ and inserting in place thereof the following definitions:—

‘Full-time Veterans’ Service officer’ shall mean a veteran, as defined in clause Forty-third of section 7 of chapter 4, appointed under section 3 to disburse benefits to a city, town or district, and who is a resident of the commonwealth, and trained and certified by the department of veterans’ services in accordance with regulations published pursuant to this chapter and who works the regular hours full-time employees in the city, town or district wherein he is employed but not less than thirty-five hours per week performing the duties of the veterans’ service officer.

‘Part-time Veterans’ Service officer’ shall mean a veteran, as defined in clause Forty-third of section 7 of chapter 4, appointed under section 3 of this chapter to disburse benefits, and who is a resident of the commonwealth, and is trained and certified by the department of veterans’ services in accordance with regulations published pursuant to this chapter and who works such hours as are necessary to carry out his responsibilities under this chapter during those regular hours the town hall and the office of the department of veterans’ services are open in the city or town where he is employed.

Section 321B. Section 2 of chapter 115 of the General Laws, as so appearing, is hereby amended by striking out in line 1, the word ‘agents’ and inserting in place thereof the words:— service officers.

Section 321C. Said section 2 of chapter 115 of the General Laws, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

Any person aggrieved by a decision of the commissioner’s operations’ division, or by the failure of a city, town or district to render adequate veterans’ benefits or to approve or reject an application for veterans’ benefits within three days of receiving such application, or aggrieved by the withdrawal of such benefits, shall have the right to appeal to the commissioner’s department for an administrative hearing. The right to a hearing shall be exercised by filing a written appeal with the department within 21 calendar days of receipt of notice of said decision, action or failure to act of which the party is aggrieved. The hearing shall be conducted in accordance with chapter 30A. Any person aggrieved by such an administrative decision, shall have a right to appeal within 10 days of receipt of written notice, to the division of administrative law appeals established within the executive office of administration and finance under section 4H of chapter 7, hereinafter in this section referred to as ‘the division’. A hearing on such appeal held pursuant to this paragraph shall be conducted as an adjudicatory proceeding under chapter 30A. The division shall issue its decision within 90 days after the day of the filing of the appeal, except that when an aggrieved person appeals the rejection of application for veterans’ benefits or the failure to act on the application or the failure of a city or town to render assistance to meet an emergency or hardship situation, the division shall render and issue its decision within 45 days after the date of filing of said appeal. The decision of the division shall be subject to judicial review in accordance with the provisions of chapter 30A. The time for commencing such an action for judicial review shall run from the receipt of notice of the decision of the division. In such an action for judicial review, the record shall consist of (a) the entire proceedings before the division of administrative law appeals or (b) such portions thereof as the commissioner and the parties may stipulate, or (c) a statement of the case agreed to by the commissioner and the parties.

Section 321D. Said section 2 of said chapter 115, as so appearing, is hereby further amended by deleting the fourth paragraph and inserting in place thereof the following paragraph:—

Upon the written request of any mayor of a city or the selectmen of a town, or upon the written request of a veterans' service officer or director of veterans' services, or based upon an allegation made by any five veterans or dependents, or based upon any independent finding by the department that warrants an investigation, the commissioner shall investigate any matter relating to the administration therein of the provisions of this chapter the expenses of such investigation shall be certified by him to the state treasurer who shall collect the same as an additional tax upon such city, town or district.

Section 321E. Said section 2 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 71, the word 'agent', and inserting in place thereof the words:— service officer.

Section 321F. Said section 2 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 78, the word 'agents' and inserting in place thereof the following words:— service officer.

Section 321G. Said chapter 115, as so appearing, is hereby amended by striking out section 2A and inserting in place thereof the following section:—

Section 2A. If the department's administrative hearing officer decides a controversy between an applicant and a veterans' service officer relative to the validity or amount of a claim for veterans' benefits, as provided in section two, in favor of the applicant, said veterans' service officer shall, forthwith, make payment to the applicant in accordance with said decision notwithstanding any appeal therefrom by the veterans' service officer. If the division of administrative law appeals sustains the appeal of the veterans' service officer as to the validity of such claim, payment to the applicant shall thereupon cease and all amounts paid to the applicant shall be reimbursed by the commonwealth in the manner provided in section 6. If the division of administrative law appeals sustains the appeal of the veterans' service officer as to the amount of such claim, payment to the applicant of any amount in excess of the amount approved by the division of administrative law appeals shall thereupon cease and all amounts paid to the applicant in excess of the amount so approved shall be reimbursed by the commonwealth in the manner provided by said section 6.

The decision of the department's administrative hearing officer, in accordance with said section 2, may be enforced by the superior court on a petition in equity.

Section 321H. Section 3 of said chapter 115, as so appearing, is hereby amended by deleting the first paragraph and inserting in place thereof the following 2 paragraphs:—

The mayor of each city, except Boston and Cambridge, and the selectmen of each town, shall appoint a veterans' service officer to act for him or them in the disbursement of veterans' benefits by such city or town; provided, however, that in each town having a part-time veterans' service officer the town clerk shall receive applications and assist applicants for veterans' benefits, and shall submit said applications to the veterans' service officer. Two or more contiguous towns may, by vote of the selectmen, and subject to the approval of the commissioner, appoint 1 full-time veterans service officer and such additional staff as necessary, and may apportion the payment of compensation among such towns. Two or more non-contiguous towns, may, subject to approval of the commissioner, appoint one full-time veterans service officer and such additional staff as necessary, and may apportion the payment of compensation among such towns.

The appointment of a veterans' service officer shall not create a civil service position. Any person who is appointed to the position of veterans' service officer and certified by the Massachusetts Department of Veterans' Services as a trained veterans' service officer, and who has held such position for not less than three years, shall not be involuntarily separated and shall have the same rights and protection granted to any veteran under section 9A of chapter 30 of the General Laws, notwithstanding that his or her prior appointments were for a fixed term. Any local charter or by-law contrary to these provisions and contrary to chapter as it exists prior to the effective date of the enactment of this law, shall govern.

Section 321I. Said section 3 of said chapter 115, as so appearing, is hereby further amended by striking out, in lines 10, 14, 18, 20, 22, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321J. Section 4 of said chapter 115, as so appearing, is hereby further amended by striking out, in lines 10, and 15, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321K. Section 5 of said chapter 115, as so appearing, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Veterans' benefits shall be paid to a veteran or dependent by the city or town wherein he resides.

Section 321L. Said section 5 of said chapter 115, as so appearing, is hereby further amended by striking out, in lines 29, 57, 60, 69, and 85, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321M. Said section 5 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 44, the word 'idleness' and inserting in place thereof the following word:— unemployment.

Section 321N. Said section 5 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 44, the words 'continuous vicious habits' and inserting in place thereof the following words:— unwholesome habits.

Section 321O. Said section 5 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 103, the word 'budget' and inserting in place thereof the following words:— schedule of benefits.

Section 321P. Section 5A of said chapter 115, as so appearing, is hereby further amended by striking out, in lines 5, 25, 42, and 48, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321Q. Section 6 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 13, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321R. Section 7 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 2, the word 'agent' and inserting in place thereof the following words:— service officer.

Section 321S. Section 10 of said chapter 115, as so appearing, is hereby further amended by striking out, in line 16, the word 'Two' and inserting in place thereof the following words:— Subject to the commissioner's approval, 2.

Section 321T. Section 15 of said chapter 115, as so appearing, is hereby further amended by striking out, in lines 1 and 2, the words 'department of corporation and taxation' and inserting in place thereof the following words:— department of revenue.”

The amendment was *rejected*.

Messrs. Lees and Tarr moved to amend the bill in section 2 by striking out items 2030-1000, 2030-1004, 2300-0101, 2310-0200, 2310-0317, 2320-0100, 2330-0100, 2330-0120, 2330-0121, and 2350-0101 and inserting in place thereof the following 12 items:—

“2300-0100

For the office of the commissioner of the department of fisheries, wildlife and environmental law enforcement  
.....528,142

2300-0101

For a program of Riverways protection, restoration and promotion of public access to rivers, including grants to public and non-public entities; provided that the positions funded in this item shall not be subject to chapter 31 of the General Laws  
.....300,000

2300-0100

For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be made available to the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2003 for such research; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; and provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 percent of the amount so expended .....6,702,731

Inland Fish and Game Fund .....100.00%

2310-0301

For the operation of the Natural Heritage and Endangered Species program.....639,182

2310-0317

For the waterfowl management program pursuant to section 11 of chapter 31 of the General Laws  
.....85,000

Inland Fish and Game Fund .....100.00%

2310-0318

For the Hunter Education safety training program .....433,719

Inland Fish and Game Fund .....100.00%

2320-0100

For the administration of the public access board, including the maintenance, operation, and improvements of public access land and water areas as authorized by section 17A of chapter 21 of the General Laws; and provided further, that positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws

.....320,092

2330-0100

For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that the department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004; provided further, that not less than \$180,000 shall be made available to the School for Marine Science and Technology to help mitigate the negative economic impact to the Massachusetts ports which has resulted from the change in federal fisheries regulations; provided further, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha’s Vineyard and Nantucket to be administered by the state aquaculture coordinator and Dukes and Nantucket counties; and provided further, that not less than \$90,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable County Department of Health and Environment

.....3,815,384

2330-0120

For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff and the maintenance and updating of data

.....618,159

2330-0121

For the division of marine fisheries to utilize reimbursable federal sport fish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that the division of marine fisheries may expend revenues up to \$167,898 collected from federal sport fish restoration funds and from the sale of materials which promote marine recreational fishing

.....167,898

2350-0100

For the operation of the division of environmental law enforcement; provided, that each county shall be assigned at least 1 full-time environmental officer; provided further, that officers shall be assigned to patrol vacant districts; provided further, that officers shall provide monitoring pursuant to the National Shellfish Sanitation Program; and provided further, that no funds from this item shall be expended for the purposes of item 2030-1004

.....9,902,003

2350-1040

For environmental police private details; provided, that the office may expend revenues of up to \$250,000 collected from fees charged for private details

.....250,000”;

by striking out, in item 2600-1000, the figure “\$5,568,630” and inserting in place thereof the figure “\$5,040,488”; by striking out sections 74 and 75 and inserting in place thereof the following 2 sections:—

“SECTION 74. Section 1 of chapter 21 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall consist of a division of forests and parks and a division of water supply protection. Each division shall be under the administrative supervision of a director.

