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.

Thursday, June 12, 2003.

Met at twenty-nine minutes before two o'clock P.M.

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

Distinguished Guests.

There being no objection,— the President handed the gavel to Senator Jacques, who introduced the 2003 state champion Millis High School Volleyball team. Ms. Jacques noted that not only was the team the best in the state in the sport itself, but also had the best grade point average of any volleyball team in the state. The team, teachers and chaperones were the guests of Senator Jacques.

There being no objection,— during consideration of the Orders of the Day, the President handed the gavel to Senator Creem, who introduced, seated in the rear of the Chamber, Mary Rose Mazzola. Mary Rose Mazzola has been awarded a Point of Light Award by President Bush because of her efforts on behalf of ovarian cancer treatment. Mary Rose created a butterfly greeting card and mailed it to patients and donors of the Leahy Clinic asking for contributions. The "Gift for Nana" fund has raised a large sum of money for ovarian cancer research. She was the guest of Senators Creem, Fargo and Panagiotakos.

Reports of a Committee.

By Mr. O'Leary, for the committee on Energy, on petition, a Bill relative to the waste to energy grant program (Senate, No. 376) (Representative Marzilli of Arlington dissenting);

By the same Senator, for the same committee, on petition, a Bill relative to energy management services in state government (Senate, No. 377); and

By the same Senator, for the same committee, on petition, a Bill relative to energy management services (Senate, No. 378);
Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

Committee Discharged.

Mr. Tolman, for the committee on Counties, reported, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1625) of Joseph C. Sullivan, Michael W. Morrissey and Brian A. Joyce relative to further extending the time for which certain land in Norfolk County may be used as a temporary minimum security alternative correction center,— and recommending that the same be referred to the House committee on Ways and Means.
Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence in the discharge of the joint committee.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3857) of Eugene L. O'Flaherty relative to exempting a certain public waterfront walkway from the harbor line in the city of Boston (having been transmitted to the Secretary of the Commonwealth under the provisions of Section 7 of Chapter 3 of the General Laws, and was returned by him with memoranda relative thereto),— **was referred, in concurrence, under suspension of Joint Rule 9, to the committee on Natural Resources and Agriculture.**

Resolutions.

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

Resolutions (filed by Mr. Pacheco) "congratulating Joseph Patrick McDonald on the occasion of his retirement";

Resolutions (filed by Mr. Shannon) "congratulating John Ernest Schlesinger on the occasion of his retirement from the Belmont Public Schools;" and

Resolutions (filed by Mr. Tisei) "commending Terrance F. Holmes on his retirement as superintendent of the Wakefield Public Schools."

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill authorizing the Stoneham board of library trustees to appoint library personnel (see House, No. 3714) (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 Acting President (Mr. Rosenberg) and laid before the Governor on Friday, June 13, for his approbation.**

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To include call/volunteer firefighters on the Massachusetts Fire Training Council (Senate, No. 1291);

To include a call/volunteer firefighter on the Fire Service Commission (Senate, No. 1292); and

Relative to parking for handicapped individuals and disabled veterans (Senate, No. 1301);

Mr. Rosenberg in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair):

Bills

Relative to the reporting of fires in schools (Senate, No. 1372);

Declaring September 11th the official state day honoring all September 11, 2001 victims and heroes and promoting peace, unity and social action (Senate, No. 1636);

Providing that no other flag or pennant be flown higher than the American flag (Senate, No. 1676); and

Authorizing the town of Topsfield to issue a license for the sale of wine and malt beverages not be drunk on the premises (House, No. 1481);
Were severally read a second time and ordered to a third reading.

The Senate report of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1357) of Richard T. Moore, Susan W. Pope and Bruce E. Tarr for legislation relative to the issuance of handicapped license plates by the Registrar of Motor Vehicles,— **was considered; and it was accepted**.

The House report of the committee on Public Safety, ought NOT to pass, on so much of the recommendations of the Registry of Motor Vehicles (House, No. 76) as relates to handicap parking restrictions (accompanied by bill, House, No. 77),— **was considered; and it was accepted, in concurrence.**

The Senate Bill punishing the failure to report certain fires (Senate, No. 1281),— was read a second time.

After remarks, the question on ordering it to a third reading was determined by a call of the yeas and nays, at nineteen minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 51]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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 **— 37.**
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

The yeas and nays having been completed at a quarter before two o'clock P.M., the bill was ordered to a third reading.

The Senate bills

Relative to mutual aid agreements (Senate, No. 1342);

Relative to the traffic rules on roads under the jurisdiction of the Metropolitan District Commission (Senate, No. 1394); and

Providing for the collection of data relative to traffic stops and other police service (Senate, No. 1396);
Were severally read a second time and, after remarks, in each instance, were severally ordered to a third reading.

The Senate Bill relative to designating a certain square in the town of Webster the Elks Memorial Square (Senate, No. 1889),— was read a second time and, after remarks, was amended, on motion of Mr. Moore, by inserting after section 1 the following 2 sections:—

"SECTION 2. The portion of state highway route 193 from the intersection of Lake street to the intersection of Lake parkway in the town of Webster shall be designated as the 'Herman Becker Highway'. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

SECTION 3. The portion of state highway route 193 from the border with the state of Connecticut to the intersection of Lake parkway in the town of Webster shall be designated as the 'William Starzec Highway'. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.".
The bill (Senate, No. 1889, amended) was then ordered to a third reading.

The Senate Bill designating a portion of state highway Route 2 as the Johnny Appleseed Trail (Senate, No. 1621),— **was read a third time and, after remarks, was passed to be engrossed.**
Sent to the House for concurrence.

The President in the Chair,— the House Bill providing relief and flexibility to municipal officials (House, No. 4003, printed as amended),— was read a third time.

Pending the main question on passing the bill to be engrossed, in concurrence.

Ms. Menard moved to amend the bill by adding the following section:—

"SECTION 72. The joint committee on taxation shall study the residential tax factor and the alternative residential tax factor as provided in section 1A of chapter 58 of the General Laws. The committee shall report the results of its study, together with its recommendations, if any, and legislation necessary to carry out the recommendations by filing the same with the clerks of the house and senate no later than July 15, 2003."

After remarks, the amendment was adopted.

Messrs. Moore, Havern, Brewer and Morrissey moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Chapter 32B of the General Laws is hereby amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:—

"Section 9A. A 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 and a district by vote of the district at a district meeting, may provide that it will pay one-half of the amount of the premium to be paid by a retired employee under the first sentence of section 9. A town shall provide for the payment by vote of the town at a town meeting or if a majority of the votes case in answer to the following question which shall be printed on the official ballot to be used in 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?'."

After remarks, the amendment was adopted.

Mr. Creedon moved to amend the bill by inserting after section 39 the following section:—

"SECTION 39A. Subsection (c) of section 2F of chapter 90 of the General Laws, inserted by section 3 of chapter 334 of the acts of 2002, is hereby amended by inserting after the word 'safety', in the last line, the following words:— ; and cities and towns for the purpose of supporting local programs as organized by a single city or town or a state-wide organization on behalf of all cities and towns."

Mr. Havern in the Chair,— after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before three o'clock P.M., on motion of Mr. Creedon, as follows, to wit (yeas 35 — nays 2) **[Yeas and Nays No. 52]**:

YEAS.

Antonioni, Robert A.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.
Barrios, Jarrett T.	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.
Glodis, Guy W.	Morrissey, Michael W.
Hart, John A., Jr.	Murray, Therese
Havern, Robert A.	Nuciforo, Andrea F., Jr.
Hedlund, Robert L.	O'Leary, Robert A.
Jacques, Cheryl A.	Pacheco, Marc R.
Resor, Pamela	Tolman, Steven A.
Rosenberg, Stanley C.	Tucker, Susan C.
Shannon, Charles E.	Walsh, Marian

Tarr, Bruce E.	Wilkerson, Dianne **— 35.**
Tisei, Richard R.	

NAYS.

Lees, Brian P.	Sprague, Jo Ann **— 2.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2**.

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

Mr. Morrissey moved to amend the bill by striking out sections 37, 56, 57, 64 and 65.

After debate, the amendment was adopted.

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

"SECTION 59A. Notwithstanding any general law or special law to the contrary, any city or town or combination of cities and towns may utilize any existing alternate financing structure or scheme including, but not limited to, those established pursuant to section 53F½ of chapter 44 of the General Laws, without requiring the municipality or municipalities to seek approval by way of a local referendum question or other ballot initiative to implement the alternate financing structure or scheme. Approval by the officer or body granted executive authority in each city or town shall be considered sufficient. If a city or town uses the alternate financing structure pursuant to this section, there shall be no effect on the civil service rights, seniority, retirement or other employment rights of existing city or town employees, including, but not limited to, compensation or salary grade, 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."

After remarks the amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 4 the following section:—

"SECTION 4A. Section 2 of chapter 21E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'plant', in line 76, the following words:— or the site of a former Massachusetts Bay Transportation Authority right-of-way or other previously owned right of ways in which the municipality has acquired an interest for purposes of the installation, operation, maintenance and use of a rail-trail as set forth in the definition of 'Owner' or 'Operator'."; by inserting after the word "vessel", in line 211, the following words:— "except in the case of a discontinued Massachusetts Bay Transportation Authority right-of-way or other discontinued rail road right of way owned by an entity other than the Massachusetts Bay Transportation Authority of which a city or town has ownership or possession for rail-trail purposes under clause (1) of subparagraph (d), any person who owned or operated the site or vessel immediately before the Massachusetts Bay Transportation Authority or other previous owner of a discontinued right of way obtaining ownership or possession of the site or vessel."; by inserting after the word "respectively", in lines 415 and 416, the following words:— "or has acquired an interest in the site by fee, easement, lease, license or otherwise, from the Massachusetts Bay Transportation Authority or other previous owner of a discontinued right of way for purposes of the installation, operation, maintenance and use of a rail-trail, defined as a property converted from former use as a railroad right-of-way to a revitalized use as a publicly owned, improved and maintained corridor for bicycle, pedestrian, and other non-motorized public transportation, recreation and associated purposes"; by striking out, in lines 431 and 432, the words "or otherwise preventing access to the site or vessel" and inserting in place thereof the following words:— ", paving, installation geo-textile membrane, or otherwise suitably preventing access to the site or vessel or to the oil or hazardous materials present at the site,"; by inserting language in subparagraph (F) after the word "vessel", in line 445, the following words:— "or, in the case of a site acquired from the Massachusetts Bay Transportation Authority or other previous owner of a discontinued right of way for purposes of the installation, operation, maintenance and use of a rail-trail, the city or town acts diligently to develop the rail-trail for its intended purpose".; by inserting after the words "paragraph (c)", in line 450, the following words:— "Whether the city or town is acting or has acted diligently to develop the rail-trail for its intended purpose shall be determined by considering all pertinent circumstances of municipal financing, bidding, and construction of the rail-trail project, and of the availability of and rules governing the applicable state or federal funding program therefor, in light of the discovery of the release or threat of release of oil or hazardous materials at issue."

After remarks, the amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 9 the following section:—

"SECTION 9A. Section 20 of said chapter 44, as so appearing, is hereby amended by adding the following 2 sentences:— Effective with the Fiscal Year 2005 tax rate approval process, additions to the levy limit for a debt exclusion are restricted to the

true interest cost incurred to finance the excluded project. Premiums received at the time of sale must be offset against the stated interest cost in computing the debt exclusion."

After debate the question on adoption of the amendment was determined by a call of the yeas and nays, at six minutes before three o'clock P.M., on motion of Mr. Lees to wit (yeas 25 — nays 12) **[Yeas and Nays No. 53]**:

YEAS.

Antonioni, Robert A.	Creedon, Robert S., Jr.
Barrios, Jarrett T.	Creem, Cynthia Stone
Brewer, Stephen M.	Fargo, Susan C.
Chandler, Harriette L.	Glodis, Guy W.
Hart, John A., Jr.	O'Leary, Robert A.
Havern, Robert A.	Pacheco, Marc R.
Jacques, Cheryl A.	Resor, Pamela
Magnani, David P.	Rosenberg, Stanley C.
McGee, Thomas M.	Shannon, Charles E.
Melconian, Linda J.	Tolman, Steven A.
Montigny, Mark C.	Walsh, Marian
Morrissey, Michael W.	Wilkerson, Dianne **— 25.**
Nuciforo, Andrea F., Jr.	

NAYS.

Baddour, Steven A.	Moore, Richard T.
Hedlund, Robert L.	Murray, Therese
Joyce, Brian A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
Menard, Joan M.	Tucker, Susan C. **— 12.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

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

Mr. Brewer moved to amend the bill in section 68, in the first sentence, by inserting after the words "educational institutions" the following words:— ", including but not limited to private secondary schools,".

After remarks, the amendment was adopted.

Mr. Brewer moved to amend the bill by inserting after section 71 the following section:—

"SECTION 71A. Notwithstanding any general or special law, rule, or regulation to the contrary, the Quabbin Regional School Committee may conduct a pilot program to provide additional flexibility in scheduling. The district may reduce the school year requirements contained in 603 CMR 27.03; provided, that the district shall maintain a 5 day work week; provided further, that the structured learning time requirements contained in 603 CMR 27.04 are fully complied with. The pilot program shall be subject to the provisions of collective bargaining law, and to the approval of town meetings in each member town of the district. The district, in conjunction with the department of education, shall issue a report on the success of the initiative no later than March 1, 2004, to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees, and the house and senate clerks."

After debate, the amendment was adopted.

Mr. Tisei moved to amend the bill by inserting after section 10 the following section:—

"SECTION 10A. Section 13 of chapter 58 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'purposes', in line 15, the following words:— , including all land formerly owned or under the control of the metropolitan district commission."

After remarks, the amendment was *rejected.*

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

"SECTION 72. Notwithstanding section 3D of chapter 23A of the General Laws, the town of East Brookfield is hereby included in the South Central Massachusetts Economic Target Area and the economic assistance coordinating council shall exercise its powers and take all actions necessary or appropriate with respect to the economic target area in accordance with said chapter 23A."

