

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, July 22, 2004.

Met at eleven minutes past one o'clock P.M.

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

Communication.

A communication from the Executive Office for Administration and Finance (under the provisions of Section 3B of Chapter 7 of the General Laws) submitting notice of the Secretary's intention to amend fees for licenses, permits, and services to be charged by state agencies (received Thursday, July 22, 2004),— **was placed on file.**

Reports of Committees.

By Ms. Fargo, for the committee on Local Affairs and Regional Government, on petition, a Bill relative to the charter of the town of Rockland (Senate, No. 2435) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill relative to the charter of the town of Rockland (Senate, No. 2436) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill relative to the charter of the town of Rockland (Senate, No. 2437) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill relative to the charter of the town of Rockland (Senate, No. 2438) [Local approval received];

By Mr. Tolman, for the committee on Public Service, on petition, a Bill relative to civil service positions in the city of Northampton (Senate, No. 2441) [Local approval received];

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

Mr. Magnani for the committee on Steering and Policy, reported that the following matters be placed in the Orders of the Day for the next session:

The Senate Bill to protect patient safety in the delivery of health care services (Senate, No. 2242) (the committee on Ways and Means having recommended that the bill be amended substituting a new draft with the same title (Senate, No. 2459).

The House bills

Relative to the licensing authorities for day care providers (House, No. 4418); and
Relative to dental hygienists (House, No. 4653).

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 5003) of Michael J. Rodrigues and Joan M. Menard (by vote of the town) for legislation to authorize the conservation commission of the town of Westport to transfer certain conservation land to the board of selectmen of said town,— **was referred, in concurrence, to the committee on Local Affairs and Regional Government.**

Bills

Requiring continuing education for licensed plumbers and gas fitters (House, No. 4750,— on House, No. 549); and Authorizing water sub-metering in residential tenancies (House, No. 5001,— on House, No. 4592, in part); **Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Resolutions.

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

Resolutions (filed by Mr. Antonioni) “congratulating Jonathan Corey on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Mr. Montigny) “congratulating Clube Madeirense S.S. Sacramento, Inc.”; and

Resolutions (filed by Mr. Tarr) “on the occasion of the retirement of Robert W. Noseworthy.”

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5020) of John H. Rogers (by vote of the town) relative to authorizing the town of Norwood to grant a retirement pension to Joseph Fernandes, a police officer of said town;

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

Petition (accompanied by bill, House, No. 5021) of Stephen J. Buoniconti (by vote of the town) that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land to the town of West Springfield;

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

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:

The Senate Bill relative to the city of Melrose (Senate, No. 2374),— **was read a third time and passed to be engrossed. Sent to the House for concurrence.**

The House Bill relative to the Winchendon District Court (House, No. 2638),— **was read a third time and passed to be engrossed, in concurrence.**

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to interest arbitration for the State Police Association of Massachusetts (Senate, No. 1447),— **ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2466).**

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

The bill (Senate, No. 2466) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and the nays, at twenty-three minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays, No. 641**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.

Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — **1.**

The yeas and nays having been completed at eighteen minutes before two o'clock P.M., the bill was passed to be engrossed.
Sent to the House for concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill establishing a citizen review board (House, No. 4969),— **was read a second time, ordered to a third reading and read a third time, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act establishing a department of correction citizen review board."**

After debate, Mr. Berry in the Chair, the question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at eleven minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 16 — nays 22) [**Yeas and Nays, No. 642**]:

YEAS.

Antonioni, Robert A.	Magnani, David P.
Barrios, Jarrett T.	McGee, Thomas M.
Berry, Frederick E.	Montigny, Mark C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.

Creem, Cynthia Stone	Tolman, Steven A.
Fargo, Susan C.	Tucker, Susan C.
Havern, Robert A.	Wilkerson, Dianne — 16.

NAYS.