SECTION 75. Said chapter 21, is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. The department shall be under the control of a stewardship council, which council shall consist of 8 members appointed by the governor for terms of 7 years. Seven members shall be from the board of parks and recreation created in section 2A of chapter 21, and the eighth member shall be the commissioner of conservation and recreation. Upon the expiration of the terms of the current members of the board, all additional appointments by the governor, except those made to fill a vacancy in an unexpired term, shall be for terms of 7 years. No council member may remain on the council after the expiration of their term on the board of parks and recreation.”; by striking out section 89 and inserting in place thereof the following section:—

“SECTION 89. Said chapter 21 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. The commissioner of conservation and recreation shall be the executive and administrative officer of the department and he shall exercise supervision, direction and control over all the divisions of the department in accordance with such programs and policies as may from time to time be promulgated by the stewardship council. The commissioner shall be responsible for administering all laws vested in the department by the general or special laws. The commissioner shall appoint and remove the directors of the division of forests and parks and the division of water supply protection with the approval of the stewardship council. The commissioner shall appoint and remove the directors of other divisions, bureaus or offices which he may establish as he deems appropriate for the efficient management and centralized administration of the department. The directors shall be qualified by training, experience and executive ability to administer the duties of their respective offices, and shall not be subject to chapter 31. The commissioner may also appoint and remove a professional geologist, who shall be the state geologist and who shall not be subject to chapter 31 or section 9A of chapter 30.”; by striking out sections 100, 101, 103, 107, 110, 115 and 118 and inserting in place thereof the following section:—

“SECTION 101. Chapter 21 is hereby further amended by striking out section 6I.”; by striking out section 121 and inserting in place thereof the following section:—

“SECTION 121. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall include a division of forests and parks and a division of water supply.”; by striking out sections 123, 124, 126, 127, 131, 132, 232, 261, 289, 316, 394, and 457; and in section 532, by striking out paragraphs (4), (5), (7) and (8).

The amendment was *rejected*.

Messrs. Knapik, Lees and Rosenberg, Ms. Melconian and Mr. Brewer moved to amend the bill in section 2, by inserting after item 4190-1100 the following item:—

“4190-1101

The Soldiers’ Home in Holyoke may expend revenues up to a maximum of \$579,221 from resident fees for long-term care beds and domiciliary beds; provided that the only revenue available for expenditure in this item shall be amounts collected for fiscal year 2004 from said resident fees .....579,221”.

The amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 4510-0100, by striking out the figure “\$16,221,301” and inserting in place thereof the following figure:— “\$17,549,534”; and in item 4130-1000 by striking out the figure “\$12,975,179” and inserting in place thereof the following figure:— “\$11,646,946”.

The amendment was *rejected*.

Messrs. Creedon and Glodis moved to amend the bill by striking out section 319.

The amendment was *rejected*.

Messrs. Creedon and Glodis moved to amend the bill by striking out sections 320 and 321.

The amendment was *rejected*.

Ms. Resor and Mr. McGee moved to amend the bill in section 583(a) by inserting after the word “health”, in line 3, the following words:— “the president of the senate or his designee and the speaker of the house of representatives or his designee”.

The amendment was *rejected*.

Ms. Wilkerson moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. (a) Notwithstanding the provisions of section 40 of this act, an individual who has met the requirements of section 19B of chapter 15A of the General Laws and is qualified to receive a bonus payment, on or before October 1, 2004 shall be allowed to deduct an amount equal to the bonus payment when calculating his 2003 taxable year income and submitting a return for said taxable year pursuant to chapter 62C.

(b) The commissioner of education shall transmit to each individual, qualified to receive a bonus payment pursuant to subsection (a), an official statement on department of education letterhead and bearing the official seal of the commonwealth indicating the

amount of the bonus payment due the individual; provided, that an individual when calculating his 2003 taxable year income and submitting a return for that taxable year shall attach the official statement to the return.

(c) The commissioner of education shall in a method and format prescribed by the commissioner of the department of revenue provide to the commissioner information about each individual receiving an official statement pursuant to subsection (b); provided, that the information shall include the individual's name, address and social security number; provided further, that the information shall be used by the commissioner of the department of revenue solely for the purpose of verifying the deduction claimed by an individual pursuant to subsection (a)."

The amendment was *rejected*.

Messrs. Nuciforo, Knapik and Hedlund and Ms. Fargo moved to amend the bill by inserting after section 12 the following section:—

"SECTION 12A. Chapter 6 of the General Laws, is hereby amended by striking out section 172G, as so appearing, and inserting in place thereof the following section:—

Section 172G. Notwithstanding section 172, section 60 or 60A of chapter 119, or any other general or special law to the contrary, operators of camps for children shall obtain all available criminal offender record information and juvenile data as found in the court activity record information from the criminal history systems board of all employees and volunteers before employment. During the operational season of a camp for children, the criminal offender record information board shall process criminal offender record information within 3 days of receiving said request. If after 3 business days, criminal offender record information has not been received, camps for children may hire employees who shall be prohibited from unsupervised contact with children until the criminal offender record information results are received. Foreign workers employed under the United States department of state's J-1 visa program as defined in 22 CFR 62 shall be excluded from the provisions of this section, provided that camps for children obtain criminal records for said foreign workers in their country of residence and obtain all available criminal offender record information and juvenile data as found in the court activity record information from the criminal history systems if they have been employed or ever resided in the United States. The department of public health shall promulgate regulations for the operators of camps for children that establish employment and volunteer ineligibility criteria based on criminal offender record information. Said regulations shall conform to 102 CMR 14.16. Information obtained under this section shall not be disseminated for any purpose other than to further the protection of children."

The amendment was adopted.

Mr. Pacheco moved to amend the bill in section 557, in subsection (c), by striking out, in line 7, the words "attempt to" ; and by inserting after the word "agreements," in line 8, the following words:— " , and provided further, that all employees who elect to be transferred to comparable positions within the department shall be transferred without impairment of employment or civil service rights held immediately before the transfer date, without interruption of service, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade, without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge layoff or abolition of position not prohibited before such date."

The amendment was adopted.

Messrs. Tarr and Joyce moved to amend the bill by inserting after section 491A the following section:—

"SECTION 491B. Chapter 269 of the General Laws is hereby amended by inserting after section 13A the following section:—

Section 13B. Whoever, knowing the same to be false, transmits or causes to be transmitted by telephone or any other means of communication, the alleged occurrence or impending occurrence of an emergency situation which threatens the life or safety of a person or the loss of property to a state, federal or local law enforcement agency, or a state or federal organization having the function of dealing with such emergencies, or an official agency shall be punished by imprisonment in a jail or house of correction for not more than 2½ years or by a fine of not more than \$10,000 or both.

All fines and penalties in actions under this section, shall be paid to the General Fund; provided, however, that if the complaining officer is an environmental police officer or a deputy environmental police officer, such fines and penalties shall be retained by the division of environmental law enforcement and deposited as revenue and shall be applicable to the division's retained revenue account."

The amendment was adopted.

Messrs. Tisei, Lees, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the bill by inserting after section 599 the following new section:—

“SECTION 599A. There shall be a special commission to study the rules, regulations, operations and laws relating to the system of drivers education in the commonwealth. The commission shall be chaired jointly by the house and senate chairpersons of the joint committee on public safety or designees, and shall consist of the following: 2 members of the house of representatives, to be appointed by the speaker of the house; 1 member of the house of representatives, to be appointed by the house minority leader; 2 members of the senate to be appointed by the senate president; 1 member of the senate to be appointed by the senate minority leader; the secretary of public safety or his designee, the registrar of motor vehicles or his designee, the commissioner of the department of education or his designee, and 3 members to be appointed by the governor, at least 1 of whom shall be a driving school instructor. The study shall include, but not be limited to, the following issues: (i) the adequacy and efficiency of the existing drivers education system and whether curriculum and driving instruction requirements need to be updated; and (ii) the licensing requirements for private driving instructors versus high school driving education programs. The commission shall submit the results of its study, together with drafts of legislation and a plan for the implementation of any recommendations to the house and senate committees on ways and means, the clerk of the house, the clerk of the senate, and the joint committee on public safety not later than October 31, 2003.”

The amendment was *rejected*.

Ms. Creem moved to amend the bill by inserting after section 229 the following section:—

“SECTION 229A. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as most recently amended by section 13 of chapter 4 of the acts of 2003, and inserting in place thereof the following 2 paragraphs:—

1. ‘Domestic corporation,’ (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that the term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to paragraph 2. A limited liability company having as its sole member a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; provided, however, that any limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. ‘Foreign corporation,’ a corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B or sections 19F to 19W, inclusive, of chapter 175 or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that the term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as a foreign S corporation.”; and by inserting after section 609A the following section:—

“SECTION 609B. Section 229A shall be effective for tax years beginning on or after January 1, 2003.”