After remarks, the amendment was adopted.

Mr. Tisei moved to amend the bill in section 61, in paragraph (1) of subsection (a), by adding the following sentence:— "Notwithstanding this section or any general or special law to the contrary, the legislative and executive authorities within a city, town, county or regional retirement system may designate the departments and job titles to which the early retirement incentive program shall apply."

The amendment was adopted.

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

"SECTION 72. Notwithstanding section 3D of chapter 23A of the General Laws, the town of Brookfield is hereby included in the Ware River Valley Economic Target Area and the economic assistance coordinating council shall exercise its powers and take all actions necessary or appropriate with respect to the economic target area in accordance with said chapter 23A."

After remarks, the amendment was adopted.

Ms. Menard moved to amend the bill by striking out sections 28, 29 and 30.

The amendment was *rejected.*

Mr. Morrissey moved to amend the bill by inserting after section 30 the following section:—

"SECTION 30A. Section 3A of chapter 64G of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word 'four' and inserting in place thereof the following figure:— '6', and by striking out, in line 10, the figure '4.5' and inserting in place thereof the following figure: — '6.0'."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 14 — nays 23) **[Yeas and Nays No. 54]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Barrios, Jarrett T.	Morrissey, Michael W.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Tolman, Steven A.
Magnani, David P.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne **— 14.**

NAYS.

Baddour, Steven A.	Chandler, Harriette L.
Brewer, Stephen M.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	Murray, Therese
Havern, Robert A.	Nuciforo, Andrea F., Jr.
Hedlund, Robert L.	O'Leary, Robert A.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Joyce, Brian A.	Shannon, Charles E.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Tisei, Richard R.

Montigny, Mark C.
Moore, Richard T.
Tucker, Susan C. **— 23.**

ABSENT OR NOT VOTING.

Berry, Frederick E.
Panagiotakos, Steven C. **— 2**.

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

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

"SECTION 5A. Subdivision (1) of section 4 of chapter 32 is hereby amended by inserting after paragraph (h) the following paragraph:—

(h½) Any member in service of the teachers' retirement system or teacher employed by the city of Boston who is employed in a vocational-technical school or teaching in a school's vocational-technical program approved by the department of education under chapter 74 may receive creditable service for any period of work experience in the occupational field in which the member teaches, and which was required as a condition of the member's employment pursuant to regulations of the department of education. No credit shall be allowed until the member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for the member, in one sum, or in installments, upon terms and conditions as the board may prescribe, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member when the member entered the retirement system for each year of service so purchased. No credit shall be allowed and no payment shall be accepted under this paragraph until the member shall have completed 10 or more years of membership service. The maximum creditable service allowable under this paragraph for any member shall not exceed 3 years. A member in service of a retirement system eligible for the creditable service under this paragraph shall make application for the creditable service within 90 days of being notified by the retirement board of his eligibility after becoming vested in the retirement system, or for a currently eligible member, within 90 days of the effective date of this paragraph."

The amendment was *rejected*.

Messrs. Tolman, McGee and O'Leary moved to amend the bill in section 61 by striking out subsections (c), (d) and (e).

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes past three o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 55]**:

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
Barrios, Jarrett T.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Fargo, Susan C.
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Joyce, Brian A.
Knapik, Michael R.
Lees, Brian P.
Magnani, David P.
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.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne **— 37.**

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.
Panagiotakos, Steven C. — **2.**

The yeas and nays having been completed at twenty-five minutes past three o'clock P.M., the amendment was adopted.

Mr. Glodis moved to amend the bill by inserting after section 12 the following section:—

"SECTION 12A. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

Fifty-fifth. Notwithstanding any other general or special law to the contrary, all 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; but that real estate used exclusively for academic purposes shall, subject to existing filing requirements, be exempt from the taxes. In no case shall real estate be construed as being used exclusively for academic purposes unless the majority of use of the real estate is used for academic purposes. In no case shall dormitories, student or administrative housing, libraries, gymnasiums, athletic fields, student unions, theaters or cafeterias be exempt from taxation. Notwithstanding the foregoing, each municipality, in which an effected educational institution maintains real estate, shall retain the right to enter into an agreement for payment in lieu of taxes instead of subjecting the real estate to property tax. Every 5 years a municipality shall reserve the right to revert between property taxation and an agreement for payment in lieu of taxes. The commissioner shall promulgate regulations to carry out this clause."

After remarks, the amendment was *rejected*.

Ms. Creem moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Chapter 40 of the General Laws is hereby amended by inserting after section 39L the following section:—

Section 39M. Notwithstanding any general or special law to the contrary, rates assessed or charged by a city, town or water district for water and sewer use may include the cost of providing water and sewer service to municipal properties, including without limitation, buildings, facilities and grounds."

The amendment was *rejected.*

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

"SECTION 72. A city or town may suspend for fiscal years 2004 and 2005 any required expenditures on the maintenance of school buildings and property, as mandated by the Education Reform Act of 1993."

The amendment was *rejected*.

Mr. Knapik moved to amend the bill in section 31, in the first sentence, by striking out the words "in the manner provided in section 4 of chapter 4" and inserting in place thereof the following words:— "by ballot vote under the following paragraph."; and by adding the following paragraph:—

"The local appropriating authority, as defined in section 21C of chapter 59, may submit to the voters at any city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: 'Shall the (city or town) accept section 2B of chapter 64H of the General Laws, which provides for a (city or town) tax on the sale of meals in addition to the state meals tax?' If a majority of the votes cast on said question is in the affirmative, the city or town shall have accepted this section, but not otherwise."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes before four o'clock P.M., on motion of Mr. Knapik to wit (yeas 24 — nays 13) **[Yeas and Nays No. 56]**:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.

Hedlund, Robert L.	O'Leary, Robert A.
Jacques, Cheryl A.	Resor, Pamela
Joyce, Brian A.	Shannon, Charles E.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Tisei, Richard R.
Melconian, Linda J.	Tucker, Susan C. **— 24.**

NAYS.

Barrios, Jarrett T.	Menard, Joan M.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Tolman, Steven A.
Hart, John A., Jr.	Walsh, Marian
Havern, Robert A.	Wilkerson, Dianne **— 13.**
Magnani, David P.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C.**— 2.**

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

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

"SECTION 71A. The board of library commissioners shall grant waivers to those libraries unable to meet the criteria of the Fiscal Year 2004 Municipal Appropriation Requirement. Libraries granted waivers shall complete and file with the board the Fiscal Year 2004 Municipal Appropriation Requirement forms."

The amendment was *rejected*.

Ms. Creem and Mr. Morrissey moved to amend the bill by inserting after section 59 the following new section:—

"SECTION 59A. Notwithstanding any general or special law to the contrary, within 120 days of the effective date of this act, the department of telecommunications and energy shall hold a public hearing and issue a report relative to reducing the number of double poles within the commonwealth pursuant to section 34B of chapter 164 of the General Laws. The report shall include the department's recommendations and proposed legislation for enforcement of this section and waivers from the provisions of this section. The department shall report to the committees on ways and means and the joint committee on government regulations its recommendations and proposed legislation to provide penalties for the enforcement of this section. The department shall also provide an analysis of whether local enforcement by ordinance or by-law is preferable to statewide enforcement of this section."

After remarks, the amendment was adopted.

Mr. Knapik moved to amend the bill by inserting after section 36 the following section:—

"SECTION 36A. Section 19A of chapter 78 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the last paragraph."

The amendment was *rejected*.

Ms. Fargo moved to amend the bill in section 35 by adding the following 3 sentences:— "No student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay such a fee. Any fee paid by a Massachusetts taxpayer to a school committee for the purpose of providing transportation to and from a Massachusetts public school to this section or any other section shall serve as a deduction from the taxpayer's personal income taxes due in the calendar year that the fee is paid. The deduction shall not exceed $500 per child for whom the transportation fee is paid."

The amendment was *rejected*.

Ms. Fargo moved to amend the bill by inserting after section 47 the following 5 sections:—

"SECTION 47A. Section 7AA of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

No child who is 5 years of age or older, but not older than the age at which such child may first obtain a valid junior operator's license under section 8, shall ride as a passenger in a motor vehicle on any way unless such child is wearing a safety belt which is properly adjusted and fastened according to the manufacturer's instructions.

SECTION 47B. The third paragraph of said section 7AA of said chapter 90, as so appearing, is hereby further amended by striking out the second sentence and inserting in its place the following sentence:—

An operator of a motor vehicle shall be subject to a fine of $50 for each child who is not fastened and secured by a child passenger restraint or who is not wearing a safety belt in accordance with the provisions this section; provided, however, that the $50 fine shall not apply to an operator of a motor vehicle licensed as a taxi cab not equipped with a child passenger restraint device.

SECTION 47C. The first paragraph of section 13A of said chapter 90, as so appearing, is hereby amended by striking out clause (a) and inserting in its place the following clause:

(a) any child less than the age at which a valid junior operator's license may first be obtained who is subject to the provisions of section seven AA;.

SECTION 47D. The second paragraph of said section 13A of said chapter 90, as so appearing, is hereby amended by striking out the first sentence and inserting in its place the following sentence:— Any person over the age at which a valid junior operator's license may first be obtained who operates a motor vehicle without a safety belt, and any person over the age at which a valid junior operator's license may first be obtained who rides as a passenger in a motor vehicle without wearing a safety belt in violation of this section, shall be subject to a fine of $25 dollars.

SECTION 47E. Said second paragraph of said section 13A of said chapter 90, as so appearing, is hereby further amended by striking out the second sentence."

After remarks, the amendment was *rejected*.

Ms. Creem moved to amend the bill by inserting after section 10 the following section:—

"SECTION 10A. Section 5 of chapter 44B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following:—

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee, and notwithstanding the provisions of section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before four o'clock P.M., on motion of Ms. Creem, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No 57]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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 **— 37.**
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

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

Ms. Creem moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Section 39J of chapter 40 of the General Laws, as so appearing, is hereby amended by inserting after the word 'services', in line 9, the following words:— and may include the costs of operation, construction and maintenance of storm drain facilities in the city or town."

The amendment was *rejected*.

Mr. Knapik moved to amend the bill by inserting after section 9 the following section:—

"SECTION 9A. Section 53 of said chapter 44, as so appearing, is hereby amended by inserting after the word "appropriation", in line 22, the following words:— 'and provided further, that section 27 of chapter 149 shall not apply to cities and towns for projects in the amount of $100,000 or less'."

The amendment was *rejected*.

Ms. Menard moved to amend the bill by inserting after section 71 the following new section:—

"SECTION 72. The joint committee on taxation shall investigate and study all proposed and suggested changes to the automobile excise as described in section 1 of chapter 60A of the General Laws. The committee shall file a report of its finding and any proposed legislation to the clerks of the house and senate not later than September 1, 2003."

After remarks, the amendment was adopted.

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

"SECTION 54A. Subsection (1) of section 44B of chapter 149 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The availability of complete electronic bid sets free of charge shall comply with this subsection."

After remarks, the amendment was *rejected*.

Mr. Tarr moved to amend the bill by inserting after section 9 the following section:—

"SECTION 9A. Section 21A of said chapter 44, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The city council of a city, the board of selectmen of a town, the school committee of a regional school district, and the prudential committee, if any, otherwise, the commissioners of a district, may provide for the issuance of refunding bonds or notes of the city, town, regional school district or district for the purpose of paying or refunding all or any designated part of an issue of bonds or notes then outstanding, including the amount of any redemption premium thereon; provided, however, that no such refunding bonds shall be payable over a period longer than the period during which the original bonds or notes so refunded shall be paid pursuant to law."

The amendment was adopted.

Mr. Tarr moved to amend the bill by inserting after section 32 the following section:—

“SECTION 3A. Section 16 of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following clause:—

(s) To refinance any debt incurred under clauses (d), (e) or (n), in accordance with section 21A of chapter 44.”

The amendment was adopted.

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

“SECTION 72. 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. Members of 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 committees on ways and means 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, not later than October 1, 2003.”

After remarks, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 37 by striking out the second paragraph of the proposed section 10B; and in section 57, by striking out the last paragraph.

The amendment was *rejected.*

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

“SECTION 72. Notwithstanding any general or special law to the contrary, the division of purchased services of the department of procurement which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003, except the prices for those programs for extraordinary relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal year 2003 were lower than the full amount permitted by the division of purchased services may charge in fiscal year 2004 the full price calculated for fiscal year 2003.”

The amendment was adopted.

Messrs. Tarr and Brewer moved to amend the bill by inserting after section 6 the following section:—

“SECTION 6A. The definition of ‘Employee’ in section 2 of chapter 32B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the first sentence the following sentence:— A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an eligible employee, provided that the eligibility shall be approved by a vote of a town meeting in a town, or by the city council in a city, and that the municipality may condition eligibility on the charge of an additional service charge not to exceed 10 per cent of the cost of the premium for any such individual, who shall be responsible for the entirety of the premium.”

The amendment was adopted.

Mrs. Sprague moved to amend the bill by striking out section 13.

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-three minutes past four o’clock P.M., on motion of Mrs. Sprague, as follows, to wit (yeas 17 — nays 21) **[Yeas and Nays No. 58]**:

YEAS.

Baddour, Steven A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Glodis, Guy W.	O’Leary, Robert A.
Hedlund, Robert L.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.

Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tucker, Susan C. **— 17.**
Montigny, Mark C.	

NAYS.