Baddour, Steven A.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Glodis, Guy W.	O’Leary, Robert A.
Hart, John A., Jr.	Pacheco, Marc R.
Hedlund, Robert L.	Panagiotakos, Steven C.
Joyce, Brian A.	Shannon, Charles E.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E.
Melconian, Linda J.	Tisei, Richard R.
Menard, Joan M.	Walsh, Marian — 22.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

Ms. Walsh in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4 to perform the duties of the Chair) the yeas and nays having been completed at a quarter past two o’clock P.M., the bill was *rejected* the Senate having *refused* to pass the bill.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill providing coverage for lymphedema treatments (Senate, No. 848),— **ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2471).**

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

The bill (Senate, No. 2471) was then ordered to a third reading, read a third time and passed to be engrossed.
Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The House Bill relative to child labor (House, No. 4891, printed as amended),— **came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2424 with a further amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4983.**

Senate Rule 36 was suspended, on motion of Mr. Lees, and the House amendment was considered forthwith.

On motion of Mr. Hart and Ms. Walsh the Senate concurred in the House amendment *with a further amendment* in section 2, in proposed section 66, by inserting after the word “day”, at the end of the first sentence, the following words:— “, **except that**

such a child may be employed in a restaurant until 12:00 midnight to accomplish tasks consistent with closing on any night other than a night preceding a regularly scheduled school day”; and

In section 3, in the first paragraph of proposed section 78A, by striking out the second sentence and inserting in place thereof the following sentence:— **“The citation may require a person: (1) to comply immediately with sections 56 to 104, inclusive; (2) for each willful violation of any of those sections, to pay a civil penalty of not more than \$250 for the first offense, \$500 for the second offense, and \$2,500 for the third and each subsequent offense; and (3) for each violation that is not willful of any of those sections, to pay a civil penalty of not more than \$100 for the first offense, \$200 for the second offense, and \$500 for the third and each subsequent offense.”**

Sent to the House for concurrence in the further amendment.

The Senate Bill relative to certain consumer transactions and the satisfaction of security interests (Senate, No. 2238, amended),— **came from the House passing to be engrossed, in concurrence with amendments striking out section 1 and inserting in place thereof the following section:**

“SECTION 1. Section 24 of Chapter 90D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:—

If the payment in satisfaction of the security interest is in cash or by certified check, cashier’s check, teller’s check, intra-bank or inter-bank transfer of funds, or an electronic transfer of funds, the payment shall be deemed to be cleared immediately upon receipt by a lienholder.”; and in section 2, in line 22, by inserting after the word “error.”, the following sentence:— **“A lienholder shall not be found liable for such noncompliance if such noncompliance occurred as a result of an action or inaction of the registry or the registrar.”.**

The rules were suspended, on motion of Mr. Lees, and the House amendment was considered forthwith and adopted, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill relative to the reporting and liability of the chief and district medical examiners (see House, No. 4923), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 3 to 0. **The bill was signed by the Acting President (Ms. Walsh) and sent to the House for enactment.**

Engrossed Bills.

The following engrossed bills (the first of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and the first being signed by the President and the latter two by the Acting President (Ms. Walsh) and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Carole M. Lee, an employee of the Department of Social Services (see Senate, No. 2230); Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the town of Plainville (see House, No. 4201); and Placing certain members of the fire department of the town of Hanover under the civil service law (see House, No. 4817).

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the Nantucket Islands Land Bank to grant a conservation restriction to the Nantucket Conservation Commission (see Senate, No. 1167) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-seven minutes before three o’clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 643**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.

Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — **1.**

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

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The Senate Bill authorizing the city of Quincy to establish an affordable housing trust fund (Senate, No. 2337),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Morrissey moved that the bill be amended by substituting a new draft with the same title (Senate, No. 2469).

The amendment was adopted.

The bill (Senate, No. 2469) was then passed to be engrossed.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A Bill relative to the use of safety helmets for persons under the age of sixteen while operating bicycles, in-line skates, scooters, and skateboards (House, No. 1920, amended,— on House, Nos. 1910, 2496 and 3397),— **was read.**

There being no objection, the rules were suspended, and the bill was read a second time.

Mr. Morrissey moved that the bill be amended in section 2, by inserting after the word “vehicle”, in line 6, the following words:— **“or riding as a passenger on any such manually-propelled vehicle”**.

This amendment was adopted.

The bill was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act relative to the use of safety helmets for persons 16 years of age and under while operating or riding as a passenger on bicycles, in-line skates, scooters and skateboards.”

Sent to the House for concurrence in the amendment.