After remarks, the amendment was adopted.

Mr. Hart moved to amend the bill by inserting after section 580HH the following new section:—

“SECTION 580II. Notwithstanding any general or special law, rule or regulation to the contrary, the development of any of the parcels of land in the area known as Columbia Point in the city of Boston, as described in chapter 898 of acts of 1969, for dormitory facilities for students by the University of Massachusetts Building Authority shall be subject to and meet the requirements of chapter 665 of the acts of 1956 including but not limited to large project review as provided in Article 80 of the Boston Zoning Code. The development shall not occur unless approved by law.”

After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Tarr, Hedlund and Knapik and Mrs. Sprague moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall post on the commonwealth’s website a link to the occupational services division webpage in order to provide direct access to Comm-PASS.”

The amendment was *rejected*.

Mr. Brewer and Ms. Resor moved to amend the bill in section 2, by striking out items 2300-0101, 2310-0200, 2310-0317, 2320-0100, 2330-0100, 2330-0120, 2330-0121 and 2350-0101, and inserting in place thereof the following 9 items:—

“2300-0100

For the office of the commissioner of the department of fisheries, wildlife and environmental law enforcement .....528,142

2300-0101

For a program of riverways protection, restoration and promotion of public access to rivers, including grants to public and non-public entities; provided that the positions funded in this item shall not be subject to chapter 31 of the General Laws .....300,000

2310-0100

For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth’s share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be made available to the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2003 for such research; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; and provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 per cent of the amount so expended .....6,702,731

Inland Fish and Game Fund.....100.00%

2310-0317

For the waterfowl management program pursuant to section 11 of chapter 31 of the General Laws .....85,000

Inland Fish and Game Fund .....100.00%

2310-0318

For the Hunter Education safety training program .....433,719

Inland Fish and Game Fund .....100.00%

2320-0100

For the administration of the public access board, including the maintenance, operation, and improvements of public access land and water areas as authorized by section 17A of chapter 21 of the General Laws; provided, that the public access board may expend from capital authorizations amounts necessary to cover the personnel costs of the board for fiscal year 2004; and provided further, that positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws .....320,092

2330-0100

For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that the department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004; provided further, that not less than \$180,000 shall be made available to the School for Marine Science and Technology to help mitigate the negative economic impact to the Massachusetts ports which has resulted from the change in federal fisheries regulations; provided further, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered by the state aquaculture coordinator and Dukes and Nantucket counties; and provided further, that not less than \$90,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable county department of health environment

.....3,815,384

2330-0120

For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff and the maintenance and updating of data

.....618,159

2330-0121

For the division of marine fisheries to utilize reimbursable federal sport fish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that the division of marine fisheries may expend revenues up to \$167,898 collected from federal sport fish restoration funds and from the sale of materials which promote marine recreational fishing

.....167,898”;

in item 2600-0100, by striking out the figure \$5,568,630 and inserting in place thereof the following figure:— “\$5,040,488”; by striking out sections 74 and 75 and inserting in place thereof the following 2 sections:—

“SECTION 74. Section 1 of chapter 21 of the General Laws, as appearing in the 2000 Official Edition is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall consist of a division of forests and parks and a division of water supply protection. Each division shall be under the administrative supervision of a director.

SECTION 75. Said chapter 21 is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. The department of conservation and recreation shall have a stewardship council that will include the membership selection requirements, including statewide geographic distribution criteria, and powers and authorities of the former board of environmental management as set forth at sections 2, 2A to 2E, inclusive and 3A to 3D, inclusive, except that there shall be an additional 6 members, for a total of 13 members, with 5 from the district of the former metropolitan district commission and 2 at-large members. The commissioner of conservation and recreation shall request nominees for one member of the stewardship council as provided in section 2A. In addition, the commissioner of the department of conservation and recreation shall request nominees from non-profit entities located in the district of the former metropolitan district commission for one member on the stewardship council.”; by striking out section 89 and inserting in place thereof the following section:—

“SECTION 89. Said chapter 21 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. The commissioner of conservation and recreation shall be the executive and administrative officer of the department and he shall exercise supervision, direction and control over all the divisions of the department in accordance with such programs and policies as may from time to time be promulgated by the stewardship council. The commissioner shall be responsible for administering all laws vested in the department by the general or special laws. The commissioner shall appoint and remove the directors of the division of forests and parks and the division of water supply protection with the approval of the stewardship council. The commissioner shall appoint and remove the directors of other divisions, bureaus or offices which he may establish as he considers appropriate for the efficient management and centralized administration of the department. The directors shall be qualified by training, experience and executive ability to administer the duties of their respective offices, and shall not be subject to chapter 31. The commissioner may also appoint and remove a professional geologist, who shall be the state geologist and who shall not be subject to chapter 31 or section 9A of chapter 30.”; by striking out sections 100, 103, 107, 115, and 118; by inserting, after section 116, the following section:—

“SECTION 116A. Section 37A of said Chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words ‘environmental management’ and inserting in place thereof the following words, ‘conservation and recreation’.”; by striking out section 121 and inserting in place thereof the following 2 sections:—

“SECTION 121. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall include a division of forests and parks and a division of water supply protection.

SECTION 121A. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 56 and 57, the words ‘division of law enforcement, boating and recreational vehicle safety advisory board,’.”; by striking out sections 123, 124, 126, 232, 316, and 457; and in section 532 subsection (a), by striking out clauses (4), (7) and (8).

The amendment was *rejected*.

Mr. Lees moved to amend the bill in section 2 in item 1599-3384 by striking out the figure “\$4,000,000” and inserting in place thereof the following figure:— “\$2,574,485”; and in item 4200-0300, by striking out the figure “\$81,026,811” and inserting in place thereof the following figure:— “\$82,452,326”.

The amendment was adopted.

Ms. Chandler moved to amend the bill in section 2, in item 4513-1000, by striking out the words “For the operation of the division of family health services, including a program of maternal and child health in addition to any federal funds received for this program; provided,” and inserting in place thereof the following words:— “For the operation of the division of family health services; provided, that not less than \$450,000 shall be directed to community health centers to provide maternal-child health services through combined primary care; provided further.”.

The amendment was adopted.

Mr. McGee moved to amend the bill by inserting after section 501 the following section:—

“SECTION 501A. Section 2 of chapter 267 of the acts of 1995 is hereby amended, in item 7511-7961, by adding the following words:— ; provided, that not less than \$300,000 of the amount appropriated shall be expended for the purpose of conducting a study to create a master plan that would assess the capital and facility needs of the T.W. McGee Building and other buildings located on the Lynn campus of North Shore Community College and that would analyze the feasibility of allowing North Shore Community College to enter a multi-year agreement with private entities relative to capital and facility needs at this site.”

The amendment was adopted.

Mr. Creedon moved to amend the bill by inserting after section 380 the following new section:—

“SECTION 380A. Chapter 127 of the General Laws, is hereby amended by inserting after section 38H the following section:—

Section 38I. Any complaint filed with the court by an inmate in accordance with section 38H shall, within 10 days of the filing, be referred by the court for mediation. The court shall schedule mediation not later than 60 days from the date of the filing of the complaint. At the conclusion of mediation, the mediator shall prepare a brief report setting forth which claims, if any, were settled and which claims remain for the decision by the court. The report of the mediator shall be filed with the Dispute Resolution Services Coordinator of the court in which the action was filed. Mediations under this section may be conducted by videoconference or at a correctional facility, and shall be subject to the Uniform Rules of Dispute Resolution promulgated by the Supreme Judicial Court.”

The amendment was adopted.

Messrs. Morrissey and Creedon moved to amend the bill by inserting after section 489 the following 2 sections:—

“SECTION 489A. Section 39 of said chapter 262, as most recently amended by chapter 184 of the acts of 2002, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

For the entry of every original petition, complaint or writ and transmitting it to the recorder, when filed with an assistant recorder, \$240. For the entry of complaint to foreclose tax lien \$200. An additional fee of \$90 shall be paid for the issuance of an injunction or restraining order.

SECTION 489B. Said section 39 of said chapter 262, as so amended, is hereby further amended by striking out, in line 48, the words ‘forty dollars’ and inserting in place thereof the following figure:— \$50.”

The amendment was adopted.

Mr. Morrissey moved to amend the bill in section 2, in item 7061-0011, by inserting after the words “vocational regional school districts”, in line 14, the following words:— “; provided further, that the department shall also consider the following factors affecting communities and similar-sized communities seeking payment, including: higher local contributions as compared to similar-sized municipalities or districts; greater decrease in state aid as compared to similar-sized municipalities or districts; districts or municipalities that contain higher percentage of state wards and special needs students compared to similar-sized municipalities or districts”.

The amendment was adopted.

Mr. Wilkerson moved to amend the bill in section 2, in item 7061-9404, by adding the following words:— “; provided further, that not less than \$1,000,000 shall be expended for a contract with The Efficacy Institute, Inc. of Massachusetts for the purpose of implementing and providing academic support services to minority students scoring at Level 1 or Level 2 on the Massachusetts Comprehensive Assessment System and attending middle schools in the city of Boston and the city of Worcester;”.

The amendment was *rejected*.

Mr. Joyce moved to amend the bill by inserting after section 210, the following section:—

“SECTION 210A. Section 13 of chapter 58 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words ‘Mount Greylock State Reservation,’ in line 13, the following words:— ; and the Blue Hills Reservation.”

The amendment was adopted.

Mr. Berry moved to amend the bill in section 17, by striking out, in line 8, the words “; and for the programs under the Rehabilitation Act”; and by striking out, in line 5 of the fourth paragraph, the following words:— “and for the programs under the Rehabilitation Act”.