Antonioni, Robert A.	Fargo, Susan C.
Barrios, Jarrett T.	Hart, John A., Jr.
Chandler, Harriette L.	Havern, Robert A.
Creem, Cynthia Stone	Jacques, Cheryl A.
Magnani, David P.	Rosenberg, Stanley C.
McGee, Thomas M.	Shannon, Charles E.
Melconian, Linda J.	Tolman, Steven A.
Menard, Joan M.	Travaglini, Robert E.
Nuciforo, Andrea F., Jr.	Walsh, Marian
Pacheco, Marc R.	Wilkerson, Dianne **— 21**.
Resor, Pamela	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

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

Mr. Magnani moved to amend the bill in section 63, in subsection (b), by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:— The decision to accept this section shall be made by both the executive and legislative bodies of the governmental unit in which the employees are members of the system. For the purposes of this subsection, 'executive body' shall mean the mayor in a city, the board of selectmen in a town or whoever is designated as such by a city or town charter, and 'legislative body' shall mean the city council in a city, the town council in a city, the town meeting in a town or the town council in a city or town that has a council form of government."

The amendment was adopted.

Mrs. Sprague moved to amend the bill by adding the following section:—

"SECTION 72. Notwithstanding any general or special law to the contrary, the civil service commission shall carry forward for the period of 1 year the exam grades of applicants for municipal fire and police departments who are residents of the commonwealth and serving in any branch of the United States military outside the United States, and who are unable to take those exams during calendar year 2003 because of such military duty; provided, however, that only passing grades shall be carried forward; and provided further, that the grades shall appear on the commission's list of eligible applicants for appointment to municipal fire and police departments."

After remarks, the amendment was adopted.

Mr. O'Leary moved to amend the bill by inserting after section 13 the following 2 sections:—

"SECTION 13A. Section 57C of said chapter 59, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

This section shall be applicable in any city or town which accepts this section, notwithstanding section 57. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out not later than July 1 of each year. In the case of cities and towns with quarterly tax payments, the preliminary tax shall be due and payable in 2 installments, the first installment due on August 1 and second installment on November 1, after which dates, if unpaid, they shall become delinquent and subject to interest as provided herein. In the case of cities and towns with semi-annual tax payments, the preliminary tax shall be due and payable in 1 installment due on November 1. The preliminary tax shall, in no event, exceed 50 per cent of 102.5 per cent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if a referendum question submitted to the voters under paragraph (g), (i½), (j) or (k) of section 21C and approved for the fiscal year had been approved for the preceding fiscal year.

SECTION 13B. Said section 57C of said chapter 59, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made and in the case of cities and towns with quarterly payments, shall be due and payable in 2 installments, on February 1 and May 1 respectively, after which dates, if unpaid, they shall become delinquent and, in the case of cities and towns with semi-annual payments, shall be due and payable in 1 installment, on April 1, after which date, if unpaid, they shall become delinquent."

After remarks, the amendment was adopted.

Mr. O'Leary moved to amend the bill by adding the following section:—

"SECTION 72. (a) In addition to the sales tax imposed by the commonwealth upon sales at retail in the commonwealth pursuant to chapter 64H of the General Laws, there shall be a local sales tax upon sales at retail by vendors as defined in said chapter 64H, in the town of Nantucket. The amount of the tax shall be at the rate of one percent of the gross receipts of such vendors and shall be paid over by the vendors located within the town of Nantucket to the commissioner of revenue at the time provided for filing the return required by section 16 of chapter 62C.

All amounts collected by the department of revenue pursuant to this section shall be paid over by the department of revenue to the treasury of the town of Nantucket to be spent by the Town as may be lawfully appropriated by the town's legislative body.

The amount of any tax paid by a vendor to the commissioner pursuant to this section shall be reimbursed to the vendor in full by the purchaser and section 3 of said chapter 64H shall apply to the reimbursement to vendors. The local sales tax shall be collected and administered in accordance with said chapter 64H.

All definitions in section 1 of said chapter 64H shall are incorporated by reference. All exemptions from the tax imposed by section 6 of said chapter 64H shall also be exempt, to the extent applicable, from the additional local sales tax imposed by this section.

(b) This section shall not take effect unless ratified by a majority of the votes cast at a regular or special election in the town of Nantucket and if so ratified shall apply to all taxable payments made after the effective date of this act within the town of Nantucket."

After debate, the amendment was adopted.

Mr. O'Leary moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Section 56 of chapter 40 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

Notwithstanding this section the commissioner may, at the request of a city or town, and at the commissioner's discretion, certify every 5 years that the board of assessors of the city or town is assessing the property at full and fair cash valuation. Once certified, the city or town may classify in the manner set out in this section for the year of certification and for the 4 years next following the year of certification."

The amendment was *rejected*.

Mr. O'Leary moved to amend the bill by inserting after section 30 the following 9 sections:—

"SECTION 30A. Section 1 of chapter 64G of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'house', in line 26, the following words:— ', bed and breakfast home, other transient accommodations.'

SECTION 30B. Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word 'house', in line 29, the following words:— ', bed and breakfast home, other transient accommodations.'

SECTION 30C. Subsection 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word 'establishment', in line 32, the following words:— ', or bed and breakfast home'.

SECTION 30D. Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word 'house', in line 38, the following words:— ', bed and breakfast home, other transient accommodations'.

SECTION 30E. Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the definition of 'Occupant' the following definition:—

(h½) ‘Other transient accommodation,’ each living quarter or sleeping or housekeeping accommodation in any apartment house, multiple unit structure including but not limited to duplex, triplex, quadraplex, condominium, tourist or mobile home court, including but not limited to, trailer court, motor court, recreational vehicle camp, fish camp, single family dwelling, garage apartment, beach house or cottage, cooperatively owned apartment, condominium parcel, timeshare resort, mobile home, or any other house, boat that has a permanent, fixed location at a dock and is not operated on the water away from the dock by the tenant, vehicle or other structure, place, or location held out to the public to be a place where living quarters or sleeping or housekeeping accommodations are provided to transient guests for consideration and which is not the principal residence of the owner. For the purposes of this section, principal residence shall mean a building or portion thereof, or other accommodation, actually occupied by the owner as the owner’s primary dwelling during the taxable year. A primary residence may consist of a part of a multi-unit or multi-purpose building. Each room or unit within a multiple unit structure is an accommodation.

SECTION 30F. Section 2 of said chapter 64G, as so appearing, is hereby amended by striking out, in line 11, the words ‘; and (f) a bed and breakfast home’.

SECTION 30G. Section 3 of said chapter 64G, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words ‘bed and breakfast establishment, hotel, lodging house or motel’ and inserting in place thereof the following words:— ‘bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel or other transient accommodations’.

SECTION 30H. Section 3A of said chapter 64G, as so appearing, is hereby amended by striking out, in lines 3 and 4 the words ‘bed and breakfast establishment, hotel, lodging house or motel’ and inserting in place thereof the following words:— ‘bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel or other transient accommodations’.

SECTION 30I. Section 6 of said chapter 64G, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ‘bed and breakfast establishment, hotel, lodging house or motel’ and inserting in place thereof the following words:— ‘bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel or other transient accommodations’.”

The amendment was adopted.

Messrs. Baddour, McGee and Tisei moved to amend the bill by adding the following section:—

“SECTION 72. Notwithstanding section 63 of chapter 44 of the General Laws, or any other general or special law to the contrary, during fiscal years 2004 and 2005, a town, following a majority vote by the board of selectmen that is ratified by a special or annual town meeting, or a city, following a majority vote of the city council and approval by the mayor, the proceeds of the sale or other disposal of real estate, including the taking by eminent domain by another governmental unit, but other than that acquired through tax title foreclosure, by a city, town, or district, that exceed 500 dollars, may be applied for any purpose or purposes for which the city, town or district deems necessary during said fiscal years; but the proceeds of a sale in excess of 500 dollars of any park land by a city, town, or district shall be used only by the city, town, or district for acquisition of land for park purposes or for capital improvements to park land.”

After remarks, the amendment was adopted.

Ms. Melconian moved to amend the bill by adding the following section:—

“SECTION 72. The municipal legislative body in a city or town that has not accepted section 73 of chapter 4 of the acts of 2003 may vote to establish a municipal tax amnesty program under said section 73, and may vote to extend the amnesty period until a date not later than December 31, 2004. The municipal legislative body of a city or town that has accepted said section 73 may vote to extend the amnesty period until a date not later than December 31, 2004.”

After remarks, the amendment was adopted.

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

“SECTION 5A. Chapter 31 of the General Laws is hereby amended by inserting the following section:—

Section 78. Notwithstanding any other section of this chapter or any other general or special law to the contrary, upon the effective date of this section, chapter 31 shall no longer apply to municipal employees, including those municipal employees previously tenured under the provisions of said chapter 31; but chapter 31 shall continue to apply to municipal police officers and firefighters.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at three minutes before five o’clock P.M., on motion of Mr. Hart, as follows, to wit (yeas 5 — nays 32) **[Yeas and Nays No. 59]**:

YEAS.

Knapik, Michael R.	Tarr, Bruce E.

Lees, Brian P.	Tisei, Richard R. **— 5.**
Sprague, Jo Ann	

NAYS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Glodis, Guy W.	Pacheco, Marc R.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	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 **— 32.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

The yeas and nays having been completed at one minute past five o'clock P.M., the amendment was *rejected*.

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

"SECTION 72. There shall be a special commission to investigate, study, and make a report on the so-called 'annual municipal census' conducted under section 4 of chapter 51 of the General Laws. The report shall assess the necessity of continuing an annual municipal census and include recommendations to the legislature on alternative methods for achieving the results currently derived from the 'municipal census.' The commission shall consist of 13 members; the house and senate chairs of the joint committee on election laws who shall serve as co-chairpersons; the secretary of the commonwealth or designee; the jury commissioner or designee; two representatives of the Massachusetts Town Clerks Association, one of whom shall be from a rural community; a representative of the Massachusetts City Clerks Association; a representative of the Massachusetts Municipal Association; the director of the Massachusetts Institute of Social and Economic Research or designee; 1 member of the house of representatives to be appointed by the speaker and 1 member of the house of representatives to be appointed by the minority leader; 1 member of the senate to be appointed by the president of the senate and 1 member of the senate to be appointed by the minority leader. The commission shall file its report, including its recommendations and a draft of any legislation necessary to carry out its recommendations, by filing the same with the clerks of the house of representatives and the senate not later than December 1, 2003."

The amendment was adopted.

Mr. Brewer, Ms. Murray, Ms. Chandler and Messrs. Moore, Joyce, Magnani and Pacheco moved to amend the bill by inserting after section 62 the following section:—

"SECTION 62A. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary and upon the acceptance of this section on or before July 15, 2003 by the legislative authority of a local school district, this act providing for an early retirement incentive program shall apply to an eligible employee who: (1) shall be an employee of the school district and an active member in service of the state teacher's retirement system or in the city of Boston on the date of the district's acceptance of this section; (2) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 by September 1, 2003; (3) shall have 20 years of creditable service with the state teachers' retirement system as of September 1, 2003; (4) shall have filed a written application with said retirement system in accordance with this act; and (5) shall be classified in Group 1 in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32.

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

(c) Notwithstanding said chapter 32 to the contrary, the normal yearly amount of the retirement allowance for an eligible employee shall be based on the average annual rate of regular compensation as determined under paragraph (a) of subdivision (2) of section 5 of said chapter 32 and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased by a combination of years of creditable service and years of age, the sum of which shall not be greater than 5 years. The legislative authority of the school district may limit the amount of additional years added and may limit the total number of employees for whom it will approve a retirement calculated under this act; but, if participation is limited, the retirement of employees with greater years of creditable service shall be approved before approval shall be given to employees with lesser years of creditable service up to 80 per cent.

(d) Notwithstanding any general or special law to the contrary, or any provisions of this act to the contrary, employees who are enrolled in the Retirement Plus program, pursuant to section 2 of chapter 114 of the acts of 2000, shall not be eligible to receive the benefit offered by this section.

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

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

(g) Notwithstanding section 5 of said chapter 32 that requires retirement date within 4 months of the filing of an application for superannuation retirement in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement not later than a date determined by the legislative authority, which shall be not later than August 15, 2003; but, the retirement date for eligible employees shall be determined by the legislative authority and shall be not earlier than the effective date of this section and shall be no later than September 1, 2003.

(h) The executive director of the public employee retirement administration commission shall analyze, study and valuate the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the early retirement incentive program established by this section for each retirement system. The executive director shall file a report of his findings to the board, in writing, on or before June 30, 2004, together with copies thereof to the county commissioners, the regional retirement board, the mayor, the board of selectmen, the governing body of an authority, the district committee or the regional school district committee as the case may be.

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

After remarks, the amendment was adopted.

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

“SECTION 3A. Chapter 7 of the General Laws is hereby amended by adding the following section:—

Section 57. (a) As used in this section, the following words shall have the following meaning:

‘Design/build’, a construction method which utilizes a single company for the design and construction of a building, rather than separately contracting with a designer and then a contractor.

‘Municipality’, any city, town, county or regional school district, or agency, board, commission, authority or instrumentality thereof.

‘Project’, the design, construction, repair, renovation, remodeling, equipping, furnishing or partial or complete demolition of municipal facilities.

(b) Notwithstanding section 38K of chapter 7, section 39M of chapter 30, and sections 44A to 44J, inclusive, of chapter 149 of the General Laws, any other general or special law regulating the design, construction, advertising, or bidding of design and of construction contracts, or any other general or special law to the contrary, municipalities may select and contract with a single contractor to provide design/build services for the design and construction of a project; provided, however, that the design/build contractor shall be certified by the municipality to perform the work required and shall be selected through a competitive process conducted in conformance with subsection (c); provided further, that this section shall be limited to municipal projects involving vertical construction and shall not apply to horizontal construction projects.

(c) A municipality shall develop procedures for procurement of contractor services utilizing design/build services consistent with subsection (b), in consultation with the office of the inspector general. For the selection of design/build services, the procedures shall include, but not be limited to, the following provisions:

(1) The municipality shall obtain design/build services utilizing sealed competitive proposals. The municipality shall solicit proposals through a request for proposals which shall include: the time and date for receipt of proposals; the address of the office to which a proposal shall be delivered; proposed contractual terms and conditions, some of which may be deemed mandatory or nonnegotiable; standards by which acceptability will be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose; all evaluation criteria that will be utilized by the municipality; and such other matters as may be determined by said municipality. Requests for proposals for design/build services shall also describe the scope of the design/build project and identify all quality and performance requirements for said project.