Engrossed Bills — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Yarmouth to lay out a public way over certain wellfield land (see House, No. 4707) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at sixteen minutes before three o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 644]:**

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eleven minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Ms. Walsh) and laid before the Governor for his approbation.

An engrossed Bill authorizing the city of Waltham to continue the use of certain park land for water purposes (see Senate Bill, printed as House, No. 3849) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at ten minutes before three o'clock P.M., as follows, to wit (yeas 35 — nays 3) [**Yeas and Nays No. 645**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 35.
Melconian, Linda J.	

NAYS.

Knapik, Michael R.	Sprague, Jo Ann — 3.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at five minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Ms. Walsh) and laid before the Governor for his approbation.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill relative to the operation of motorized scooters (House, No. 1544, amended),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Shannon moved that the bill be amended in section 2, in the proposed section 1B, by striking out the third sentence and inserting in place thereof the following sentence:— “A person operating a motorized scooter upon a way shall have the right to use all public ways in the commonwealth except limited access or express state highways where signs specifically prohibiting bicycles and scooters have been posted, and shall be subject to all traffic laws and regulations of the commonwealth and the regulations contained in this section, except that: (1) a motorized bicycle or scooter operator shall keep to the right side of the road at all times, including when passing a motor vehicle which is moving in the travel lane of the way; and (2) the motorized bicycle or scooter shall be equipped with operational stop and turn signals so that the operator can keep both hands on the steering bars at all times.”

The amendment was adopted.

Subsequently, the President in the Chair, Mr. Shannon offered a further amendment in section 1, in line 16, by striking out the word “twenty-five” and inserting in place thereof the following figure:— “20”.

The amendment was adopted.

The bill was then passed to be engrossed, in concurrence, with the above amendments, and with the amendment previously adopted by the Senate.

Sent to the House for concurrence in the amendments.

PAPER FROM THE HOUSE.

Engrossed Bill Returned by Governor With His Objections Thereto.

Ms. Walsh in the Chair, the engrossed Bill authorizing the town of Marion to develop and maintain a subsidized housing plan for low and moderate income housing (see House, No. 4631), which, on Thursday, July 8, 2004, had been laid before His Excellency the Governor for his approbation,— **came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing [for message, see House, No. 4994], and having passed that branch, notwithstanding said objections.**

The message (House, No. 4994) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

The question on passing the bill, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 646**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela

Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — **1.**

The yeas and nays having been completed at four minutes past three o'clock P.M., the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 255 (MassHealth — Nursing Facility Waiver Application 1) was considered as follows:

“SECTION 255. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall, by September 24, 2004, apply to the federal Centers for Medicare and Medicaid Services for a waiver from the provisions of 42 U.S.C. §1396b(w)(3)(B) for the nursing facility user fee created by section 25 of chapter 118 of the General Laws, to mitigate the impact of the user fee on nursing facilities that: (1) have 100 or fewer licensed beds; (2) were established and licensed in Massachusetts prior to the enactment of the Health Insurance for the Aged Act, Pub. L. 89-97, Title I, 79 Stat. 290, and the Medicaid Act, Pub. L. 89-97, Title 1, §121(a), 79 Stat. 343, on July 30, 1965; and (3) are not participating in either of the Medicare or Medicaid programs.

The form of such a waiver application shall meet the requirements for automatic approval by the federal Centers for Medicare and Medicaid Services pursuant to 42 U.S.C. §1396b(w)(3)(E), including (1) that the net impact of the nursing facility user fee with the waiver remains generally redistributive in nature, as provided in 42 C.F.R. §433.68(e)(1)(ii), and (2) that the amount of the nursing facility user fee with the waiver remains not directly correlated to payments for items or services, and therefore meets the hold harmless requirements provided in 42 C.F.R. §433.68(f).

In the waiver application, patient days from nursing facilities not described in the first paragraph above that must be exempted from the nursing facility user fee in order for the waiver application to meet the requirements for automatic approval by the Centers for Medicare and Medicaid Services shall be apportioned equally between nursing facilities in Essex, Middlesex, Norfolk, Plymouth, and Suffolk counties.”

[The Governor disapproved this item.]