The amendment was *rejected*.

Mr. Barrios moved to amend the bill in section 17 by striking out, in line 10, the words “and for the Programs under the Rehabilitation Act”; and by striking out, in line 29, the words “and for programs under the Rehabilitation Act”.

The amendment was *rejected*.

Ms. Resor and Ms. Creem moved to amend the bill by striking out section 75 and inserting in place thereof the following section:—

“SECTION 75. Said chapter 21 is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. The department shall be under the control of a stewardship council, which shall consist of the commissioner of conservation and recreation and 12 persons to be appointed by the governor for terms of 7 years, 7 of whom shall be from the board of parks and recreation established in section 2A and 5 of whom shall be from the fisheries and wildlife board established in section 7. No member shall remain on the council after the expiration of his term on the board of parks and recreation or the fisheries and wildlife board.”; and by striking out section 78 and inserting in place thereof the following 4 sections:—

“SECTION 78. Said section 2A of chapter 21, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words ‘and the Trustees of Reservations, to nominate three candidates for the seventh member’ and inserting in place thereof the following words:— the Trust for Public Land, the Environmental League of Massachusetts and the Trustees of Reservations, to nominate 9 candidates the 3 members.

SECTION 78A. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 12, the word ‘three’ and inserting in place thereof the following figure:— 9.

SECTION 78B. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 13, the words ‘seventh member’ and inserting in place thereof the following words:— 3 members.

SECTION 78C. Said section 2A of chapter 21, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words ‘, which member shall be appointed without regard to the county membership restrictions outlined above’.”

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. Notwithstanding any general or special law to the contrary, cabinet secretaries, the state secretary and the state treasurer may transfer the following amounts, subject to the following conditions, between any budgetary direct appropriations in section 2 under said secretary or constitutional office:

- (a) up to 5 per cent or \$1,000,000, whichever is less, with 10 day prior notification to the secretary of administration and finance;
- (b) an additional 20 per cent or \$4,000,000, whichever is less, with prior approval by the secretary of administration and finance and prior notification to the chairmen of the house and senate committees on ways and means;
- (c) an additional 25 per cent or \$5,000,000, whichever is less, with prior approval by the secretary of administration and finance and not less than 20 days after notification to the chairmen of the house and senate committees on ways and means; provided, however, that no written denial of the transfer shall have been received from either chairman; and;
- (d) an additional 50 per cent or \$10,000,000, whichever is less, with prior written approval from the secretary of administration and finance and the chairmen of the house and senate committees on ways and means; provided, however, that the cabinet secretaries, the state secretary and the state treasurer shall certify to the secretary of administration and finance and the chairmen of the house and senate committees on ways and means that any such transfer will not cause a reduction in nontax revenue credited to the commonwealth and any such transfer will not cause an account to be insufficient to meet its intended purposes, including earmarks.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at four minutes past one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 8 — nays 31) [**Yeas and Nays No. 45**]:

**YEAS.**

|                    |                             |
|--------------------|-----------------------------|
| Glodis, Guy W.     | Sprague, Jo Ann             |
| Hedlund, Robert L. | Tarr, Bruce E.              |
| Knapik, Michael R. | Tisei, Richard R.           |
| Lees, Brian P.     | Tucker, Susan C.— <b>8.</b> |

**NAYS.**

|                          |                         |
|--------------------------|-------------------------|
| Antonioni, Robert A.     | Creedon, Robert S., Jr. |
| Baddour, Steven A.       | Creem, Cynthia Stone    |
| Barrios, Jarrett T.      | Fargo, Susan C.         |
| Berry, Frederick E.      | Hart, John A., Jr.      |
| Brewer, Stephen M.       | Havern, Robert A.       |
| Chandler, Harriette L.   | Jacques, Cheryl A.      |
| Joyce, Brian A.          | O'Leary, Robert A.      |
| Magnani, David P.        | Pacheco, Marc R.        |
| McGee, Thomas M.         | Panagiotakos, Steven C. |
| Melconian, Linda J.      | Resor, Pamela           |
| Menard, Joan M.          | Rosenberg, Stanley C.   |
| Montigny, Mark C.        | Shannon, Charles E.     |
| Moore, Richard T.        | Tolman, Steven A.       |
| Morrissey, Michael W.    | Walsh, Marian           |
| Murray, Therese          | Wilkerson, Dianne —     |
| Nuciforo, Andrea F., Jr. | <b>31.</b>              |

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

At eleven minutes past one o'clock, P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Ms. Menard) declared a recess; and at sixteen minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

*Orders of the Day.*

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

The House Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001, printed as amended),— was considered, the main question being on passing the bill to be engrossed.

Mr. Antonioni moved to amend the bill by inserting after section 599T the following section:—

“SECTION 599U. Notwithstanding any general or special law to the contrary, the operational services division shall establish a price adjustment review commission which shall make recommendations about special education rate calculations and rate structures for fiscal year 2005. The commission shall include the commissioner of social services or his designee, the commissioner of education or his designee, the secretary of administration and finance or his designee, the house and senate chairs of the joint committee on education or their designees, the chairs of the house and senate ways and means committees or their designees, a representative of the Massachusetts association of school committees, a representative of the Massachusetts association of school superintendents, a representative of the Massachusetts association of special education administrators, and a representative of the Massachusetts association of chapter 766 approved private schools. The commission shall submit its report to the legislature, along with any proposed legislation necessary to carry such recommendation into effect, no later than October 1, 2003.”

The amendment was adopted.

Ms. Wilkerson and Mr. Magnani moved to amend the bill by inserting after section 599S the following new section:—

“SECTION 599T. There shall be a special commission to conduct an investigation on the significant racial, ethnic and linguistic disparities in access to health care and prevention services and quality care and the disparities in medical outcomes. The investigation shall include, but not be limited to disparities in the diagnosis and treatment of breast, cervical, prostate and colorectal cancers, strokes and heart attacks, infant mortality, diabetes, asthma and other respiratory illnesses. The special commission shall also address diversity in the health care workforce including, but not limited to, doctors, nurses and physician assistants.

The commission shall consist of 1 member representing the secretary of health and human services, 1 member representing the commissioner of public health, 1 member representing the commissioner of medical assistance, 1 member representing the attorney general, 3 members of the house of representatives, 1 of whom shall be designated by the speaker of the house as co-chair of the commission, 3 members of the senate, 1 of whom shall be designated by the senate president as co-chair of the commission, 1 member representing Health Care For All, 1 member representing the Massachusetts division of the American Cancer Society, 1 member representing the New England division of the American Heart Association, 1 member representing the Multicultural AIDS Coalition, 1 member representing Massachusetts General Hospital, 1 member representing Brigham and Women’s Hospital, 1 member representing the Massachusetts Hospital Association, 1 member representing the Massachusetts League of Community Health Centers, 1 member representing the Massachusetts Medical Society, 1 member representing the Latin American Health Institute, 1 member representing the Harvard School of Public Health, 1 member representing the Boston Public Health Commission, 1 member representing the Springfield Health Department, 1 member representing the Program to Eliminate Health Disparities at the Harvard School of Public Health, 1 member representing Blue Cross/Blue Shield of Massachusetts, 1 member representing the Massachusetts Nurses Association, 1 member representing the Institute on Urban Health Research at Northeastern University, 1 member representing the Massachusetts Association of Health Plans, and 3 members from communities disproportionately affected by health disparities, to be appointed by the commissioner of public health.

Said commission shall convene on or before September 15, 2003 and shall file a report not later than March 15, 2005 with the governor and with the clerks of the senate and house of representatives. The report shall include, but not be limited to, recommendations for designing, implementing and improving programs and services and proposing appropriate statutory and regulatory changes to reduce disparities in access to health care services and quality care to reduce disparities in medical outcomes and to address diversity in the health care workforce including, but not limited to, doctors, nurses and physician assistants.”

The amendment was adopted.

Messrs. Knapik, Lees, Hedlund, Tarr and Tisei, Mrs. Sprague and Mr. Joyce moved to amend the bill by inserting after section 580E the following section:—

“SECTION 580F. Notwithstanding any general or special law to the contrary, the department of education shall conduct a study and issue a report on the potential impact of the revision of the Massachusetts Municipal Medicaid program to maximize federal

Medicaid reimbursements for special education costs and the availability of private health insurance for medically necessary services to students with disabilities. There shall be an advisory board as part of said study that shall consist of the chairs of the house and senate committees on education, arts and humanities, the ranking minority members of the house and senate committees on education, arts and humanities, 1 representative each from the department of education, the executive office of health and human services, the group insurance commission, the Massachusetts Association of School Superintendents, the Massachusetts Association for Special Education Administrators, the Massachusetts Organization of Educational Collaboratives, the Massachusetts Association of C766 Approved Private Schools, the Associated Industries of Massachusetts, the Massachusetts Business Roundtable, the Massachusetts Taxpayers Foundation, the Massachusetts Association of Health Plans and Blue Cross Blue Shield of Massachusetts. The scope of the study shall include, but not be limited to: the potential impact of revising the Massachusetts Municipal Medicaid program to maximize federal Medicaid reimbursements for the cost of special education services to Medicaid eligible students with disabilities and the potential impact of amending applicable insurance law, including the HMO Act, to provide that insurers cannot exclude from coverage medically necessary services solely because such services are included in a child's special education plan. The Department shall work with the advisory board to identify two urban school districts and two suburban school districts to be used as study sample school districts. The study shall determine, but not be limited to, the current reimbursement rates for special education services and programs and total reimbursement amounts for the study sample school districts under the Massachusetts Municipal Medicaid program and compare these reimbursement rates and amounts to the Medicaid reimbursement rates and amounts for special education services and programs in demographically similar school districts in other states. The department shall prepare a report of its findings, including recommendations for revisions to the Massachusetts Municipal Medicaid program and state insurance laws, and submit its report to the house and senate committees on ways and means and the joint committee on education, arts and humanities not later than December 31, 2003 along with drafts of any legislation.”