(2) Evaluation criteria for design/build services shall include, but not be limited to, the relevant technical and management experience of the offeror’s proposed design/build team, including subcontractors, the financial stability and resources of the offeror, the quality of construction materials, and the costs and life cycle of installed equipment.

(3) Public notice of each request for proposals shall at least three weeks before the time specified in the notice for the receipt of proposals be published in the central register published by the state secretary and in a daily newspaper of general circulation in the municipality or county where each project is proposed.

(4) A request for proposal may incorporate documents by reference; but, the request for proposal shall specify where offerors may obtain the documents. A request for proposal for design/build services may provide for the separate submission of price, and if so provided, shall indicate when and how an offeror shall submit the price, and shall specify that bid security in a form specified by the municipality shall accompany the proposal. The municipality shall make copies of each request for proposal available to all offerors on an equal basis. The municipality may conduct pre-proposal conferences and interviews with interested parties prior to receiving proposals. An offeror’s proposal shall be unconditional except as provided in this subsection. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated in the request for proposals before the time and date set for the opening of proposals.

(5) At the opening of the proposals, the municipality shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. After the opening of the proposals, an offeror may not correct, modify, or withdraw the price or any other provisions of its proposal in a manner prejudicial to the interests of the commonwealth or fair competition. The municipality may waive minor informalities or allow the offeror to correct them.

(6) The municipality shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of any general or special law to the contrary, until the completion of the selection process, the contents of the proposals and the selection process shall not be disclosed to competing offerors and shall not be public documents.

(7) The municipality shall appoint a design/build selection committee. The committee shall be composed of experts in design and construction. The committee shall evaluate the proposals received by the municipality. The committee shall conduct its evaluation of the proposals based solely on the criteria set forth in the request for proposals. In the event that price proposals are to be submitted separately from proposals for design/build services, the design/build selection committee shall not evaluate, and the municipality shall not disclose, such price proposals to the committee until the committee has completed its evaluation of the proposals for design/build services.

(8) For each proposal, the committee shall specify in writing on each evaluation criterion a rating of highly advantageous, advantageous, not advantageous, or unacceptable as the committee finds reasonable, and shall specify in writing a composite rating for each proposal and the reasons for such composite rating.

(9) The municipality shall make a determination of the most advantageous proposal for the design/build services from a responsible and responsive offeror based upon ratings given to the proposals by the committee. If price proposals have been

submitted separately for design/build services, the municipality shall also base such determination on an evaluation of the price proposals. The municipality may negotiate all contract terms not deemed mandatory or non-negotiable with the offerors. If, after negotiation with the offerors, the municipality is unable to finalize a contract for acquisition of design/build services that is in the municipality's best interests, the municipality may negotiate with the offeror of the next most advantageous proposal submitted by a responsible and responsive offeror based upon the ratings of the committee and upon an evaluation of the relevant price proposal if separately submitted.

(10) The contract for design/build services shall be awarded by the municipality to the responsible and responsive offeror submitting the most advantageous proposal based upon the evaluation criteria set forth in the request for proposals and the terms of the negotiated contract. The municipality shall complete the selection process by written notice to the selected offeror or by notice of rejection to all proposers, as specified below. The municipality may reserve the right to reject any or all proposals if it is in the public interest to do so.

(11) For the purposes of this section, the term 'responsible offeror' shall mean a person, corporation, or other organization or entity which has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance, and the term 'responsive offeror' shall mean a person, corporation, or other organization or entity which has submitted a proposal which conforms in all respects to the request for proposals.

(12) If the municipality awards the contract for design/build services to an offeror which did not submit the lowest price proposal, the municipality shall explain the reasons for such an award in writing, which shall be available for public inspection.

(13) Before the execution of a design/build contract, the selected offeror shall furnish to the municipality a performance bond and payment bond, each in the sum of the contract price and issued by a surety company qualified to issue bonds in the commonwealth and satisfactory to the municipality. If the selected offeror fails to execute a contract or to furnish the necessary bonds within the time period specified in the request for proposals, the municipality may award the design/build contract to the offeror of the next most advantageous proposal.

(14) The municipality shall return the bid security to all design/build offerors which are not selected. The design/build committee shall have conferences describing relative strengths and weaknesses of each proposal with the other qualified offerors which were not selected if the offerors request to have such conferences.

(15) The municipality shall prepare a written report of the reasons for its selection determination and any subsequent determinations to negotiate with additional offerors, including the recorded votes, if any, that were taken which shall be available to the public.

(d) The municipality shall submit final procedures for procurement of design/build services to the inspector general for comment at least 30 days before the publication of notice of a request for proposals. The procedures and the comments of the inspector general shall be submitted to the governor, the senate president, and the speaker of the house before the execution of any contract for procurement of design/build services.

(e) For any contract for construction, reconstruction, alteration, remodeling or repair of any public work awarded pursuant to this section and estimated by the awarding authority to cost more than $500,000, the awarding authority shall, as a condition for the disbursement and acceptance of any funding from the commonwealth, employ or contract with an owner's representative, as defined in subsection (g).

(f) For any contract for construction, reconstruction, installation, demolition, maintenance or repair of any building awarded pursuant to this section, and estimated by the awarding authority to cost more than $500,000, the awarding authority shall, as a condition for disbursement and acceptance of any funding from the commonwealth, employ or contract with an owner's representative, as defined in subsection (g).

(g) 'Owner's representative', the official or firm designated by the municipality who shall have appropriate fiscal, procurement and construction experience and shall serve as the focal point of responsibility and accountability on a project from the study and design phases through the completion of the public work or building project. The responsibilities shall include, but not be limited to, coordinating communication among the project participants, monitoring the project budget and schedule and maintaining a central file for project records. The owner's representative shall be independent of any architect, engineer, contractor, subcontractor or other firm or person hired by the municipality to provide services in connection with the project."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 30) **[Yeas and Nays No. 60]**:

YEAS.

Baddour, Steven A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.

Knapik, Michael R.	Tisei, Richard R. **— 7.**
Lees, Brian P.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Glodis, Guy W.	Pacheco, Marc R.
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 **— 30.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C.**— 2**.

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

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

"SECTION 59A. Chapter 356 of the acts of 1992 is hereby amended by striking out, in line 3, the word 'ten' and inserting in place thereof the following figure:— 20."

After debate, the amendment was adopted.

Suspension of Senate Rule 38A.

Mr. Havern moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and, there being no objection, on further motion of the same Senator, the 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 Bill1 providing relief and flexibility to municipal officials (House, No. 4003, printed as amended),— was considered; the main question being on passing the bill to be engrossed, in concurrence.

Mr. O'Leary moved to amend the bill in section 33 by inserting after the word "district", in line 5, the following words:— "; provided, however that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay the fee; and provided further, that a school committee may choose to exempt families at other income levels as it may determine."; in section 35, by inserting after the word "district", in line 5, the following words:— "provided, however, that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay the fee; and provided further, that a school committee may choose to exempt families at other income levels as it may determine."; and in section 36, by inserting after the word "fee", in line 7, the following words:— "; provided, that a school committee may choose to exempt families at other income levels as it may determine."

The amendment was adopted.

Mr. Barrios moved to amend the bill by inserting after section 12 the following section:—

“SECTION 12A. Section 5C of said chapter 59, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:—

For the purpose of this section, “taxpayer” shall include the record holder of title, or in the case of a cooperative corporation organized pursuant to chapter 157B, the individual shareholders of such corporation.”

The amendment was adopted.

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

“SECTION 59A. Section 3 of chapter 334 of the acts of 2002 is hereby amended by striking out the words ‘motorcycle safety,’ and inserting in place thereof the following words:— motorcycle safety; the professional firefighters of Massachusetts to benefit the Fallen Firefighter Memorial Fund.”

The amendment was *rejected*.

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

“SECTION 72. Notwithstanding any law to the contrary, no firefighter or fire alarm operator laid off after January 1, 2003, 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, shall be required to reside within the limits of the city or town in which they are employed as a provision for continued employment. This section shall cease to be in effect on January 1, 2008.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes past six o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 1) **[Yeas and Nays No. 61]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
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.**

NAYS — 1.

Hart, John A. Jr.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

The yeas and nays having been completed at five minutes past six o’clock P.M., the amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 6 the following 4 sections:—

"SECTION 6A. The first paragraph of section 7A of chapter 32B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:— No governmental unit shall pay any premium contribution in excess of 75 per cent. Subject to the above limitations, a governmental unit may provide different subsidiary or additional rates to any group or class within that unit.

SECTION 6B. Section 9E of said chapter 32B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:— No governmental unit shall pay any premium contribution in excess of 75 per cent. Subject to the above limitations, a governmental unit may provide different subsidiary or additional rates to any group or class within that unit."; and by inserting after section 71 the following 2 sections:—

SECTION 6C. Section 16 of said chapter 32B, as so appearing, is hereby amended by striking out, in line 30, the word 'ten' and inserting in place thereof the following word:— 25.

SECTION 6D. Said section 16 of said chapter 32B, as so appearing, is hereby further amended by striking out, in line 37, the word 'ten' and inserting in place thereof the following word:— 25.

"SECTION 72. Notwithstanding sections 6A, 6B, 6C and 6D, the per cent contribution of the governmental unit to premiums of retirees who as of the effective date of this act are covered by group health insurance, are 65 years of age or older and have household incomes of 133 per cent of the federal poverty level or lower shall not be reduced below the per cent contribution made to such retirees prior to the effective date of this act.

SECTION 73. The provisions of this act shall become effective upon passage, provided that any per cent contribution which is determined by a collective bargaining agreement as of the effective date of this act shall not be altered until the expiration date of the collective bargaining agreement, unless the parties to said agreement agree otherwise."

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Section 12 of chapter 32B 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, 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 purchase 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 the 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 eliminations to benefit plans offered to the eligible employees of each and every governmental unit which participated in the joint purchase group."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes past six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 3 — nays 34) **[Yeas and Nays No. 62]**:

YEAS.

Lees, Brian P.	Sprague, Jo Ann **— 3.**
Nuciforo, Andrea F., Jr.	

NAYS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
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.	Tarr, Bruce E.
Jacques, Cheryl A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne **— 34.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**

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

Mr. Knapik moved that the bill be amended by inserting after section 32 the following section:—

"SECTION 32A. The first paragraph of section 1 of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following sentence:— A city, town, or school district by vote of its school committee may operate its schools on a 4-day school week, providing that the committee submit to the board of education its plan to fulfill the required hours of instruction."

Mr. Havern in the Chair,— after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seven minutes past seven o'clock P.M., on motion of Mr. Antonioni, as follows, to wit (yeas 1 — nays 36) **[Yeas and Nays No. 63]**:

YEAS.

Knapik, Michael R. **— 1.**

NAYS.

Antonioni, Robert A.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Glodis, Guy W.
Brewer, Stephen M.	Hart, John A., Jr.
Chandler, Harriette L.	Havern, Robert A.
Creedon, Robert S., Jr.	Hedlund, Robert L.
Jacques, Cheryl A.	O'Leary, Robert A.
Joyce, Brian A.	Pacheco, Marc R.
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.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne **— 36.**

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C.**— 2**.

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

Mr. O'Leary moved to amend the bill by adding the following section:—

"SECTION 72. (a) Notwithstanding any general or special law to the contrary, any city or town within Barnstable, Nantucket, Dukes which accepts this section as provided in subsection (b) may impose a local excise upon all passenger ferry trips originating from a port located within such city or town, at a rate up to, but not exceeding, $1 per passenger trip. The operator of the ferry service shall pay the local excise tax imposed under the provisions of this act to the commissioner at the same time and in the same manner as the excise tax due the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall be distributed, credited and paid by the state treasurer at least quarterly upon certification of the commissioner to each city or town that has adopted the provisions of this section in proportion to the amount of such sums received from the sale of passenger ferry trips in each such city or town. The city or town shall deposit the monies received from the excise tax in the city or town's General Fund, to be appropriated for the purpose of mitigating the impacts of ferry service on the city or town. Nothing in this section shall prohibit a city or town from transferring all or part of the monies collected from the excise tax to a regional planning or educational entity that serves the municipality, to be appropriated by that entity for the purpose of mitigating the impacts of ferry service on the region.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, may submit to the voters at any city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: 'Shall the (city or town) accept the law that allows the (city or town) to impose a ferry excise on certain passenger ferry trips?' If a majority of the votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

(c) This act shall take effect on the first day of the calendar quarter following 30 days after such acceptance, or on the first day of such later calendar quarter as the city or town may designate. The city or town, in accepting this act, may not revoke or otherwise amend the applicable local tax rate more often than once in any 12 month period.

(d) Any city or town that votes to accept this section may also vote, in the manner prescribed above, to exempt commuter and excursion fares from local excise tax and the text of the ballot question in subsection (b) shall so indictate. For the purposes of this section, commuter fare shall mean any fare paid for through the purchase of a book of multiple tickets, through the Steamship Authority's 'Islands Preferred Excursion Program,' or through the purchase of a pass."

After remarks, the amendment was adopted.

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

"SECTION 13A. Section 25 of chapter 59 of the General Laws is hereby amended by striking out, in line 1, the words 'except Boston,'; by inserting after section 59 the following section:—

SECTION 59A. Section 5 of chapter 717 of the acts of 1957 is hereby repealed."; and by adding the following section:—

"SECTION 72. Sections 13A and 59A shall not apply retroactively and shall not affect loans, loan orders, or bonds currently issued. Any re-issue, re-financing, or extension of currently issued loans, loan orders, or bonds, however, shall be subject to said sections 13A and 59A."