After debate, the question on passing section 255, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past three o'clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 647**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eighteen minutes past three o'clock P.M., section 255 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 256 (MassHealth — Nursing Facility Waiver Application 1) was considered as follows:

“SECTION 256. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall amend its April, 2004 application to the federal Centers for Medicare and Medicaid Services (CMS) for a waiver from the uniformity provisions of 42 U.S.C. §1396(w)(b) to mitigate the impact of the user fee on nonprofit continuing care retirement communities and nonprofit residential care facilities. The amended waiver application shall be submitted to CMS within 45 days of the effective date of this section in a manner that is automatically approvable by the federal Centers for Medicare and Medicaid Services pursuant to 42 CFR 433.68(2)(ii). In addition to nonprofit continuing care retirement communities and nonprofit residential care facilities, the division shall include in its amended waiver application, as facilities with non-uniform rates, non-profit facilities with the highest number of Medicaid days in order for the application to meet the generally redistributive test in 42 CFR 433.68(2)(ii).”

[The Governor disapproved this item.]

After debate, the question on passing section 256, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes past three o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 648]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-three minutes past three o'clock P.M., section 256 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 305 (Drug prior authorization program) was considered as follows:

“SECTION 305. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall submit on or before February 1, 2005 to the house and senate committees on ways and means a report detailing the cost-effectiveness of the drug prior authorization program, including an (a) the direct cost of the prior authorization program; (b) the analysis of: estimated amount, if any, of cost shifting to physicians in terms of additional time spent in obtaining authorization for a selected course of therapy; (c) internal program costs shifting, if any, including but not limited to additional prescriptions, laboratory tests, physician visits, hospitalization, and skilled nursing care that are associated with implementation of the prior authorization program, (d) whether the prior authorization program is adequately meeting the needs of patients to obtain needed medications in a timely manner, which will include an analysis of the length of time it takes for the prior authorization program to approve or deny requests for prescriptions, and an examination of the grievance mechanism for interested parties to appeal any decision made by the executive office of health and human services, including the number of appeals, and the outcome of such appeals. The report shall include all therapeutic classes that are currently subject to prior authorization. Any contractor retained to develop and prepare the report shall not be related to any contractor retained by the state to develop and implement the prior authorization program.”

[The Governor disapproved this section.]

After debate, the question on passing section 305, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-six minutes past three o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 649**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a half past three o'clock P.M., section 305 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0500 (MassHealth Managed Care services) was considered as follows:

“4000-0500 For health care services provided to medical assistance recipients under the executive office’s primary care clinician/mental health and services substance abuse plan or through a health maintenance organization under contract with the division; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap; provided further, that the secretary shall submit a report to the house and senate committees on ways and means which shall include MassHealth enrollment in managed care organization as of July 1, 2004 compared to said enrollment on December 1, 2004; provided further, that said report shall be submitted no later than December 15, 2004; provided further, that the commissioners of medical assistance and mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; provided further, that such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health; provided further, that in conjunction with the new Medicaid management information system project, said division study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that said secretary shall report to the house and senate committee on ways and means not later than February 1, 2004 the results of said study, any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further, that not less than \$10,000,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units, including pediatric chronic and rehabilitation long-term care hospitals as allowable under federal law; provided further, that \$1,100,000 shall be available for medical interpreter services to MassHealth members in emergency rooms and acute psychiatric units within acute care or psychiatric hospitals; and provided further, that not less than 20 per cent of the amount shall be expended for grants awarded through a competitive bidding process intended for innovative methods to improve interpreter services and contain costs; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals 2,319,197,919”.

[The Governor reduced said item by \$11,700,000 and disapproved wording as follows: “; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap”; and “; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals”.]

The question on passing item 4000-0500, contained in section 2, in concurrence, the reductions and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes before four o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 650]**:

YEAS.

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

Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-five minutes before four o'clock P.M., item 4000-0500, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7007-1200 (Mass Technology Park Collaborative) was considered as follows:

“7007-1200 For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that such clusters may be characterized by technological or market focus, geographic proximity or other shared interests; provided further, that cluster activities shall be deemed to be the exercise of an essential governmental function intended to: (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the commonwealth through 1 or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, operation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; provided further, that the executive director shall file a report with the house and senate committees on science and technology and the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 15, 2005; provided further, that not less than \$525,000 shall be expended by the Massachusetts technology collaborative

to assist the Massachusetts department of business and technology to support each of the 7 regional competitive councils through a matching grant program or other equivalent support; provided further, that of said \$525,000 each of the 7 regional competitiveness councils shall receive or benefit from not less than \$75,000; provided that each dollar awarded to each regional competitiveness council shall be matched by one dollar in matching investment; and provided further, that the Massachusetts department of business and technology shall submit quarterly reports to the house and senate committees on ways and means and the joint committee on commerce and labor detailing the amounts awarded and the purposes for said grants 3,025,000”.