The amendment was adopted.

Mr. McGee moved to amend the bill by inserting after section 134 the following section:—

“SECTION 134A. Section 18 of said chapter 21A, as so appearing, is hereby amended by striking out the definition of ‘Person’ and inserting in place thereof the following definition:—

‘Person’, any individual, trust, firm, public or private corporation or authority, partnership, association or other entity or any group thereof or any officer, employee, or agent thereof, including the commonwealth and the federal government and any agency or authority thereof, but not including any city, town, county, or district of the commonwealth or any municipal housing authority, or water and sewer commission serving a city or town, or any tribal housing authority of a federally recognized Indian tribe when constructing housing.”

The amendment was adopted.

Mr. Magnani moved to amend the bill by inserting after section 580GG the following section:—

“SECTION 580HH. Notwithstanding any general or special law to the contrary, the expenditure of funds from section 2B item 1790-0200 and the accompanying appropriations from the Intergovernmental Service Fund shall be exempt from fringe and indirect cost charges under section 5D of chapter 29 of the General Laws.”

The amendment was adopted.

Ms. Creem moved to amend the bill in section 2, in item 4401-1000, by inserting after the words “structured subsidized employment services”, in line 0, the following words:— “; provided further, that \$80,000 shall be expended for the young parents program of the Newton Community Service Centers, Inc.;”.

The amendment was *rejected*.

Mr. Hart and Ms. Wilkerson moved to amend the bill in section 2, by inserting after item 7002-0150 the following item:—

“7003-0601  
For the purposes of a Summer Jobs Youth-At-Risk Program; provided, that funds from the federally funded grant entitled, Reed Act Distribution, Title II of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall be expended for summer jobs youth-at-risk programs in the city of Boston .....1,000,000”.

The amendment was *rejected*.

Ms. Creem and Messrs. Nuciforo, Morrissey and Magnani moved to amend the bill in section 2, by inserting after item 7030-1002 the following item:—

“7030-1004

For grants for the home-based parenting, family literacy, school readiness program known as the Parent-Child Home Program; provided, that the department of education shall distribute said funds to expand capacity at existing Parent-Child Home Program sites and to establish replication sites in cities and towns where high concentrations of low-income families reside; provided further, that for grants awarded to establish the replication sites, the department shall consider applications from school districts or social service agencies that demonstrate the capacity to replicate said home visiting program to serve low income families; and provided further, that the preference for the grants shall be given to applicants who demonstrate a commitment to maximize federal and local funding for the operation of the replication site.....1,300,000”;

and in item 0640-0010, by striking out the figure “5,000,000” and inserting in place thereof the following figure:— “3,700,000”.

The amendment was *rejected*.

Messrs. Brewer and Nuciforo, Ms. Wilkerson and Messrs. Lees, O’Leary, Rosenberg, Moore and Antonioni moved to amend the bill in section 2, in item 7035-0006, by striking out the figure “\$30,000,000” and inserting in place thereof the following figure:— “\$32,500,000”; in item 7061-9404, by striking out the figure “\$45,000,000” and inserting in place thereof the following figure:— “\$42,500,000”; and in item 7061-9404, by adding the following words:— ; and “provided further, that not less than \$500,000 shall be expended for a contract with The Efficacy Institute, Inc. of Massachusetts for the purpose of implementing and providing academic support services to students scoring at Level 1 or Level 2 on the Massachusetts Comprehensive Assessment System and attending middle schools in the city of Boston and the city of Springfield”.

The question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes before three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 46**]:

**YEAS.**

- |                         |                            |
|-------------------------|----------------------------|
| Antonioni, Robert A.    | Menard, Joan M.            |
| Baddour, Steven A.      | Montigny, Mark C.          |
| Barrios, Jarrett T.     | Moore, Richard T.          |
| Berry, Frederick E.     | Morrissey, Michael W.      |
| Brewer, Stephen M.      | Murray, Therese            |
| Chandler, Harriette L.  | Nuciforo, Andrea F., Jr.   |
| Creedon, Robert S., Jr. | O’Leary, Robert A.         |
| Creem, Cynthia Stone    | Pacheco, Marc R.           |
| Fargo, Susan C.         | Panagiotakos, Steven<br>C. |
| Glodis, Guy W.          | Resor, Pamela              |
| Hart, John A., Jr.      | Rosenberg, Stanley C.      |
| Havern, Robert A.       | Shannon, Charles E.        |
| Hedlund, Robert L.      | Sprague, Jo Ann            |
| Jacques, Cheryl A.      | Tarr, Bruce E.             |
| Joyce, Brian A.         | Tisei, Richard R.          |
| Knapik, Michael R.      | Tolman, Steven A.          |
| Lees, Brian P.          | Tucker, Susan C.           |
| Magnani, David P.       | Walsh, Marian              |
| McGee, Thomas M.        | Wilkerson, Dianne —        |
| Melconian, Linda J.     | <b>39.</b>                 |

**NAYS — 0.**

The yeas and nays having been completed at twenty-four minutes before three o’clock P.M., the amendment was adopted.

Mr. Creedon, Ms. Creem and Messrs. Antonioni and Nuciforo moved to amend the bill by striking out section 335.

The amendment was *rejected*.

Ms. Creem moved to amend the bill by striking out section 527.

The amendment was *rejected*.

Messrs. Montigny and Joyce and Ms. Fargo moved to amend the bill in section 18, in the proposed section 16A½ of chapter 6A of the General Laws, by inserting after subsection 2 the following subsection:—

“(2A) The secretary shall create a prescription drug discount program that makes prescription drugs available to the underinsured and uninsured at the same prices negotiated by the nonprofit pharmacy benefits manager for the coordinated prescription procurement program described in subsection (1), including the benefit of any supplemental rebates that may be obtained by the pharmacy benefits manager under subsection (2). Eligible persons shall include Medicare eligible individuals whose financial eligibility exceeds 188% of the federal poverty level and who do not have an insurance policy that covers prescription drugs and other individuals who do not have health insurance that includes prescription drug benefits and whose income does not exceed 300% of the federal poverty level. The nonprofit pharmacy benefits manager shall also provide individuals enrolled in the program with assistance in accessing free or discount drug programs offered by private entities, including pharmaceutical manufacturers. The secretary may charge a small annual enrollment fee to cover administrative costs associated with this program. The secretary shall seek a prescription drug discount waiver from the Centers for Medicare and Medicaid Services under section 1115(a) of the Social Security Act as necessary to implement this program.”; in subsection (3) of the proposed section 16A½, in the introductory paragraph, by striking the word “may” and inserting in place thereof the following word:— “shall”; and by adding the following clause:—

“(d) development of a preferred drug list of prescriptions covered without a prior authorization requirement to negotiate with pharmaceutical companies for the payment of supplemental rebates or price discounts for the coordinated prescription procurement program described in subsection (1) and the eligible uninsured or underinsured, as described in subsection (2A). Such negotiations and any subsequent agreement shall comply with 42 U.S.C. section 1396r-8. This subsection shall not authorize agreements with pharmaceutical manufacturers whereby financial support for medical services covered by the Medicaid program is accepted as considered for placement of a prescription drug on the preferred drug list or for excluding a drug from a prior authorization agreement. The secretary shall insure that the discount program for the uninsured does not adversely impact the senior drug insurance program authorized under section 39 of chapter 19A.”; by inserting after section 318, the following section:—

“SECTION 318A. Chapter 112 of the General Laws is hereby amended by inserting after section 42A the following new section:—

Section 42B. (a) As used in this section, the following words shall have the following meanings:

‘Gift’, a payment, entertainment, subscription, advance, service or anything of value, unless consideration of equal or greater value is received. ‘Gift’ shall not include a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance or a gift received from a member of the reporting person’s immediate family or from a relative within the third degree of consanguinity of the reporting person or of the reporting person’s spouse or from the spouse of any such relative.

‘Immediate family’, a spouse and any dependent children residing in the reporting person’s household.

‘Person’, a business, individual, corporation, union, association, firm, partnership, committee or other organization or group of persons.

‘Pharmaceutical marketer’, a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities or other marketing of prescription drugs to a physician, hospital, nursing home, pharmacist, health benefit plan administrator or other person authorized to prescribe, dispense or purchase prescription drugs. The term shall not include a wholesale drug distributor licensed under section 36A, a representative of any such distributor who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug or a retail pharmacist registered under section 37 if such person is not engaging in such practices under contract with a manufacturing company.

‘Pharmaceutical manufacturing company’, an entity which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term shall not include a wholesale drug distributor licensed under section 36B or a retail pharmacist registered under section 37.

‘Prescription drugs’, a drug upon which the manufacturer or distributor has placed or shall, in compliance with federal law and regulations, place the following or a comparable warning: ‘Caution federal law prohibits dispensing without prescription.’

(b) Every pharmaceutical manufacturing company shall annually disclose to the board of pharmacy the value, nature and purpose of any gift, fee, payment, subsidy or other economic benefit provided in connection with detailing, promotional or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator or any other person in the commonwealth authorized to prescribe, dispense or purchase prescription drugs in the commonwealth.

(c) Disclosure shall be made on a form and in a manner prescribed by the board. The board shall provide to the office of the attorney general complete access to the information disclosed under this section. The board, after consultation with the office of the attorney general and subject to (e), shall report annually to the general court on the disclosures made under this section on or before March 1.