Pending the question on adoption of the amendment, Ms. Walsh, Mr. Creedon, Ms. Creem, Mr. Shannon, Ms. Wilkerson, Ms. Fargo and Mr. Barrios moved that the pending amendment be further amended in section 13, by adding the following sentence:— "Notwithstanding the amount of funds in the overlay account, the amount to be assessed in excess of the total limit of taxation as provided in said section 21C pursuant to this section shall first be approved by the chief executive officer and shall not be greater than the amount of abatements and exemptions granted in the prior fiscal year, or the average of the amount of abatements and exemptions granted in the 3 prior fiscal years, whichever is higher. For the purposes of this section, 'chief executive officer' shall mean the mayor in a city and the board of selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.";

The President in the Chair,— after debate, the question on adoption of the further amendment was determined by a call of the yeas and nays, at three minutes before eight o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 25 — nays 11) **[Yeas and Nays No. 64]**:

YEAS.

Barrios, Jarrett T.	Jacques, Cheryl A.
Chandler, Harriette L.	Magnani, David P.
Creedon, Robert S., Jr.	McGee, Thomas M.
Creem, Cynthia Stone	Melconian, Linda J.
Fargo, Susan C.	Menard, Joan M.
Hart, John A., Jr.	Montigny, Mark C.

Havern, Robert A.	Moore, Richard T.
Morrissey, Michael W.	Rosenberg, Stanley C.
Murray, Therese	Shannon, Charles E.
Nuciforo, Andrea F., Jr.	Tolman, Steven A.
O'Leary, Robert A.	Walsh, Marian
Pacheco, Marc R.	Wilkerson, Dianne **— 25.**
Resor, Pamela	

NAYS.

Antonioni, Robert A.	Lees, Brian P.
Baddour, Steven A.	Sprague, Jo Ann
Brewer, Stephen M.	Tarr, Bruce E.
Glodis, Guy W.	Tisei, Richard R.
Hedlund, Robert L.	Tucker, Susan C. **— 11.**
Knapik, Michael R.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 3.**
Joyce, Brian A.	

The yeas and nays having been completed at one minute past eight o'clock P.M., the further amendment was adopted.
Mr. Antonioni asked unanimous consent to make a brief statement and, there being no objection, the Senator noted that even though he had been recorded in the preceding roll call as having voted in the negative, it was his intention to have voted yes — in the affirmative.

On further motion of the same Senator the above remarks were ordered printed in the Journal of the Senate.

The pending amendment (Wilkerson), as amended (Walsh, et al), was then further considered; and it was adopted.

Mr. Creedon moved to amend the bill in section 35 by inserting after the word "district" the following words:— "; provided, that any fee assessed pursuant to this section may be deducted from any local property tax assessed by the municipality; provided further, that any person seeking to deduct said fee from a municipal property tax assessment shall provide proof that: (a) the fee was paid to the municipality to provide transportation of a student; and (b) that the student is related to the person having the tax obligation; and (c) the student resides at the property subject to the tax obligation".

The amendment was *rejected*.

Mr. Lees moved to amend the bill by inserting after section 9 the following section:—

"SECTION 9A. Section 53 of said chapter 44, as so appearing, is hereby amended by striking out the words 'six A,', in line 13, and inserting in place thereof the following words:— six A; provided, that section 27 of chapter 149 shall not apply to cities and towns for said projects in the amount of $100,000 or less; provided, further, that section 27 of chapter 149 shall not apply to towns with populations of 5,000 or less."; and by inserting after section 54 the following 3 sections:—

"SECTION 54A. Section 26 of chapter 149 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words "engaged in the construction industry", in line 36, the following words:— ; provided, that this sentence shall not apply to cities and towns for any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or to any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any public work, for which the estimated construction cost is $100,000 or less and provided further, that this sentence shall not apply to such contracts entered into by towns with a population of 5,000 or less.

SECTION 54B. Section 27 of said chapter 149, as so appearing, is hereby amended by adding the following sentence:— This section shall not apply to cities and towns for any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or to any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any public work, for which the estimated construction cost is $100,000 or less, and the provisions of this section shall not apply to such contracts entered into by towns with a population of 5,000 or less.

SECTION 54C. Section 27B of said chapter 149, as so appearing, is hereby amended by adding the following sentence:— This section shall not apply to cities and towns for any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or to any contract for the construction, reconstruction, installation, demolition, maintenance or repair of any public work, for which the estimated construction cost is $100,000 or less, and the provisions of this section shall not apply to such contracts entered into by towns with a population of 5,000 or less."

The amendment was *rejected*.

Ms. Wilkerson moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Section 11 of chapter 32B of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:—

Notwithstanding any charter or ordinance to the contrary, the appropriate public authority of the cities of Cambridge, Chelsea, Everett, Malden, Medford, Melrose, Quincy, Revere and Somerville may notify the appropriate public authority of the city of Boston of its election to participate in the schedule of benefits made available by said city of Boston for its employees and, subject to the approval of the appropriate public authority of said city of Boston and under such terms and conditions and rules and regulations as may be prescribed from time to time by the appropriate public authority of the city of Boston, the employees of the city so applying shall become insured at the earliest practicable date as participants in a city of Boston group health or life benefit plan. Nothing herein shall abrogate any provision of chapter 150E or any collective bargaining agreement with respect to health benefits or to impact adversely the rights and benefits of public employees pursuant to any collective bargaining agreement. Nothing in this paragraph shall prohibit the appropriate public authority of the city of Boston from prohibiting participation by applying cities in certain benefit programs made available by said city of Boston for its employees. Nothing in this paragraph shall prevent a participating city from withdrawing from participation upon reasonable notice provided by the appropriate public authority of the participating city to the appropriate public authority of the city of Boston. A city granted approval to participate in the city of Boston's schedule of benefits that incurs costs by so joining or exiting including, but not limited to, paying for claims which have been incurred but not yet paid may amortize such costs over a period of not more than 10 years from the date of such approval or exit."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at four minutes past eight o'clock P.M., on motion of Ms. Wilkerson, as follows, to wit (yeas 36 — nays 0) **[Yeas and Nays No. 65]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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.
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.**

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 3.**

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

Mr. Creedon moved to amend the bill in section 5, in subsection (b) of the proposed section 2LLL, by striking out the words:— "or cities or towns hosting fairs and (i) are sponsored and conducted by an agricultural or horticultural society incorporated under Massachusetts law (ii) operate at least three days annually (iii) have a majority of exhibits that are competitive in nature and (iv) are inspected and approved by the department of food and agriculture."; in subsection (c) of the proposed section 2LLL, by striking out, in line 2 and in line 3, the words "or fair".; by striking out subsection (c) of the proposed section 2LLL in section 5; and by striking out the letter "(f)" and inserting in place thereof the following letter:— "(e)".

The amendment was *rejected*.

Mr. Lees moved to amend the bill, by inserting after section 58 the following section:—

"SECTION 58A. Section 39A of chapter 255 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words 'removed from the scene of an accident and'."

The amendment was *rejected*.

Mr. Creedon moved to amend the bill by striking out sections 1, 2 and 3.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 68 by inserting after the words "December 31, 2003" the following words:— "; provided, that the commissioner of revenue shall consult with the mayors of Boston, Springfield and Worcester and the Massachusetts Municipal Association when conducting this study".

Pending the question on adoption of the amendment, Ms. Murray moved that the pending amendment be further amended by striking out the words "the mayors of Boston, Springfield and Worcester" and inserting in place thereof the following words:— "any mayor or town manager who hosts a private college in their community".

The further amendment (Murray) was considered; and it was adopted.

The previous amendment (Hart), as amended (Murray), was then considered; and it was adopted.

Mr. Lees moved to amend the bill by striking out sections 11 and 12.

The amendment was *rejected*.

Mr. Hart moved to amend the bill in section 63 by adding in paragraph (a) the following sentence:— "No municipality may implement this section if it has available a special statutory emergency reserve that requires at least a balance of 2.5 per cent of prior year non-school departmental appropriations and the balance is fully unexpended."

The amendment was adopted.

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

"SECTION 5A. Paragraph (b) of subdivision (1) of section 22 of chapter 32 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 member of the state teachers' retirement system or the state Boston retirement system who was laid off or who will be laid off by a governmental unit because of budget cuts between January 1, 1980 and December 31, 2004, January 1, 1990 and December 31, 2004, or January 1, 2003 and December 31, 2005, and through no fault of their own, and was later re-employed in public service as a teacher within 3 years of being laid off, may have up to 3 years of such layoff time credited as creditable service provided that any buyback payments or previously withdrawn contributions, including regular interest thereon, are paid upon such terms and conditions as the board may prescribe and, provided further, that such member shall be deemed to have entered into service for purposes of this section as of the date of his entry into service preceding layoff."; and by adding the following section:—

"SECTION 72. Section 5A of this act shall apply to any member in service as of the effective date of this act, provided, however, that any reduction in an employee's retirement contribution required by this act shall commence on the effective date of this act and no refund shall be made for contributions made prior to the effective date of this act."

The amendment was adopted.

Mr. Lees moved to amend the bill by striking out section 62 and inserting in place thereof the following section:—

"SECTION 62. (a) Notwithstanding any general or special law to the contrary 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 same early retirement incentive benefits as provided in said chapter 116 as it relates to group 4 employees. 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 not 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 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.

(d) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this section, an employee who elects to retire under this section and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment at the time of retirement and shall be paid such payment over a period of three years and shall receive $^{1}/3$ of such payment at the date of retirement and shall receive $^{1}/3$ of such payment on January 1, 2005 and shall receive $^{1}/3$ of such payment on January 1, 2006. Each such employee shall sign a statement that he has agreed to receive $^{1}/3$ of such payment at the date of retirement, $^{1}/3$ of such payment on January 1, 2005 and $^{1}/3$ of such payment on January 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this section. The state board of retirement shall deny an application for early retirement under this section by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this paragraph is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any inconsistent provision of the agreement on behalf of all members of the bargaining unit who shall file applications under this section."

The amendment was adopted.

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

"SECTION 72. Notwithstanding any general or special law to the contrary, any city or town that has received specific authorization by the legislature to accept and implement an early retirement incentive program in that city or town whereby the retirement date for eligible employees, as determined by the executive authority of the city or town or by the legislation authorizing the early retirement program, was a date not earlier than November 27, 2002 and not later than January 15, 2004, may also accept this section and may establish the following dates for the implementation of the previously authorized early retirement incentive program: (1) an eligible employee shall file his application for retirement not later than a date determined by the executive authority, which shall not be later than April 1, 2004; (2) the retirement date for eligible employees shall be determined by the executive authority and shall be not earlier than the effective date of this act and shall be not later than April 30, 2004; provided however, that the date of retirement for employees of a city retirement board and town retirement board shall be 30 days after the retirement date determined by the executive authority in the city or town."

The amendment was adopted.

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

"SECTION ___. Notwithstanding section 19A of chapter 78 of the General Laws, or any other general or special law to the contrary, the board of library commissioners shall grant a waiver to any city or town that experiences a reduction in state aid of 10 per cent or more so that the city or town shall qualify for state aid for public libraries."

The amendment was *rejected*.

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

"SECTION 26A. Section 65 of said chapter 60, as so appearing, is hereby amended by striking out, in line 4, the words 'six months' and inserting in place thereof the following words:— 60 days."

The amendment was *rejected*.

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

"SECTION 72. Notwithstanding section 27C of chapter 29 of the General Laws, or any other general or special law to the contrary, any proposal initiated by the department of environmental protection in the form of a rule, regulation or so-called guidance document or policy resulting in the imposition of additional cost to a city or town shall be termed a 'local mandate'. Local mandates shall include but not be limited to any department of environmental protection initiated rule, regulation or so-called guidance document or policy that: (1) requires any city or town to undertake any service or direct or indirect cost obligation, or to establish, expand or modify any existing activity in such a way that results in the expenditure of funds or resources, or results in the diversion of funds or resources from any existing activity. For the purposes of this section, the term 'existing activity' shall include any program or service lawfully undertaken by any city or town under the authority of any law, special law, administrative rule or regulation or city or town charter, or; (2) relieves the state or a county from providing a service or program so that any city or town instead incurs the direct or indirect cost of such service or program.

No proposal initiated by the department of environmental protection in the form of a rule or regulation, or any so-called guidance document or policy, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described in chapter 30A of the General Laws and filed with the secretary of state. The regulatory impact statement shall: (a) identify the problem, issue or deficiency addressed by the proposal; (b) identify the methodology or approach, including identification of expert information and analysis used to address the problem, issue or deficiency; (c) identify stakeholders who will be affected and to what extent by the proposal; (d) identity when such proposal will become effective, when such proposal will be changed, if known, and how and when the proposal will be reviewed in the future, if at all; (e) identify and describe the immediate and long term financial impacts of the proposal on all stakeholders, including the agency or entity issuing the proposal, any affected private party or entity, the state, the cities and towns, and the general public. Such financial impact statement shall consider permitting costs, internal compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the public and private sectors for the first and second year of the proposal's existence, and provide a projection of fiscal impact over the first five years of the proposal's existence; and (g) identify and describe, specifically, the benefits of the proposal. The secretary of administration and finance shall adopt regulations to further define and implement the use of regulatory impact statements in said executive offices' and agency's rulemaking.

The department of environmental protection shall maintain a notification list of stakeholders in their proposals and who may request preliminary notification of such proposals, 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 the proposal to each stakeholder who has requested preliminary notification of the proposal and to the joint legislative committee on natural resources, the joint legislative committee on local affairs, the house and senate committees on ways and means, the office of the state auditor and the Massachusetts Municipal Association.

The preliminary notification of the proposal shall (a) identify the proposal to be noticed for hearing and the scope of the proposal, (b) provide the statutory authority for such proposal, and (c) identify the person within the executive office or agency responsible for the proposal and who can be contacted for more information.

No proposal initiated by the department of environmental protection in the form of a rule, regulation, so-called guidance document or policy shall become effective until said executive office and agency have complied with the provisions of Massachusetts Administrative Procedures Act established under Chapter 30A of the General Laws. Any entity claiming to be aggrieved by lack of compliance with said chapter by said executive office or agency shall be permitted to file a petition for relief with the superior court."