[The Governor reduced said item by \$2,000,000 and disapproved wording as follows: “provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, operation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item”]

The question on passing item 7007-1200, contained in section 2, in concurrence, the reductions and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-two minutes before four o’clock P.M., as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 651**]:

YEAS.

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

NAYS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 6.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The President in the Chair, the yeas and nays having been completed at twenty minutes before four o'clock P.M., item 7007-1200, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7113-0105 (Wireless Learning) was considered as follows:

“7113-0105 For the Massachusetts College of Liberal Arts; provided that not less than \$250,000 shall be expended for capacity building at the Massachusetts College of Liberal Arts in conjunction with a pilot wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; and provided further, that not less than \$250,000 shall be expended for the assessment and evaluation of the higher education resources available to residents of Berkshire County 500,000”.

[The Governor disapproved this item]

The question on passing item 7113-0105, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes before four o'clock P.M., as follows, to wit (yeas 31 — nays 7) **[Yeas and Nays No. 652]**:

YEAS.

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

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.

Lees, Brian P.	
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ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter before four o'clock P.M., item 7113-0105, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 94 (Local Permitting to Support Economic and Community Development) was considered as follows:

“SECTION 94. The General Laws are hereby amended by inserting after chapter 43C the following chapter:—

CHAPTER 43D.

Expedited Permitting.

Section 1. This chapter shall apply in a city or town upon its acceptance under section 4 of chapter 4. Sections 2 to 5, inclusive, shall be adopted together, but collectively may be adopted without section 6. If section 6 is adopted, then sections 2 to 5, inclusive, shall also be adopted. The adoption of any portion of this chapter shall be considered to be an amendment to any contrary laws, local charters or laws having the force of charters.

Section 1A. The secretary of administration and finance shall collaborate with the commissioner of the department of revenue and the state treasurer to develop incentives that expedite local permitting and zoning consistent with the provisions set forth herein. Said incentives may include, but shall not be limited to, use of payments pursuant to section 25A of chapter 58 to cities and towns, or other forms of fiscal incentives. Said secretary shall report to the house and senate committees on ways and means not later than November 1, 2004, on any such recommendations necessary to implement the incentives proposed to effectuate such expedited permitting, including any related legislation.

Section 2. The following words shall have the following meanings unless the context clearly requires otherwise:

‘Issuing authority’, a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development.

‘Municipality’, the locality acting through the relevant issuing authority as it pertains to actions required or allowed by this chapter.

‘Office’, the municipal office of permit coordination provided for in subsection (b) of section 3.

‘Permit’, a permit formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land or structures required by any issuing authority including but not limited to those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive and sections 81X to 81GG inclusive, of chapter 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclusive of chapter 111, chapter 40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance adopted under home rule authority, and all associated regulations, by-laws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. “Permit” shall not include the licensing of an individual to engage in a profession or the decision of an agency to dispose of property under its management or control. ‘Permit’ shall also not include predevelopment reviews conducted by the municipal office of permit coordination or a technical review team. Permits and approvals shall not include permits and approvals granted by the Massachusetts water resources authority under its authority or under authority delegated from an agency otherwise covered by this chapter. Permits and approval actions taken pursuant to a federal delegation shall be excepted only to the extent that the terms of such delegation are inconsistent with this chapter.

‘Technical review team’, an informal working group consisting of representatives of the various issuing authorities designated by the head of their issuing authority, to review requests submitted under the procedures established pursuant to sections 3 to 6, inclusive. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) The municipality shall, within 180 days of acceptance of any of the provisions of sections 2 to 6, inclusive, amend where necessary, rules and regulations on permit issuance to conform with those sections and may adopt guidelines consistent with this chapter. The municipality shall collect and ensure the availability of, and the issuing authorities shall memorialize and ensure the availability of, all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to

each permit. The municipality is encouraged to compile a comprehensive permitting process guidebook and to provide other informational assistance relative to permitting through a single point of contact established pursuant to subsection (b).