(d) Each company subject to this section shall also disclose annually to the board the name and address of the individual responsible for the company's compliance with this section.

(e) The board of registration in pharmacy and the office of the attorney general shall keep confidential all trade secret information, as determined by the attorney general. The disclosure form prescribed by said board shall permit the company to identify any information that it believes is a trade secret.

(f) Any gift, fee, payment, subsidy or other economic benefit the value of which is less than \$25 shall be exempt from disclosure.

(g) The attorney general on behalf of the board of registration in pharmacy may bring an action in the superior court for injunctive relief, costs and attorneys' fees and to impose on a pharmaceutical manufacturing company that fails to disclose as required by this section a civil penalty of not more than \$10,000 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(h) The board of registration in pharmacy shall promulgate regulations to implement this section. Said board may require, if necessary to the efficient implementation of this section, pharmaceutical manufacturing companies to be registered or licensed as a condition of doing business in the commonwealth and may collect fees necessary to cover the costs of administering this section."

After remarks, the amendment was adopted.

Ms. Creem and Mr. Creedon moved to amend the bill by inserting after section 580 the following section:—

"SECTION 580A. The office of elder services, in consultation with the division of medical assistance and the division of insurance shall develop a program of public education designed to inform elders of their options for long term care health care coverage and the consequences of transferring assets for less than fair market value prior to entering a nursing home. The program shall include information about medicare coverage, MassHealth coverage, long term care insurance and options for community-based long term care. The provisions of section 335 of this act shall be delayed for 1 year until such education program is implemented."

The amendment was *rejected*.

Ms. Resor, Mr. O'Leary and Ms. Chandler moved to amend the bill by striking out section 164.

The amendment was *rejected*.

Ms. Murray moved to amend the bill in section 2, in item 0337-9000, by striking out, in line 2, the word "Berkshire" and inserting in place thereof the following words:— "Barnstable, Berkshire, Bristol"; in item 1100-1100 by adding the following words:— "and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements"; by inserting after item 1201-0164 the following item:—

"1231-1000

For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the General Laws

.....5,000,000";

by striking out item 1231-2000; in item 2000-0100, by adding the following words:— "and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements"; in item 4000-0100, by adding the following words:— "and provided further that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements"; in item 4590-0250, by striking out, in line 12, the figure "\$2,073,966" and inserting in place thereof the following figure:— "\$4,073,966"; and by striking out the figure "\$14,073,966" and inserting in place thereof the following figure:— "\$16,073,966"; in item 4800-0038, by striking out, in line 33, the words:— "the Sport in

Society's mentors in" inserting in place thereof the following words:— "with Northeastern University for a"; in item 5095-0015, by striking out the words "prior to October 2004 to insure adequate community, client and family member input into the closure planning process" and inserting in place thereof the following words:— "without the approval of the general court by law"; in item 6000-0100, by adding the following words:— "and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements"; in item 7002-0010, by adding the following words:— "and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements"; in item 7002-0150, by adding the following words:— "; provided further, that not less than \$100,000 shall be expended for minority training in Hampden county; provided further, that not less than \$90,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea; and provided further, that not less than \$75,000 shall be expended to support the Technology Initiative operated by the Metro South/West Regional Employment Board for the development of Technology Centers of Excellence serving the region's youth and businesses, and provided further, that such grant shall require a 200 per cent match from the private sector"; and by striking out the figure "\$5,394,000" and inserting in place thereof the following figure:— "\$5,639,000"; in item 7007-0515, by adding the following words:— "; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998"; and by striking out the figure "\$350,000" and inserting in place thereof the following figure:— "\$550,000"; in item 9110-1455, by inserting after the word "program", in line 13, the following words:— "; provided further, that not more than \$25,000 shall be made available for the purpose of conducting a cost-benefit analysis and evaluation of the services associated with the pharmacy outreach program established pursuant to section 4C of chapter 19A of the General Laws"; by striking out section 51 and inserting in place thereof the following section:—

"SECTION 51. Chapter 13 of the General Laws is hereby amended by inserting after section 9B the following section:—

Section 9C. The members of the boards of registration shall be public employees for the purposes of chapter 258 for all acts or omissions within the scope of their duties as board members."; by striking out section 122 and inserting in place thereof the following section:—

"SECTION 122. Said section 8 of said chapter 21A is hereby further amended by striking out, in lines 48 and 49, the words 'food and agriculture shall include the department of food and agriculture' and inserting in place thereof the following words:— agricultural resources shall include."; in section 140, in section 2 of the proposed chapter 22F, by adding the following sentence:— "The state police shall be responsible for the daily operations of the state police crime laboratory but shall coordinate operations within the department."; and in section 17 of the proposed chapter 22F, by striking out, in line 1, the words "of \$50" and inserting in place thereof the following words:— "as determined from time to time by the secretary of public safety, which shall be not less than \$75"; by striking out section 143; by striking out sections 144 and 145 and inserting in place thereof the following 2 sections:—

"SECTION 144. Said section 9N of said chapter 23 is hereby further amended by striking out, in line 24, the words 'and training', inserted by section 2 of chapter 347 of the acts of 2002, and inserting in place thereof the following word:— security.

SECTION 145. Said section 9N of said chapter 23 is hereby further amended by striking out, in line 28, the words 'and training', inserted by said section 2 of said chapter 347, and inserting in place thereof the following word:— security."; by inserting after section 152 the following section:—

"SECTION 152A. Section 56 of said chapter 23A, as so appearing, is hereby amended by inserting, after the word "Center", in line 14, the following words:— ; the president and chief executive officer of the Massachusetts Association of Community Development Corporations, in an advisory capacity;."; by inserting after section 153 the following 2 sections:—

"SECTION 153A. Chapter 23D of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. A Massachusetts industrial service program shall be established in the executive office of economic affairs, under the joint supervision of the director of business and technology and the department of labor and workforce development.

The secretary, in consultation with the director of business and technology and the director of labor and workforce development, shall issue rules, regulations and procedures governing the application for and delivery of the services provided for in this section and sections 3 to 7, inclusive, and sections 24 to 26, inclusive, as necessary to carry out this chapter.

SECTION 153B. Section 7 of chapter 23G of the General Laws, as so appearing, is hereby amended by striking out, in line 61, the words 'office of international trade and investment' and inserting in place thereof the following words:— trade office."; in section 194, by inserting after the word "expended," in line 13, the following words:— "the billing rate or fee arrangement"; by inserting after section 194 the following section:—

“SECTION 194A. Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words ‘office of international trade and investment’ and inserting in place thereof the following words:— Massachusetts trade office.”; in section 216, in the proposed section 12B, by adding the following 2 subsections:—

“(d) The commissioner shall annually notify financial institutions, insurance companies, and publicly-traded corporations of the obligations under this section.

(e) By April 1 of each year the state secretary shall make public (i) all forms filed pursuant to this section with the state secretary and (ii) a list of those financial institutions, insurance companies, and publicly-traded corporations required to report under this section. All amendments or late filings shall be made public within 30 days of submission to the state secretary.”; by inserting after section 227 the following section:—

“SECTION 227A. The definition of ‘Debt’ in said section 1 of said chapter 62D, as so appearing, is hereby further amended by adding the following sentence:— For the purpose of this section an agency of a city or town shall include a housing authority created pursuant to section 3 or 3A of chapter 121B.”; by inserting after section 230 the following section:—

“SECTION 230A. The definition of ‘Scale at Retail’ in said section 1 of chapter 64H of the General Laws is hereby amended by striking out the second sentence, as so appearing, and inserting in place thereof the following sentence:— When tangible personal property is physically delivered by an owner, a former owner or a factor, or an agent or representative of an owner, a former owner or a factor, to a consumer and that consumer resides in the commonwealth, or to any person for redelivery to a consumer, pursuant to a retail sale made by a vendor not engaged in business in the commonwealth, the person making or effectuating the delivery shall be deemed the vendor of the property and the transaction shall be a retail sale by such person, regardless of any terms concerning the passage of title or risk of loss which may be expressly or impliedly applicable to a contract or other agreement or arrangement for the sale, transportation, shipment or delivery of that property.”; by striking out sections 319 to 321, inclusive, and inserting in place thereof the following 5 sections:—

“SECTION 319. Section 61 of chapter 112 of the General Laws is hereby amended by striking out the first paragraph, as amended by section 94 of chapter 184 of the acts of 2002, and inserting in place thereof the following three paragraphs:—

Except as otherwise provided by law, each board of registration may, by majority vote and upon determination made after a hearing that the holder of a license, certificate, registration or authority issued by each board of registration is subject to sanctions on a ground enumerated in this section, impose sanctions including but not limited to the following:

- (1) suspend, revoke, cancel or decline to renew such license, certificate, registration or authority, or place its holder on probation;
- (2) reprimand or censure a holder;
- (3) assess upon such holder a civil administrative penalty not to exceed \$5,000 for each violation;
- (4) require such holder to perform, for each such violation, up to 100 hours of public service in a manner and time to be determined by the board;
- (5) require such holder to complete additional education and training as a condition of retention or future consideration of reinstatement of said license, certificate, registration or authority;
- (6) require such holder to practice under appropriate supervision for a period of time as determined by the board as a condition of retention or future consideration of reinstatement of said license certificate, registration or authority;
- (7) require such holder to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition of retention or future consideration of reinstatement of said license, certificate, registration or authority; and
- (8) require restitution of not more than \$10,000 per injured party where appropriate.