The amendment was *rejected*.

Mr. Shannon moved to amend the bill by striking out section 9 and by adding the following section:—

"SECTION 72. (a) A city or town (1) in Barkstable, Dukes or Nantucket County, (2) that has a municipal light department or plant or that owns the poles and wires, and (3) that accepts this section as provided in subsection (b), may incur debt under section 8 of chapter 44 of the General Laws for 10 years, for the underground utility construction necessary to provide replacement facilities for poles and overhead wires and associated overhead structures removed pursuant to an ordinance or by-law adopted under section 22D of chapter 166 of the General Laws.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, may submit to the voters at any city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: 'Shall the (city or town) accept the law that allows the (city or town) to incur debt for certain underground utility construction?' if a majority of the votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise."

The amendment was adopted.

Ms. Chandler moved to amend the bill by inserting after section 6 the following section:—

“SECTION 6A. Chapter 40 of the General Laws is hereby amended by adding the following section:—

Section 60. (a) Notwithstanding any general or special law to the contrary, a city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law, on its own behalf or in conjunction with 1 or more cities or towns and pursuant to regulations issued by the director of housing and community development, in consultation with the department of economic development and the department of revenue, may adopt and prosecute an urban center housing tax increment financing plan, in this section referred to as a UCH-TIF plan, intended to encourage increased residential growth, affordable housing and commercial growth in urban center housing zones and do all things necessary thereto; provided, however, that the UCH-TIF plan shall:

(i) designate any area of the city or town as an urban center housing tax increment financing zone, in this section referred to as a UCH-TIF zone, which shall be defined as a commercial center characterized by a predominance of commercial land uses, a high daytime or business population, a high concentration of daytime traffic and parking and a need for multi-unit residential properties; provided, however, that the designation of a UCH-TIF zone shall be subject to the approval of the department of housing and community development pursuant to regulations adopted by the department consistent with this section; provided further, that a city or town may not enter into any UCH-TIF agreement, as defined in clause (v), unless the area governed by the UCH-TIF agreement is so designated and approved by the department of housing and community development; and provided further, that in the case of a UCH-TIF plan adopted by more than 1 city or town, the areas designated as UCH-TIF zones shall be contiguous areas of those cities and towns;

(ii) describe in detail all construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such UCH-TIF zone as of the date of the adoption of the UCH-TIF plan; provided, however, that in the case of public construction as aforesaid, the UCH-TIF plan shall include a detailed projection of the costs and a betterment schedule for the defrayal of such costs; provided further, that the UCH-TIF plan shall provide that no costs of such public constructions shall be recovered through betterments or special assessments imposed on a party which has not executed a UCH-TIF agreement in accordance with clause (v); and provided further, that in the case of private construction as aforesaid, the UCH-TIF plan shall include the types of affordable housing and residential and commercial growth which are projected to occur within such UCH-TIF zone, with documentary evidence of the level of commitment therefor including, but not limited to, architectural plans and specifications as required by the regulations;

(iii) authorize tax increment exemption from property taxes, in accordance with the paragraph (a) of clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the UCH-TIF zone and for which an agreement has been executed in accordance with clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions expressed as an exemption percentage, not to exceed 100 per cent to be used in calculating the exemption under said paragraph (a) of said clause Fifty-first of said section 5 of said chapter 59; provided further, that such exemptions shall be calculated for each such parcel as provided in said paragraph (a) of said clause Fifty-first of said section 5 of said chapter 59 using an adjustment factor for each fiscal year since the parcel first became eligible for such exemption pursuant to this clause. The inflation factor for each fiscal year shall be a ratio:

(1) the numerator of which, shall be the total assessed value of all parcels of all residential real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of said chapter 54; or

(2) the numerator of which, in a UCH-TIF zone where the property includes a mix of residential and commercial uses, shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue under said paragraph (f) of said section 21C of said chapter 59; and

(3) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, that such ratio should not be less than 1;

(iv) establish a maximum percentage of the costs of any public construction, referenced in clause (ii) and initiated subsequent to the adoption of the UCH-TIF plan, that can be recovered through betterments or special assessments against real property eligible for tax increment exemptions from property taxes under clause (iii) during the period of the parcel’s eligibility for exemption from annual property taxes under said paragraph (a) of said clause Fifty-first of said section 5 of said chapter 59, notwithstanding chapter 80 or any other general or special law authorizing the imposition of betterments or special assessments;

(v) include executed agreements, hereinafter referred to as UCH-TIF agreements, between a city and town and each owner of real property which is located in a UCH-TIF zone, but each such agreement shall include, but not be limited to, the following: (1) all material representations of the parties which served as a basis for the descriptions contained in the UCH-TIF plan in accordance

with clause (ii) and which served as a basis for the granting of a UCH-TIF exemption; (2) any terms deemed appropriate by the city or town relative to compliance with the UCH-TIF agreement including, but not limited to, what shall constitute a default by the property owner and what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (3) provisions requiring that either 25 per cent of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80 per cent of the median income for the area in which the city or town is located as defined by the United States Department of Housing and Urban Development or such other requirement of affordable housing as is necessary to achieve financial feasibility for the development pursuant to regulations and guidelines promulgated by the department of housing and community development; (4) provisions stating that housing units that meet the affordability requirements of subclause (3) shall subject to use restrictions as defined in this section; (5) provisions stating that the property shall be subject to an option to purchase and a right of first refusal as defined in subsections (c) and (d); (6) a detailed recitation of the tax increment exemptions and the maximum percentage of the cost of public improvements that can be recovered through betterments or special assessments regarding a parcel of real property pursuant to clauses (iii) and (iv); (7) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to an agreement; and (8) a provision that the agreement shall be binding upon subsequent owners of the parcel of real property; and

(vi) delegate to a board, agency or officer of the city or town, the authority to execute agreements in accordance with clause (v).

(b) An executed UCH-TIF agreement shall be submitted by the applicable city or town to the department of housing and community development for the approval of the director; provided, however, that the city or town shall, if it has not previously done so, submit a plan showing the boundaries of its urban center housing zone and a report explaining the criteria used by the city or town in establishing the zone; provided, however, that the director shall review each UCH-TIF plan and agreement to determine whether they comply with the terms of this section and any regulations which may be adopted by the director of housing and community development; provided further, that the director shall certify, based upon the information submitted in support of the UCH-TIF plan by the city or town and through such additional investigation as the director shall make, that the plan and agreement are consistent with the requirements of this section and will further the public purpose of encouraging increased residential growth, affordable housing and commercial growth in the commonwealth; provided further, that a city or town may, at any time, revoke its designation of a UCH-TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements under clause (v) of subsection (a); provided further, a revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments pursuant to said clause (v) of said subsection (a) or use restrictions or options to purchase and rights of first refusal required by this section which were executed before the revocation; provided further, that the board, agency, or officer of the city or town authorized pursuant to clause (vi) of said subsection (a) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein; and provided further, that an executed and approved UCH-TIF shall be recorded in the registry of deed or the registry district of the land court wherein the land lies.

(c) Notwithstanding any other general or special law to the contrary, a affordable housing unit benefiting from a real estate tax exemption under this section that meets the affordability requirements of subclause (3) of clause (v) of subsection (a) shall continue to meet those requirements for 40 years or for its useful life, whichever is longer as may be specified in the recorded restriction. Such restriction shall be approved by the department of housing and community development in accordance with section 32 of chapter 184 and shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies. Upon the expiration of such restrictions, the department of housing and community development or its assignee shall have an option to purchase the property subject to or previously subject to a UCH-TIF agreement.

(d) (1) Within 120 days after the expiration of the affordability restrictions created under this section, the department or its assignee, who shall be a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase the property at its current appraised value reduced by any remaining obligation of the owner. Two impartial appraisers shall determine, within 60 days after the expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall select each such appraiser. The owner and the department, respectively, shall each designate 1 professional within 30 days after the expiration of the affordability restrictions. If there exists a difference in the valuations provided by the appraisals, the 2 valuations shall be added together and divided by 2 to determine the current appraised value of the property.

(2) Prior to a sale or transfer or other disposition of housing assisted under this section where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice, by regular and certified mail, return receipt requested, of his intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold a first refusal option for the first 120 days after receipt of the owner's notice of intent to transfer the property. Failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within 120 days after the receipt of the notice shall constitute a waiver of the right of first refusal by the department.

(3) No sale, transfer or other disposition of the land shall be consummated until either the first refusal option period has expired or the owner was notified in writing by the department or assignee in question that the option will not be exercised. Such option

may be exercised only by written notice signed by a designated representative of the department or its assignee, mailed to the owner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected pursuant to this section under guidelines issued by the department, such written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of the owner shall conclusively establish the manner and time of the giving of the notice; provided, however, that the affidavit, and the notice that the option will not be exercised shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the option and notice that the option will not be exercised shall contain the name of the record owner of the land and description of the premises to be sold or converted adequate for identification thereof. Each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. The notices of intention shall be deemed to have been duly mailed to the parties above specified if addressed to them in care of the keeper of records for the party in question.

(4) Upon notifying the owner in writing of its intention to pursue its first refusal option during such 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date of the termination of the first refusal option period, to purchase the property. The time periods may be extended by mutual agreement between the department or its assignee and the owner of the property; provided, however, that any such extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after request, the owner shall make available to the department or its assignee any information, which is reasonably necessary for the department to exercise its rights. The department or its assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing; provided, however, that such housing shall remain affordable for not less than 40 years. Such use restrictions shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(e) The owner of property subject to a UCH-TIF plan shall certify to the city or town the income of the families or occupants, upon initial occupancy, of the affordable housing units designated in the UCH-TIF agreement and such certification shall be provided to the department on an annual basis. If the owner fails to provide certification or otherwise fails to comply with the UCH-TIF agreement, including failing to maintain the affordability of housing units assisted under this section, the city or town may place a lien on the property in the amount of the real estate tax exemptions granted pursuant to the UCH-TIF agreement for any year in which the owner is not in compliance with this subsection. If the city or town determines, with the approval of the department of housing and community development, that the owner is unlikely to come into compliance with the affordability requirements of subclause (3) of clause (v) of subsection (a), the city or town may place a lien on the property in the amount of the total real estate tax exemption granted pursuant to the UCH-TIF agreement. Any such lien shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies."; and by adding the following section:—

"SECTION 72. (a) The department of housing and community development, in consultation with the department of revenue, shall establish a pilot mixed-use building rehabilitation abatement program for the purpose of stimulating the development of affordable housing in mixed-use structures. The department of housing and community development may approve applications from cities and towns for the creation of not more than 300 units of housing in each of the 3 fiscal years beginning in fiscal year 2004.

(b) No application shall be accepted unless it is accompanied by a signed agreement, approved by the department, between the owner and the municipality and binding on subsequent owners of the property, stating that 50 per cent of the housing units assisted by the abatement program shall be affordable to occupants whose income is less than 80 per cent of the median income for the area in which the city or town is located as defined by the United States Department of Housing and Urban Development. A unit that meets the affordability requirements of the previous sentence shall continue to meet those requirements for 20 years or for the useful life of the property, whichever is longer. If the owner of property benefited by the pilot program fails to certify to the city or town and to the department of housing and community development compliance with these affordability restrictions, the city or town may place a lien on the property in the amount of the real estate abatements granted pursuant to the pilot program.

(c) Abatements granted shall be for the commercial portion of the property and shall not exceed 7 years duration. The amount of abatement granted shall be equivalent to the difference between the commercial and residential rate established by the city or town, unless the department of housing and community development finds that an additional amount is necessary to make the rehabilitation project economically feasible. In no case shall the amount of the abatement exceed 50 per cent of the established residential tax rate for the property.

(d) The department of housing and community development shall promulgate rules and regulations to implement the pilot mixed-use building rehabilitation abatement program."

The amendment was adopted.

Mr. Shannon moved to amend the bill by inserting after section 58 the following section:—

“SECTION 58A. Chapter 262 of the General Laws is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following section:—

Section 8. The fees of sheriffs, deputy sheriffs and constables shall be as follows:

A. For the service of civil process:

(1) For service of an original summons, trustee process, subpoena or scire facias, either by reading it or by leaving a copy thereof, $20 for each defendant upon whom service is made, except as herein otherwise provided.

(2) For service of an original summons and complaint for divorce or for any other service required to be served in hand, $30 for each defendant upon whom service is made.

(3) For attestation of each copy of a writ, precept or process, except, as herein otherwise provided, $5.

(4) If the officer by the direction of the plaintiff or his attorney makes a special service of a writ or precept, either by attaching personal property or arresting the body, he shall be entitled to $2 for each defendant upon whom the writ is so served, and $8 additional for custody of the body arrested, and at the same rate for each day during which he has such custody. If the officer employs an assistant in the arrest of the body, he shall be entitled to $5 a day for such assistant.

(5) For the custody of personal property attached, replevied or taken on execution, not more than $50 for each day of not more than 8 hours for the keeper while he is in charge, and not more than $20 a day for the officer for a period not longer than 10 days; but the officer may be allowed a greater compensation for himself or his keeper, or compensation for a longer period, by the consent of the plaintiff, or by order of the court upon a hearing. He shall also be entitled to expenses for packing, labor, teaming, storage and taking and preparing a schedule of property attached, replevied or taken on execution, if he certifies that such expenses were necessary and are reasonable.

(6) For an attachment on mesne process of land or of any leasehold estate, $20 for each defendant against whom an attachment is made, 32 cents a mile each way for travel from the place of service to the registry, and his fee for the copy deposited in the registry of deeds or land court, together with the recording fees actually paid.

(7) For a special attachment of real estate, $10 additional for each person against whom an attachment is made.