(b) A city or town shall establish, or designate an existing office or staff member to serve as a single point of contact for the purposes of coordinating and facilitating the land use permitting process. The office or staff member so designated shall be the municipal office of permit coordination, hereinafter referred to as the office. In fulfilling the functions established in this chapter, the office shall consult with the authorities having substantive jurisdiction over the issuance of permits. To the greatest extent possible, the office shall fulfill the procedural responsibilities of the municipality.

(c) The municipality, to the greatest extent possible, shall establish a procedure for coordinated and concurrent review of all permit reviews required for a single project and, where feasible, shall coordinate municipal review with state review. Nothing in sections 2 to 6, inclusive, shall be construed to alter the substantive jurisdictional authority of issuing authorities.

(d) The municipality, through the office, shall establish a procedure whereby the municipality shall identify, based upon submission by the applicant of a form provided by the municipality all permits, reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities. The municipality shall notify the applicant of such requirements in writing within 20 business days from receipt of the completed form. The municipality may provide for pre-application conferences to facilitate this process.

The office and the applicant may publish an early notice in a local paper, and a statewide paper or the Environmental Monitor, with a description of the project and scope of review preliminarily suggested by the office. The early notice shall be in addition to any required notice for required public hearings and may, at the municipality's option, direct inquiries to either the office or the applicant.

The failure of a municipality to notify an applicant of a requirement of a public hearing or comment period shall not waive the legal requirement for any such requirement. If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall, where public notice and comment or hearing are not required, complete action on the application filed for the previously unidentified permit within 35 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 35 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

(e) The municipality shall establish a procedure, following the notification of the required submissions for review as set forth in subsection (d), for determining the completeness of the submission by the applicant of all materials required for the review of the project, which shall be not later than 10 business days after receipt of the application materials. If the municipality fails to send notification that an application is not complete within that time period, the application shall be considered complete. If the municipality determines the application is not complete, the written notice shall include a concise statement regarding the reasons why the application is incomplete. The resubmission of the application or the submission of such additional information required by the municipality shall commence a new period for review of the additional information for purposes of determining completeness. A finding that the application is complete shall not prevent the municipality from requesting additional information during the course of project review.

(f) The municipality shall, within 180 days after acceptance of any provision of sections 2 to 6, inclusive, establish time periods within which all permit reviews shall be conducted and completed. The timelines shall begin to run upon issuance of the notice that the application materials are complete pursuant to subsection (e). The timeline shall not exceed 90 days for reviews which do not require public hearings and 120 days for reviews which require a public hearing. The procedure shall provide for the consolidation of public hearings and public notices. Public notices shall appear in a local newspaper and the Environmental Monitor at least twice before the hearing date. At the written request of 10 citizens, an additional public hearing shall be held, if the 120-day time period for review, established under this section, has not been exceeded. Where appropriate, the municipality may establish general permits and permits by rule which shall consist of standards of performance specified by the issuing authority and shall be authorized after a written filing by the applicant.

(g)(1) If the issuing authority fails to act within the time period established by the municipality pursuant to subsection (f), the relief requested shall be considered granted by operation of law. In that event, within 14 days from the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the automatic approval and stating that notice of the automatic grant has been mailed, by certified mail, to all parties to the proceedings and all person entitled to such notice of hearing in connection with the application. Appeals from the automatic grant, if any, shall be filed by an aggrieved person within 20 days after the date the city or town clerk received the affidavit in accordance with section 17 of chapter 40A. A plaintiff shall provide written notice of the action with a copy of the complaint to all parties on the administrative record within 10 business days after filing the complaint and an affidavit of the notice shall be

filed with the court. If the affidavit is not filed within that time, the complaint shall be dismissed. The court shall advance any action so that it may be heard and determined as soon as possible. The court shall hear all evidence and determine the facts, and upon the facts determined, shall issue a decree as justice and equity may require.

(2) An automatic grant of approval shall not occur where: (i) the city or town has made a timely determination that the application is not complete in accordance with its regulations; (ii) the final application contained false or misleading information; or (iii) substantial changes to the project which affect the information required to process the permit application have occurred since the filing of the application.