Each board of registration may sanction the holder of a license, certificate, registration or authority in accordance with the provisions of this section if such a holder:

- (1) has engaged in conduct which places into question the holder’s competence to practice his or her profession including, but not limited to, gross misconduct or misconduct in the practice of the profession, or practicing the profession fraudulently or beyond its authorized scope, or with gross incompetence, or with negligence on more than one occasion;
- (2) is incapacitated by, or has practiced his or her profession while the ability to practice is impaired by, alcohol, drugs, physical disability or mental instability;
- (3) has violated any law, or rule or regulation of the board of registration, governing the practice of his or her profession;

(4) has been convicted of a criminal offense that reasonably calls into question the holder's ability to practice his or her profession;

(5) has engaged in dishonesty, fraud or deceit that bears on the holder's fitness to practice his or her profession;

(6) has knowingly permitted, aided, or abetted an unlicensed person to perform activities requiring a license, certificate, registration or authority; or

(7) has had a license, certificate, registration or authority issued by another state or territory of the United States, the District of Columbia, or foreign state or nation with authority to issue such a license, certificate, registration or authority revoked, canceled or suspended, not renewed, or otherwise acted against, or the holder has been disciplined, if the basis for the action is substantially the same as a basis for disciplinary action in the commonwealth.

Nothing in this section shall limit any board's authority to impose such reasonable sanction as deemed appropriate by the board after hearing or by consent agreement. Any person sanctioned under this section shall also be liable to such punishment as may be provided by law. The boards may make such rules and regulations as they deem proper for the filing of charges and the conduct of hearings.

SECTION 319A. Section 64 of said chapter 112, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 5 the figure '(8)' and inserting in place thereof the figure '(7)'.

SECTION 319B. Said section 64 of said chapter 112, as so appearing, is hereby further amended by adding the following sentence:— Where a statute provides that a court other than the supreme judicial court may review a board's action, such review shall in any event be conducted in accordance with the standards of review provided in paragraph (7) of section 14 of chapter 30A.

SECTION 320. Section 65 of said chapter 112, as so appearing, is hereby amended by striking out, in line 5, the word 'one' and inserting in place thereof the following figure:— '10'.

SECTION 321. Chapter 112 of the General Laws, as so appearing, is hereby amended by adding after section 65 the following 5 sections:—

Section 65A. Each board of registration may assess and collect a civil administrative penalty of up to \$5,000 for each violation upon any person who practices any trade or profession at a time when his or her license, certificate, registration or authority to do so is not valid because it has been suspended, revoked or canceled under authority of this chapter, and upon any person who knowingly practices any trade or profession at a time when his or her license, certificate, registration or authority authorizing him or her to do so has expired. Each board may apply to the court that reviewed any board order at issue, or to the superior court if no review was previously obtained, for an order enjoining unlicensed practice or practice in a manner contrary to a board order issued as authorized by section 61, or ordering payment of any assessed fine, or both; and an injunction, restraining order, money judgment, or other order as may be appropriate shall be granted by such court.

Section 65B. Except as otherwise permitted by law, each board of registration, after a hearing, may assess and collect a civil administrative penalty of up to five thousand dollars for each violation upon any person who, without holding the required license, certificate, registration, or authority, engages in the practice of any trade or profession over which the board has jurisdiction and for which a license, certificate, registration, or authority is required. This section shall not affect, but shall be in addition to, any other penalty or remedy provided by law. Each board may apply to the superior court for an order enjoining unlicensed practice, or ordering payment of any assessed fine, or both. Upon a showing by the board that such person has engaged in unlicensed practice, an injunction, restraining order, money judgment, or other order as may be appropriate shall be granted by such court.

Section 65C. Each board of registration that has jurisdiction over a licensee whose continued practice poses an immediate and serious threat to the public health, safety or welfare may suspend or refuse to renew the holder's license, certificate, registration or authority pending a hearing on the merits of the allegation against the holder, provided that the board shall hold a hearing on the necessity for the emergency action within 7 business days of the action. The board shall issue to the licensee a written order of emergency action which specifies the findings of the board and the reasons for its emergency action and which also includes notice of the date, time and place of the aforementioned 7-day hearing. At the request of a licensee the board may reschedule this hearing to a date and time mutually agreeable to the board and licensee. Any such rescheduling of the hearing granted at the licensee's request shall not operate to lift or stay the emergency action order. If such hearing is not held within 7 business days of the board's emergency action, or at such rescheduled time as may have been agreed to, the license, certificate, registration or authority against which action was taken shall be considered reinstated. At the hearing, the board shall receive evidence limited to determining whether the emergency action order shall continue in effect pending the final disposition of the complaint. Following such hearing, any continuing suspension or non-renewal imposed by a board shall remain in effect until the conclusion of any formal proceeding on the merits of the allegations against the holder, including judicial review thereof, or until withdrawn

by such board. The division of professional licensure and the department of public health, as appropriate, after proper notice and hearing, shall adopt rules and regulations governing the emergency action procedure authorized by this section.

Section 65D. Any complaint, report, record or other information received or kept by any board of registration in connection with an investigation shall be considered a public record only following the issuance of an order to show cause or final action by the board. Before issuing an order to show cause or final action, each board may keep confidential any complaint, report, record or other information received or made in connection with an investigation conducted by the board, provided that the identity of the person filing a complaint shall be exempt from disclosure as a public record at all times, except to the extent that a licensee may be entitled to such information for purposes of preparing a defense in a formal adjudicatory hearing. The requirement that investigative records or information be kept confidential shall not apply to requests from other state or federal agencies, boards or institutions as the division of professional licensure or the department of public health, as appropriate, shall determine by regulation.

Meetings of the boards held for the purpose of conducting investigative conferences related to a complaint shall not be considered open meetings within the meaning of section 11A1/2 of chapter 30A.

Section 65E. After a complaint has been filed with any of the boards of registration alleging that any holder of a license, certificate, registration or authority issued by any of the boards may be incompetent or unable to practice his or her profession or trade with reasonable skill and safety because such holder's ability to practice is impaired due to mental illness or physical illness, the board may order such holder to be examined by one or more physicians or psychotherapists approved by the board at the board's expense. If the individual fails or refuses to comply with an order by the board for such examination, and upon reasonable notice to the holder, the board may apply to the superior court for an order compelling the holder to submit to an examination. If the board's application is granted, the court may, after opportunity for hearing, require the individual to pay to the board its reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds an award of expenses unjust. The holder's failure to comply with a court order issued under this section shall constitute grounds for disciplinary action by the board, including but not limited to the sanctions listed in section 61. The report of the examiners shall be made available to the holder and may be received as direct evidence in formal adjudicatory proceedings; said report shall remain confidential except to the extent it is disclosed in such proceedings."; in section 194, by inserting in subsection (a) of proposed section 65, after the words "state employee", the following words:— "or person who is compensated through the automated payroll system of the commonwealth"; in section 390, in proposed section 7E, by striking out, in line 3, the word "fourteen" and inserting in place thereof the following figure:— "7B."; by inserting after section 449 the following 7 sections:—

"SECTION 449A. Section 1 of chapter 151A of the General Laws is hereby amended by striking out paragraph (g), as so appearing, and inserting in place thereof the following paragraph:—

(g) 'Department', the division of employment security within the department of labor and workforce development.

SECTION 449B. Section 22 of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words 'department of employment and training' and inserting in place thereof the following words:— division of employment security within the department of labor and workforce development.

SECTION 449C. Section 58 of said chapter 151A, as so appearing, is hereby amended by adding the following subsection:—

(g) Funds from this account shall be used to support the administration and operation of this chapter and may be used to contract with the division of workforce development for space required to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation under this chapter.

SECTION 449D. Section 62A of said chapter 151A, as so appearing, is hereby amended by striking out, in line 1, the words 'and training' and inserting in place thereof the following word:— security.

SECTION 449E. Section 71D of said chapter 151A, as so appearing, is hereby amended by striking out the first sentence and inserting in the place thereof the following sentence:— Subject to appropriation, the director of labor and workforce development, in coordination with the secretary and the heads of employment security and workforce training, shall establish a reemployment assistance program to provide counseling, placement, training and other services deemed necessary to employees terminated in plant closings and partial closings which will lead to the reemployment of said employees.

SECTION 449F. By striking out, in section 74 of chapter 151A, in lines 1 and 2, the words 'shall be known and may be cited as the Employment and Training Law, and'.'"; by striking out section 459; by inserting after section 499A the following section:—

"SECTION 499B. Paragraph (i) of subsection (a) of subdivision (1) of section 4A of chapter 1078 of the acts of 1973, as most recently amended by section 14 of chapter 300 of the acts of 2002, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:— There shall be in the division of workplace dispute resolution within the department of labor and workforce development and under executive office of economic affairs, but not subject to the jurisdiction thereof, a committee to be known as the joint labor-management committee, in this section referred to as the committee."; in

section 532 by striking out, in line 4, the words “, except those functions referenced in clause (6)”; and in subsection (a) by striking out clause (6); in section 537 by adding at the end thereof the following:—

“(5) \$1,500,000 for non-recurring payments to financially distressed visiting nurse associations that are operated by a corporation organized pursuant to chapter 180 of the General Laws, are located in an urban area, have experienced an operating deficit during the last two fiscal years and whose Medicaid and other governmental revenues comprise at least 75% of total revenues;

(6) \$300,000 for a statewide stroke education and public awareness program at the department of public health to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel, about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment. The department shall coordinate such program with any ongoing federally funded statewide efforts, including any programs funded by federal cardiovascular health initiative grants and shall seek to maximize other available sources of funding to accomplish the goals of the program;