(8) For the service of a writ of replevin: for seizure of property, $10 for each defendant; securing and swearing appraisers, $4, and the actual amount paid to appraisers, as hereinafter provided; examining and approving sureties, $5; delivery of property replevied, $5; for each service, $5 for each copy, at the rate hereinbefore provided for copies of writs, precepts or other processes.

(9) For a levy on real estate:

(a) For preparing and serving notice of sale, a fee not to exceed $50, plus travel.

(b) For posting notices of sale, $20, plus travel.

(c) The necessary expenses of advertising.

(d) For the sale of land or of any leasehold estate, $20.

(e) For preparing, executing and acknowledging deed, $25.

(f) For travel, 32 cents a mile each way from the place where he receives the execution to the office of the register of deeds, and his fee for the copy.

(10) For a sale of personal property on mesne process or on execution the following:

(a) For service of a copy of notice to appoint appraisers, $8 for each person upon whom service is made.

(b) The necessary expenses of taking and preparing a schedule of property proposed to be sold.

(c) For attendance upon and swearing appraisers, $10.

(d) The amount actually paid to appraisers as hereinafter provided.

(e) For preparing and posting notice of a proposed sale, $10, plus travel.

(f) The necessary expenses of keeper, labor and advertising.

(g) For custody of property, $10 a day.

(h) For services as auctioneer, or for services of an auctioneer in selling property, a fair and reasonable amount.

(i) If the sale is made on execution, poundage may be charged as hereinafter provided.

(j) The fair compensation for the services of an appraiser shall not be more than $30 for each day's service, but the officer may be allowed a greater compensation for the appraisers by an order of the court.

(k) For each adjournment of sale of real or personal property, $10.

(11) For taking bail and furnishing and writing the bail bond, $2, which shall be paid by the defendant, and taxed in his bill of costs, if he prevails.

(12) For serving an execution in a personal action by copy and demand on debtor or on trustee, $10 and travel, if the execution is not collected in whole or in part; for serving an execution in a personal action, and collecting damages or costs on an execution, warrant of distress or other like process, for an amount not exceeding $100, 10 cents for every dollar; all above $100, and not exceeding $500, 5 cents for every dollar; and all above $500, 2 cents for every dollar; but such percentage shall be allowed only upon the amount actually collected. A levy of the execution upon his body shall be considered, so far as the fees of the officer are material, a full satisfaction of the execution if the debtor has recognized with surety or sureties as required by law.

(13) For serving a writ of seisin or possession in a real action, $15 for each parcel.

(14) For serving an execution upon a judgment for partition, or for assignment of dower or curtesy, $2 per day.

(15) For serving a writ of capias, a writ of habeas corpus, a writ of ne exeat, or other process of civil arrest in a civil proceeding, $50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel.

(16) For serving a venire or notice to jurors for attendance upon any court, civil or criminal, $10 for each person upon whom service is made.

(17) For summoning witnesses, $20 for each person upon whom service is made, and $2 for each copy served, together with the fee paid to the witness.

(18) For dispersing treasurer's process warrants and proclamations of all kinds, $4 each.

(19) For travel in the service of original writs, executions, warrants, summonses, subpoenas, notices and other processes, 32 cents a mile each way, to be computed from the place of service to the court or place of return; and if the same precept, or process is served upon more than 1 person, the travel shall be computed from the most remote place of service, with such further travel as was necessary in serving it; if the distance from the place of service to the place of return exceeds 20 and does not exceed 50 miles, 32 cents a mile one way only shall be allowed for all travel exceeding 20 miles, and, if it exceeds 50 miles, only 6 cents a mile one way shall be allowed for all travel exceeding that distance.

(20) For travel in the service of venires and notices to jurors, 32 cents a mile for the distance actually traveled.

(21) For posting warrants, for notifying town meetings or for other purposes, $5 for each copy posted together with 32 cents a mile for the distance actually traveled.

B. For the service of criminal process:

(1) For serving a warrant of capias in a criminal proceeding, $50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel, and of a summons upon the defendant, $20, for each person upon whom the same is served.

(2) For a copy of a mittimus, warrant or other precept required by law in criminal cases, $5.

(3) For service of a witness, summons or subpoena in criminal cases, $20 plus travel in the amount of 32 cents a mile each way for a distance of not more than 20 miles, and for any excess over 20 miles, 7 cents a mile each way, and no more. The distance shall be computed from the most remote place of service to the place of return, but upon a subpoena the court shall reduce the fee for travel to a reasonable amount for the service performed if the travel charged has not been actually performed by the officer who made the service.

(4) For service of an order of notice under chapter two hundred and seventy-three A, $20."; and by inserting after section 8 the following section:—

“SECTION 8A. Chapter 41 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 95 the following 2 sections:—

Section 95A. Constables appointed under sections 91, 91A and 91B or otherwise elected to serve as such in a city or town shall deposit 50 per cent of the fees collected by them for the service of civil process in excess of the fee structure in place for section 8 of chapter 262 of the General Laws before July 1, 2003 with the city or town treasurer. The treasurer shall deposit such funds into the general fund of the city or town and such funds shall be expended, subject to appropriation by a majority vote of the city council in a city or by a majority vote of town meeting in a town, for any purpose or purposes for which the city or town deems necessary.

Section 95B. Each constable shall annually on or before the 15th day of April file with the city or town treasurer an account signed by him under the penalties of perjury of all fees and money received by him under section 8 of chapter 262 for the service of civil process.”

The amendment was *rejected*.

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

“SECTION 72. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall establish a municipal mandate relief commission in consultation with the commissioner of the department of revenue and the attorney general. The commission shall be directed by the secretary, the auditor, the inspector general and the commissioner of the department of revenue.

The principal purpose of the commission shall be to facilitate relief in various forms for municipalities affected by partially funded and unfunded mandates imposed upon them by the commonwealth. In doing so, the commission shall take no action which would have an adverse impact on the health and safety of the citizens of the commonwealth or on its natural resources.

The commission shall develop a system whereby a municipality may seek relief from a mandate through a written request including, but not limited to:

1. the provisions of law establishing the mandate;

2. the purposes of the mandate;

3. any financial hardships which will result from strict compliance with the mandate;

4. Any information relative to why the mandate is either being complied with in a manner other than that proscribed by the commonwealth, or provides no benefit to the citizens of the municipality;

5. any recommendations for alternative compliance with the mandate;

6. any requested relief from the mandate, the scope of which shall not extend beyond two years; and

7. certification of action by the local legislative body seeking relief.

The system shall provide, at a minimum, for a means by which the commission may recommend that the governor take specific actions to provide relief for a period not to exceed two years, make legislative recommendations to be filed with the clerks of the senate and house of representatives, or both. The system shall also provide for adequate consultation with any agency of the commonwealth involved with or impacted by any mandate which is at issue, including the opportunity for any such agency to provide written comment on an action proposed by the commission.

This section shall expire not later than 5 years following the passage of this act unless otherwise terminated, modified or extended.”

The amendment was *rejected*.

Ms. Fargo moved to amend the bill, by inserting after section 26 the following section:—

“SECTION 26A. Said section 15 of said chapter 60, as so appearing, is hereby further amended by inserting after clause 18 the following clause:—

19. For the recording of the instrument of taking under section 54, the cost thereof.”

The amendment was adopted.

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

“SECTION 72. The executive office of public safety shall provide a grant to Plymouth, the town in which the Pilgrim nuclear power pant is located, and to Braintree, Bridgewater, and Taunton, the cities and towns that are required to provide services to the Pilgrim nuclear power plant as ‘host communities’ as defined under the radiological emergency response plan of the commonwealth approved on January 10, 2003, utilizing if available, but not limited to, federal Department of Homeland Security funds or other existing federal or state monies available to the Executive Office of Public Safety or any of its agencies, departments or divisions. The grant shall be sufficient to provide for public safety service equal to the levels of public safety service provided for as of January 10, 2003, and shall be awarded only if Plymouth or the host community meets the following criteria, as determined by the division of local services of the department of revenue: (1) the community has exhausted all available reserves; (2) the community is taxing to its levy limits; and (3) the local aid reductions for fiscal year 2004 for the community would cause a reduction in the number of public safety employees in the city or town.”

The amendment was adopted.

Ms. Wilkerson moved to amend the bill by inserting after section 70 the following section:—

“SECTION 70A. There shall be a special commission to study taxation of telecommunications companies. For the purposes of this section, telecommunications companies shall include cable television, internet service, telephone service, data service and any other telecommunications service providers. Said commission shall examine the existing system of taxation on telecommunications equipment and service stations, including current exemptions and shall determine the future taxation of all telecommunications equipment by cities and towns. The commission shall consist of the commissioner of the department of revenue; the chairpersons of the house and senate committees on taxation; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; and 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 1 member appointed by the Massachusetts Municipal Association; and 1 member appointed by the Associated Industries of Massachusetts.”

The amendment was adopted.

Mr. Nuciforo moved to amend the bill in section 5 by striking out subsection (c) and inserting in place thereof the following subsection:—

“(c) Such payments shall be distributed as follows:— (i) 100 per cent of the visitor impact fees received at each fair shall be paid to the city or town in which each fair is located; provided, however, that if the fairgrounds lies in more than 1 city or town, the amount received at such fair shall be divided proportionately according to the amount of land that lies in each city or town; (ii) 50 per cent of the visitor impact fees received at each park, forest, reservation or other natural resource shall be paid to the city or town within which such park, forest, reservation, other natural resource is located; provided, however, that if land that is part of any such park, forest, reservation or other natural resource lies in more than 1 city or town, the amount received at such park, forest, reservation or other natural resource shall be divided proportionately according to the amount of land that lies in each such city or town and (iii) the remaining balance of the visitor impact fees received at each park, forest , reservation or other natural resource shall be divided among all of the cities and towns containing land that is part of the commonwealth’s system of parks, forests, reservations and other natural resources subject to the control and supervision of the department of environmental management in proportion to the total fair cash value thereof in each such city or town as determined under sections 13 to 16, inclusive, of chapter 58; provided, however, that no such payment shall be used to reduce reimbursements to cities and towns under section 17 of said chapter 58.”

The amendment was adopted.

Mr. Nuciforo moved to amend the bill by striking out section 31.

The amendment was *rejected*.

Mr. Nuciforo moved to amend the bill by inserting after section 63 the following section:—

“SECTION 63A. 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 and 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 the property. The commissioner of the department of revenue shall establish regulations or guidelines for the implementation of this section by any city or town.”

The amendment was *rejected*.

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

“SECTION 13A. Chapter 60 of the General Laws is hereby amended by inserting after section 3C the following section:—

Section 3D. Partial payments of bills for taxes, excises or municipal charges and fees, including partial payments under sections 22 and 62, shall be applied first to any interest due, then to collection charges, that have been added to the bills, unless the amount of the interest and charges taken together may be waived and the collector or other officer responsible for collecting the bills determines that the partial payment should be first applied to the underlying obligation.”

The amendment was adopted.

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

“SECTION 59A. Section 6 of chapter 46 of the acts of 1997 is hereby repealed.”

The amendment was *rejected*.

Mr. Hedlund moved to amend the bill in section 71, in the first sentence by inserting after the word “all” the following words:— “non state subsidized”.

After debate, the amendment was *rejected*.

Mr. Hedlund moved to amend the bill by striking out sections 11 and 12.

The amendment was *rejected.*

Ms. Melconian and Mr. Lees moved to amend the bill by inserting after section 13 the following 4 sections:—

“SECTION 13A. Subsection (b) of section 2C of chapter 60 of the General Laws, as so appearing, is hereby amended by striking out the last sentence.

SECTION 13B. Paragraph (2) of subsection (c) of said section 2C of said chapter 60, as so appearing, is hereby amended by inserting after the first sentence the following sentence:— Such discount may be up to the full amount of the interest.

SECTION 13C. Paragraph (4) of subsection (d) of said section 2C of said chapter 60, as so appearing, is hereby amended by striking out the word “ten” and inserting in place thereof the following figure:— 20.

SECTION 13D. Said section 2C of said chapter 60, as so appearing, is hereby amended by striking out subsection (h) and inserting in place thereof the following subsection:—

(h) The purchaser of a tax receivable shall have the option to purchase any subsequent delinquent tax receivable to occur with respect to the same parcel or parcels within 30 days of notice from the city of the sale of the receivable, in accordance with terms and conditions set forth in the original sale agreement except that (i) the sale price of any subsequent tax receivable shall be equal to the amount assessed and due from the face value of the tax receivable and any unpaid accrued interest, statutory fees, penalties and charges owed to the municipality as of the date of sale of the tax receivable, notwithstanding any discount or premium permitted in the original sale agreement and (ii) no notice or publication periods shall be required before the assignment or transfer of any such subsequent receivables except as required herein.”

The amendment was adopted.

Mr. Nuciforo moved to amend the bill by inserting after section 13 the following 2 sections:—

“SECTION 13A. Section 57 of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following sentence:— A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.

SECTION 13B. Section 57C of said chapter 59, as so appearing, is hereby amended by inserting after the word ‘delinquent,’, in line 69, the following sentence:— A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.”

The amendment was adopted.

Mr. Nuciforo moved to amend the bill by inserting after section 33 the following section:—

“SECTION 33A. Section 16D of chapter 71 of the General Laws as so appearing, is hereby amended by adding the following 2 paragraphs:—

Notwithstanding any general or special law to the contrary, debt incurred by a regional school district for the purpose of acquiring land and constructing, reconstructing, adding to, and equipping a school building may be issued for a term not exceeding 30 years; if the district establishes a separate school maintenance trust fund to be used for maintaining the school building and any related fixed equipment. The district shall be required to maintain the fund for the term of the debt and to annually deposit into the fund an amount equal to 2 per cent of the debt service due for that fiscal year. Expenditures from the school maintenance trust fund shall require a majority school committee vote and be made for maintaining the building, or replacing fixtures and equipment related to the building with a life expectancy no less than 5 years.