(3) A time period specified in this section may be waived or extended for good cause by written request of the applicant with the consent of the municipality or by the written request of the head of the issuing authority with the consent of the applicant. A time period specified by this section shall be extended when the issuing authority determines in writing either: (i) that action by another federal, state or municipal government agency is required before the issuing authority may act; (ii) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (iii) that enforcement proceedings which could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time periods specified in this section, beginning the day after the notice is issued. Any time period specified in this section may be extended by the head of the issuing authority where significant public comment has been received which would, on its face, appear to constitute grounds for the issuing authority to deny the permit or significantly modify the permit. An extension of a time period shall be filed by the issuing authority with the city or town clerk before the end of the otherwise applicable time period.

(4) An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application in accordance with sections 2 to 5, inclusive and section 6, where applicable.

(h) The municipality shall establish an informal procedure to allow permit applicants to obtain advisory review by a technical review team of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing authority which has affected or will affect the ability of the applicant to obtain timely review of the permit application. Procedures shall provide for filing by the applicant of a request for review, representation by the permit issuing authority on the technical review team, and a period not to exceed 30 days for issuance of a decision. Invocation of this procedure shall toll the review time periods. An advisory determination or ruling made pursuant to a procedure established in this section shall not constitute a decision or final action and shall not be subject to any right of administrative or judicial review.

In addition to any fees that may be assessed by an issuing authority pursuant to sections 53 and 53G of said chapter 44, the office may establish an additional and separate fee for the carrying out of its duties under any provision of sections 2 to 7, inclusive, and may deposit the fees in a special account. The account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the office or another office designated to serve as that office, without further appropriation; provided, however, that the funds shall be expended by it only in connection with carrying out its responsibilities under any provision of sections 2 to 7, inclusive. At the sole discretion of the office, an annual surplus in fees may be used for the development of the regional plans, subject to matching funds by the municipal legislative body.

Section 4. An administrative appeal from a permitting decision shall be filed within 21 days after the issuing authority renders a decision. Nothing in this subsection shall be construed to create rights of appeal where a statutory form of administrative review or appeal is not otherwise provided.

Section 5. (a) Permits shall transfer automatically to successors in title, except for permits where financial ability to meet permit requirements, posting of a bond or the qualifications of an applicant are a condition or requirement for obtaining the permit, and the permit expressly requires approval of the issuing authority before transfer. Within 180 days of the acceptance of sections 2 to 6, inclusive, the municipality shall publish in a local newspaper and in a statewide newspaper or the Environmental Monitor a list of all permits which require the approval of the authority before transfer.

(b) Issuing authorities having substantive jurisdiction over permit issuance, in consultation with the office, may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in sections 2 to 5, inclusive, and section 6, where applicable.

(c) Permit modification requests shall be reviewed by an issuing authority within time frames set forth in this paragraph. An issuing authority shall inform an applicant within 15 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 15 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by

the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original time frames for permit categories as set forth in subsection (f) of section 3 shall apply.

(d) Permits issued pursuant to sections 2 to 5, inclusive, shall expire 2 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of 1 building shall preserve the permit validity. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 6. (a) A municipality which also accepts this section shall adopt procedures in this section for the designation and development of priority development sites.

(b) For the purposes of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

'Priority development site', a privately or publicly owned, municipally designated property which, at the request of the owner, is entitled to proceed with state and local permitting processes based upon a master plan of building sizes, categories of use and other relevant land use issues, including brownfields. There may be several different parcels or projects within a single priority development site.

'Priority master plan', a master plan for a priority development site which contains all information necessary to conduct a review of a priority development site for the purposes of state and municipal land use permits and reviews.

'Priority proposal', a document containing all information related to an actual proposed development project within a priority development site.

(c) To be eligible for designation as a priority development site, the property shall (1) be commercially or industrially zoned; and (2) be eligible under applicable zoning provisions, including special permits or other discretionary permits, for the construction of a building of 90,000 square feet of gross floor area or more. Municipalities, with advice and consent of the Massachusetts office of business development, may designate a property which does not meet these criteria if they determine that a proposed property presents an important opportunity for a commercial or industrial use.