(7) \$162,368 for the MS PASS program, so called, as previously established at the department of public health. Said funds shall be expended to maximize matching dollars to be used for services provided by the program as managed by the Central New England chapter of the National Multiple Sclerosis Society.”; in section 542 by striking out the words “In fiscal year 2004, the total surcharge liability of such payors” and inserting in place thereof the words:— “In hospital fiscal year 2004, the total surcharge liability of surcharge payors”; by inserting after section 580JJ the following section:—

“SECTION 580KK. Notwithstanding any general or special law to the contrary, the co-chairs of the state workforce investment board shall coordinate with the secretary of economic affairs and the director of the department of labor and workforce development to develop and submit to the governor and the clerks of the senate and the house of representatives, by June 30, 2004, a comprehensive workforce development plan that shall include, but not be limited to, the following: an assessment of current workforce programs and policies; an assessment of the delivery of employment and training services to persons who face multiple barriers to employment, including youth and disabled and dislocated workers; recommendations for policy, programmatic, and legislative or funding changes.”; in section 590, by inserting after the first sentence the following sentence:— “The committee shall further make recommendations on the management structure of the department of forensic sciences and on the division and coordination of responsibilities within the department among the office of the chief medical examiner, the state police crime laboratory and any other state agencies or laboratories that the committee recommends be included in the department.”; and by inserting after the word “on”, in line 6, the following words:— “the management structure of the department of forensic sciences and on”; by inserting after section 599U the following section:—

“SECTION 599V. Notwithstanding any general or special law to the contrary, the commissioner of insurance shall study the levying of a first responder surcharge on any company’s new or renewal premiums for appropriate property/casualty lines of insurance. The study shall examine, but not be limited to, the following: (1) an appropriate amount for the surcharge; (2) the lines of insurance that should be assessed the surcharge; (3) the statistical relationship between premiums paid to insurers, claim severity and the police, fire and emergency staffing levels per capita within each municipality; (4) the collection and delivery of such payments to the General Fund for distribution to municipal fire, police, and other emergency services. The commissioner shall file his report with the committees on ways and means, the committees on insurance and the secretary of administration and finance not later than January 1, 2004.”; in section 602 by inserting after the words “General Laws and”, in clause (2) of subsection (e), the following words:— “shall take into consideration”.; and by inserting after section 605 the following section:—

“SECTION 605A. The first notice required to be given by the commissioner of revenue pursuant to subsection (d) of section 12B of chapter 62C of the General Laws shall be given within 30 days after the effective date of this act.”

The amendment was adopted.

Mr. Rosenberg moved to amend the bill by inserting after section 580 the following section:—

“SECTION 580A. There is hereby established a Collective Bargaining Reserve in the office of administration and finance, into which there shall be deposited at the end of each quarter of the fiscal year any revenues collected by the commonwealth that are above projected revenues for that quarter. Notwithstanding any general or special law to the contrary, the funds contained in the Collective Bargaining Reserve shall be used to fund collective bargaining agreements that were approved and signed by both the commonwealth and the employee’s representative prior to December 31, 2001 and have not yet been funded. Collective bargaining agreements eligible for this funding will be funded in the order in which they were signed. When there are sufficient funds to honor the agreements, the Collective Bargaining Reserve will be terminated and all remaining funds will revert to the General Fund.”

After remarks, the amendment was *rejected*.

On motion of Mr. Magnani, the Senate reconsidered the vote by which it had previously adopted Amendment Number 599. Subsequently, Mr. Magnani, Ms. Creem and Ms. Resor moved to amend the bill by inserting after section 241 the following section:—

“SECTION 241A. Said chapter 81A is hereby amended by inserting after section 14 the following section:—

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

‘Direct lights’, light emitting generally in a downward direction by a lamp, off a reflector or through a refractor of a luminaire.

‘Full-cutoff luminaire’, a luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire’s lowest light-emitting part, in its mounted form.

‘Glare’, direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

‘Lamp’, the component of a luminaire that produces light.

‘Light Pollution’, general sky glow caused by the scattering of artificial light in the atmosphere.

‘Light trespass’, light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

‘Lumen’, a specific standard unit of measurement of luminous flux.

‘Luminaire’, a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

‘Non-cutoff luminaire’, a streetlight luminaire in which either the lamp and surrounding glass lens extends well below the horizontal plane of opaque shielding elements of the luminaire or the lamp is situated on top of a post or on a pivoting support on the side of a building, causing light to be cast as glare outward and upward, beyond its useful range.

‘Outdoor light fixtures’, outdoor artificial illuminating devices, permanently installed or portable, used for flood-lighting, roadway and area lighting, general illumination or advertisement.

‘Permanent outdoor luminaire’, fixed luminaire or system of luminaires that is outdoors and that is intended to be used for 7 days or longer.

‘Roadway lighting’, permanent outdoor luminaires that are specifically intended to illuminate roadways for automotive vehicles.

‘Semi-cutoff luminaire’, a luminaire that allows not more than 6 per cent of the light from the lamp to be emitted above a horizontal plane passing through the luminaire’s lowest light-emitting part.

(b) The lessee, user or occupant of real property of the authority leased, used or occupied in connection with a business conducted for profit, at its expense and at no cost to the authority, shall retrofit existing permanent outdoor luminaires or install new permanent outdoor luminaires that meet the following conditions:

(1) the new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens:

(2) if a lighting recommendation or regulation applies, the minimum illuminance specified by the recommendation or regulation is used;

(3) if no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards including, but not limited to, recommended practices adopted by the illuminating engineering society of North America:

(4) for roadway lighting unassociated with intersections of 2 or more streets or highways, a determination is made by the Massachusetts Turnpike Authority that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or informational signs or other passive means; and

(5) adequate consideration has been given to the conservation of energy and to the minimization of glare, light pollution and light trespass.

The requirements of this section shall not apply in any of the following circumstances, settings or location:

(i) a federal law, rule or regulation preempts state law;

(ii) the outdoor lighting fixture is used on a temporary basis by emergency personnel requiring additional illumination for emergency procedures or used by repair personnel on a temporary basis for road repair;

(iii) special events or situations that may require additional illumination, including, but not limited to, the illumination of historic structures, monuments, or flags; provided, however, that all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible. and to minimize upward lighting and light trespass:

(iv) when a compelling safety interest exists that cannot be addressed by any other method.

(v) the lessee, user, or occupant's permanent outdoor luminaires currently meet the above conditions.

(c) The division of energy resources, in consultation with the Massachusetts turnpike authority, shall promulgate regulations to implement and enforce this section.

(d) The lessee, user or occupant shall comply with this section by January 1, 2008."

After remarks, the amendment was adopted.

Mr. Lees and Ms. Wilkerson moved to amend the bill by inserting after section 580II the following section:—

"SECTION 580JJ. Notwithstanding any general or special law to the contrary, the Massachusetts Port Authority may use alternative methods for the procurement of design and construction services for the following projects, without such procurement being subject to the competitive bid process set forth in sections 38A1/2 to 38, inclusive, of chapter 7, section 39M of chapter 30, and sections 44A to 44H, inclusive, of chapter 149 of the General Laws: access control, terminal barriers on the airfields, west concourse, new operations center, Black Falcon cruise terminal security and terminal B security areas."

After remarks, the amendment was adopted.

Ms. Melconian in the Chair, after remarks, the question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at twenty-nine minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 34 — nays 5) [**Yeas and Nays No. 47**]:

#### **YEAS.**

|                         |                                |
|-------------------------|--------------------------------|
| Antonioni, Robert A.    | Melconian, Linda J.            |
| Baddour, Steven A.      | Menard, Joan M.                |
| Barrios, Jarrett T.     | Montigny, Mark C.              |
| Berry, Frederick E.     | Moore, Richard T.              |
| Brewer, Stephen M.      | Morrissey, Michael W.          |
| Chandler, Harriette L.  | Murray, Therese                |
| Creedon, Robert S., Jr. | Nuciforo, Andrea F., Jr.       |
| Creem, Cynthia Stone    | O'Leary, Robert A.             |
| Fargo, Susan C.         | Pacheco, Marc R.               |
| Glodis, Guy W.          | Panagiotakos, Steven C.        |
| Hart, John A., Jr.      | Resor, Pamela                  |
| Havern, Robert A.       | Rosenberg, Stanley C.          |
| Jacques, Cheryl A.      | Shannon, Charles E.            |
| Joyce, Brian A.         | Tolman, Steven A.              |
| Knapik, Michael R.      | Tucker, Susan C.               |
| Magnani, David P.       | Walsh, Marian                  |
| McGee, Thomas M.        | Wilkerson, Dianne — <b>34.</b> |

#### **NAYS.**

|                    |                               |
|--------------------|-------------------------------|
| Hedlund, Robert L. | Tarr, Bruce E.                |
| Lees, Brian P.     | Tisei, Richard R. — <b>5.</b> |
| Sprague, Jo Ann    |                               |

**The yeas and nays having been completed at twenty-seven minutes before four o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments [For text of Senate amendments, see Senate, No. 2005]. Sent to the House for concurrence in the amendments.**

*Order Adopted.*

On motion of Mr. Berry,—

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

*Adjournment in Memory of John Quincy Adams.*

The Senator from Middlesex, Ms. Fargo, and the Senator from Norfolk and Plymouth, Mr. Morrissey, moved that when the Senate adjourns today, it adjourn in memory of John Quincy Adams of Lincoln. Mr Adams was a member of the Lincoln Conservation Commission for 29 years and was the great-great grandson of our country's sixth President and the great-great-great grandson of our second President.

Accordingly, as a mark of respect to the memory of John Quincy Adams, at twenty-five minutes before four o'clock P.M., on motion of Mr. Lees, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.