The maturities of the debt may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue said debt, or, in the alternative, in accordance with a schedule providing a more rapid amortization of principal, but, for the purposes of computing any school facilities grant under chapter 70B, the cost of any approved project financed by the debt shall not include interest paid or payable on account of any issue of the debt in excess of the amount of interest that would be payable if the annual maturities of the debt were in 20 equal principal amounts bearing interest at the same rate or rates as actually borne by the debt for the first 20 years. Any school facilities grant paid under this section shall be paid annually in equal parts to be determined by dividing the total grant by the number of years during which such debt is incurred."

The amendment was *rejected*.

Mr. Hedlund moved to amend the bill in section 31, in the first sentence, by striking out the words "in the manner provided in section 4 of chapter 4" and inserting in place thereof the following words:— "by majority vote of the voters."

The amendment was *rejected.*

Mr. McGee moved to amend the bill in section 61, in subsection (b) in paragraph (2), by adding the following sentence:— "Notwithstanding chapter 34B of the General Laws, any person serving as the fifth member of a county retirement board shall, on the effective date of this section, be eligible for reelection as such fifth member notwithstanding that such member is an employee, retiree or official of a constituent governmental unit within the system."

The amendment was adopted.

Mr. McGee moved the bill be amended in section 61 by adding the following subsection:—

"(c) The executive authority in consideration of the benefits conferred in this section, shall negotiate to agreement any proposed changes of any payment due to the employees for total accrued vacation time and unused sick leave in accordance with chapter 150E."

The amendment was adopted.

Ms. Wilkerson and Messrs. Rosenberg, Baddour and Tolman moved to amend the bill by striking out section 70 and inserting in place thereof the following section:—

"SECTION 70. There shall be a special commission to investigate, study and make legislative recommendations on the adequacy and efficiency of laws and regulations governing public construction projects. Said commission shall consist of 17 members, 1 of whom shall be appointed by the governor, 2 of whom shall be members of the senate, 1 of whom shall be the chairman of the joint committee on state administration who shall serve as co-chairman of the commission; 2 of whom shall be members of the house of representatives, 1 of whom shall be the chairman of the joint committee on state administration who shall serve as co-chairman of the commission; the commissioner of capital asset management and maintenance, the inspector general, the chairperson or his designee of the Massachusetts Municipal Association; the president or his designee of the Building Trades Employers Association; the president or his designee of Associated Subcontractors of Massachusetts; the president or his designee of the Massachusetts Building Trades Council; the president or his designee of the Construction Industries of Massachusetts; the president or his designee of Massachusetts Chapter of Associated Builders and Contractors; the president or his designee of the Massachusetts AFL-CIO; the president or his designee of Women In The Building Trades; the president or his designee of the New England Chapter of the National Association of Minority Contractors; and the executive director or his designee of the Boston Society of Architects. The commission shall file a report on the results of its study, together with its recommendations, if any, and any legislation necessary to carry out its recommendations by filing the same with the clerks of the house of representatives and the senate not later than September 30, 2003."

The amendment was adopted.

Mr. Morrissey moved to amend the bill in section 60 by adding the following sentence:— "A transfer under this section shall not be made from any appropriation for a municipal light department under chapter 164 of the General Laws."

The amendment was adopted.

Mr. Brewer moved to amend the bill by inserting after section 1 the following section:—

"SECTION 1A. Chapter 6 of the General Laws is hereby amended by striking out section 172A, as so appearing and inserting in place thereof the following section:—

Section 172A. The criminal history systems board shall assess a fee of $30 for each request for criminal offender record information. Such fees shall not be assessed for such requests from a victim of a crime, a witness, or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a governmental agency including, but not limited to, an officer of a city or town as defined in section 1 of chapter 43 or a school committee or superintendent of a city, town or regional school district or principal of a public or accredited private school or any city, town or regional school district, or from such other person or group of persons as the board shall exempt. The criminal history systems board shall assess a fee of $25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself; provided, however, that upon a showing of indigency as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the General Fund."

The amendment was adopted.

Messrs. Brewer and Lees moved to amend the bill, as printed, in section 5, in line 17, by striking the words "at least three days annually" and inserting in place thereof the following:— "at least 5 days annually but no more than 14 days annually".

The amendment was adopted.

Mr. Morrissey moved to amend the bill by inserting after section 55 the following section:—

"SECTION 55A. The first sentence of section 56D of chapter 164 of the General Laws, as most recently amended by section 2 of chapter 130 of the acts of 2001, is hereby further amended by striking out figure '$25,000', each time it appears, and inserting in place thereof, in each instance, the following figure:— $100,000."

The amendment was adopted.

Ms. Fargo moved to amend the bill in section 70, in the second sentence, by striking out the figure "12" and inserting in place thereof the following figure:— "14"; and by inserting after the words "Mayor's Association", the following words:— "2 members appointed by the Executive Director of the Massachusetts Municipal Association, 1 of whom shall be a representative of a town and 1 of whom shall be a representative of a city."

The amendment was *rejected.*

Ms. Murray moved to amend the bill by inserting after section 5 the following section:—

"SECTION 5A. Section 6 of chapter 30B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 2, the figure "$25,000" and inserting in place thereof the following figure:— $100,000."

The amendment was adopted.

Ms. Murray moved that the bill be amended by adding at the end thereof the following section:—

"Section ___. Section 7 of chapter 30B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 2, the figure "$25,000" and inserting in place thereof the following figure:— $100,000."

The amendment was adopted.

After further remarks, the question on passing the bill to be engrossed, in concurrence, with the amendments, was determined by a call of the yeas and nays, at twenty-seven minutes before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 29 — nays 7) **[Yeas and Nays No. 66]:**

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Barrios, Jarrett T.	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.
Jacques, Cheryl A.	Tarr, Bruce E.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne **— 29.**
Menard, Joan M.	

NAYS.

Baddour, Steven A.	Sprague, Jo Ann
Hedlund, Robert L.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 3.**
Joyce, Brian A.	

The yeas and nays having been completed at twenty-three minutes before nine o'clock P.M., the bill was passed to be engrossed, in concurrence, with amendments. [For text of Senate document, see Senate, No. 2014.]
Sent to the House for concurrence in the Senate amendments.

PAPER FROM THE HOUSE.

Engrossed Bill — Amended.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill relative to the compensation of certain members of the General Court (see House, No. 3743) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— came before the Senate for its final passage.

On motion of Ms. Menard, Senate Rule 49 was suspended.

Ms. Menard then moved that the engrossed bill be amended in section 1, by striking out the sentence "These rules shall specify the amount of additional compensation." and inserting in place thereof the following sentence:— "These rules shall specify the amount of additional compensation and shall expire at the end of each general court."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 27 — nays 9) **[Yeas and Nays No. 67]:**

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Jacques, Cheryl A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian

McGee, Thomas M.	Wilkerson, Dianne **— 27.**
Melconian, Linda J.	

NAYS.

Creem, Cynthia Stone	Resor, Pamela
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. **— 9.**
O'Leary, Robert A.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 3.**
Joyce, Brian A.	

The yeas and nays having been completed at twelve minutes before nine o'clock P.M., the amendment was adopted. Sent to the House for concurrence in the amendment.

Orders of the Day.

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

The House Bill to protect federal transportation funding and strengthen drunk driving laws (House, No. 3873, printed as amended) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, pending the main question on passing the bill to be engrossed, in concurrence.

Mr. McGee moved to amend the bill by striking out section 1; by striking out section 3 and inserting in place thereof the following section:—

"SECTION 3. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 485 to 488, inclusive, the words 'and if such evidence is that such percentage was eight one-hundreths or more, there shall be a permissible inference that such defendant was under the influence of intoxicating liquor' and inserting in place thereof the following words:— and if such evidence is that such percentage was eight one-hundreths or more while such person operates a motor vehicle upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, shall constitute a violation of subparagraph (1) of paragraph (a) of subdivision (1)."; and by striking out section 6, section 7, section 8 and section 9.

The amendment was *rejected.*

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

"SECTION 5A. Section 24D of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'domiciled.', in line 69, the following paragraph:—

Notwithstanding the provision of subparagraph (2) of paragraph (c) of subdivision (1) of section 24, subparagraph (1) of paragraph (f) of said subdivision (1) of said section 24 and section 24P, any person receiving a sentence pursuant to this section may, immediately upon entering into an alcohol treatment or rehabilitation program pursuant to this section, apply to the registrar for consideration of a limited license for hardship purposes. The registrar, at his discretion, may issue such license under such terms and conditions as he may proscribe. Any such license shall be valid for an identical 12-hour period, 7 days a week. Eligibility for such hardship license shall also extend to any other suspensions arising from the same incident that may be in effect pursuant to said subparagraph (2) of paragraph (c) of subdivision (1) of section 24, said subparagraph (1) of paragraph (f) of said subdivision (1) of said section 24 or said section 24P. If a person's license or right to operate is suspended or revoked pursuant to a statute not referenced in this paragraph or arising out of as separate incident, such person shall be ineligible for a hardship license or, if a hardship license had been issued before the suspension or revocation, upon the effective date of the suspension or revocation the hardship license shall be revoked by the registrar. An operator's failure to complete his obligations under the alcohol treatment or rehabilitation program or to remain in compliance with court ordered probation shall be cause for immediate revocation of the hardship license by the registrar. The probation department shall, upon request, furnish to the registry of motor vehicles documentation relative to the probationary compliance status of any person seeking a hardship license or of any person who has been issued a hardship license."

The amendment was adopted.

Mr. McGee moved to amend the bill, in section 1, by striking out after the word “greater” the words “, or if such percentage was two one-hundreths or more if the operator is under the age of 21,”; in section 6, by striking out after the word “greater” the words “, or if such percentage was two one-hundreths or more if the operator is under the age of 21,”; in section 7, by striking out after the word “greater” the words “, or if such percentage was two one-hundreths or more if the operator is under the age of 21,”; in section 8, by striking out after the word “greater” the words “, or if such percentage was two one-hundreths or more if the operator is under the age of 21,”; in section 9, by striking out after the word “greater” the words “, or if such percentage was two one-hundreths or more if the operator is under the age of 21,”.

The amendment was adopted.

Mr. Creedon moved to amend the bill by inserting after section 1 the following section:—

“SECTION 1A. The first paragraph of subparagraph (1) of paragraph (a) of subdivision (1) of said section 24 of said chapter 90, as appearing in chapter 302 of the acts of 2002, is hereby amended by adding the following sentence:— The registrar of motor vehicles shall only consider convictions or dispositions under section 24, 24D and 24E for the purposes of calculating and imposing loss of license penalties pursuant to sections (1)(c)(1) through (1)(c)(3¾) of chapter 24, inclusive.”

The amendment was *rejected.*

Mr. Creedon moved to amend the bill by inserting after section 1 the following section:—

“SECTION 1A. Said section 24 of said chapter 90 is hereby amended by inserting after the word “liquor;”, in line 445, as appearing in the 2000 Official Edition, the following:— provided, however, that the results of said chemical test or analysis of his blood or breath shall be inadmissable at trial unless the defendant is recorded on film or videotape or by other visual and audible means during the 20-minute period immediately preceding the administration of the blood or breath test and during the administration of any such tests;.”

After remarks, the amendment was *rejected.*

Mr. Creedon moved to amend the bill by inserting after section 1 the following section:—

“SECTION 1A. Subparagraph (2) of paragraph (c) of subdivision (1) of section 24 of said chapter 90, as appearing in section 3 of chapter 302 of the acts of 2002, is hereby further amended by adding the following sentence:— The loss of license or right to operate provisions of this subsection shall not apply to any person convicted of or charged with operating a motor vehicle while under the influence of intoxicating liquor who has been convicted of such offense or assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a single like offense by a court of the commonwealth or any other jurisdiction 10 years or more before the date of the commission of the offense for which he is to be sentenced, once in his lifetime.”

The amendment was *rejected.*

Mr. Creedon moved to amend the bill by striking out sections 4 and 5.

The amendment was *rejected.*

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

“Section 5A. The second paragraph clause (iv) of subparagraph (2) of paragraph (f) of subdivision (1) of said section 24, as amended by section 4 of chapter 302 of the acts of 2002, is hereby further amended by striking out the word ‘ninety’ and inserting in place thereof the following figure:— 30.”

The amendment was adopted.

After remarks, the question on passing the bill to be engrossed, in concurrence, with the amendments, was determined by a call of the yeas and nays, at nine o’clock P.M., on motion of Mr. Montigny, as follows, to wit (yeas 36 — nays 0) **[Yeas and Nays No. 68]:**

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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.
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.**

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Panagiotakos, Steven C. **— 2.**
Joyce, Brian A.	

The yeas and nays having been completed at three minutes past nine o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments. [For the text of the Senate amendments, see Senate, No. 2013.]
Sent to the House for concurrence in the amendments.

The Senate Bill enhancing the state DNA data base (Senate, No. 187, changed) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time, the main question being on passing it to be engrossed.
Mr Creedon moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

The Senate Bill relative to the punishment for sale and storage of fireworks (Senate, No. 1364),— was read a second time, the main question being on ordering it to a third reading.
On motion of Mr. Lees, the further consideration thereof was postponed until Saturday, July 5, 2003.

Resolutions.

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

Resolutions (filed by Mr. Creedon) "honoring Dr. Francis Henry Freccero."

Order Adopted.

On motion of Mr. Havern,—

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 Mary T. Concannon.

The Senator from Suffolk, Mr. Hart and the Senator from Essex and Middlesex, Mr. McGee, moved that when the Senate adjourns, it adjourn in memory of Mary T. Concannon of South Boston. Ms. Concannon worked at the State House for more than 51 years and had a distinguished career working for such notables as former Governor Edward King, the late Senate President John E. Powers and for the last 6 years in the House of Representatives for the Chairman of the Public Safety, Representative Timothy Toomey; the motion prevailed.

Accordingly, as a mark of respect to the memory of Mary T. Concannon, at six minutes past nine o'clock P.M., on motion of Mr. Havern, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.