(d) To have a property designated as a priority development site, the owner of the property shall file a request with the office. The request shall include a description of the property and buildings and evidence of compliance with the eligibility criteria in this section. The municipality shall issue a decision within 20 days. Each municipality shall establish a procedure for reviewing requests and making designations and shall weight favorably plans which are consistent with existing or proposed area growth management and planning documents.

(e) If designated, the owner shall consult with the Massachusetts office of business development and the executive office of environmental affairs, which shall designate a high-level representative to coordinate this process, to develop the scope of information required for a priority profile.

(f) Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall be conducted concurrently and shall conclude within 120 days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this subsection. In the event an applicant fails to comply with all relevant timeframes, the time shall be tolled until the applicant files the required documents.

(g) Notwithstanding any law to the contrary, a public notice or hearing necessitated by a proposed project on a priority development site shall be consolidated into a single hearing by the office and the commonwealth.

(h) A developer of a project within a priority development site shall file a priority proposal.

(i) The municipality and the executive office of environmental affairs shall prepare a form for priority proposals for priority development sites and shall designate one representative to review priority proposals. Municipal and state agencies shall render permit decisions within 60 days of issuance of receipt of a completed priority proposal which falls within the priority profile or which falls within 10 per cent differential of the priority profile, and within 90 days for all other priority proposals.

(j) Permits and approvals issued relative to a priority development site shall expire 5 years from the date of issuance unless exercised sooner. A project or parcel for which a priority proposal has been filed within the 5-year period shall be eligible for this process. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates.

(k) A priority development site shall also be eligible for the following benefits:

- (1) priority consideration for Community Development Action Grants and Public Works Economic Development Grants;
- (2) accelerated consideration for other state resources such as quasi-public financing and training programs;
- (3) brownfields remediation assistance; and
- (4) enhanced marketing of the site by the Massachusetts office of business development.

(1) This section shall not apply where the municipality and commonwealth determine that the priority master plan or any required submissions have omitted requested or relevant information or contained false or misleading information.

Section 7. If any part of sections 1 to 6, inclusive, shall be found by a court of law to be unconstitutional, invalid or in conflict with federal or state requirements which are a condition precedent to the allocation of federal or state funds to a municipality or with the delegation of a federal or state permitting program, the remainder of these sections shall not be affected thereby.”

[The Governor disapproved this section.]

The question on passing section 94, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes before four o'clock P.M., as follows, to wit (yeas 33 — nays 4) [Yeas and Nays No. 653]:

YEAS.

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

NAYS.

Hedlund, Robert L.	Lees, Brian P.
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Knapik, Michael R.	Sprague, Jo Ann — 4.
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ABSENT OR NOT VOTING.

Melconian, Linda J.	Moore, Richard T. — 2.
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The yeas and nays having been completed at eleven minutes before four o'clock P.M., section 94 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 228 (Connors Pool in Waltham) was considered as follows:

“SECTION 228. Item 2840-2016 of section 2 of chapter 236 of the Acts of 2002 is hereby amended by striking the words ‘; provided further, that \$200,000 shall be expended for renovation of the Connors pool in the city of Waltham’ and inserting in place thereof the following:— provided further, that \$1,200,000 shall be expended for renovation of the Connors pool in the city of Waltham.”

[The Governor disapproved this section.]

The question on passing section 228, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at ten minutes before four o'clock P.M., as follows, to wit (yeas 30 — nays 8) [**Yeas and Nays No. 654**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 30.

NAYS.

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 8.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eight minutes before four o'clock P.M., section 228 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 229 (Chelsea Vietnam Veteran's Memorial Pool) was considered as follows:

“SECTION 229. Item 2840-2016 of section 2 of chapter 236 of the Acts of 2002 is hereby amended by inserting at the end thereof the following:— and provided further, that not less than \$5,000,000 shall be expended for the repair, renovation and reconstruction of Vietnam Veterans Memorial Pool in the city of Chelsea.”

[The Governor disapproved this section.]

The question on passing section 229, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes before four o'clock P.M., as follows, to wit (yeas 30 — nays 8) **[Yeas and Nays No. 655]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 30.

NAYS.

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 8.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at five minutes before four o'clock P.M., section 229 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0610-0140 (Investment Services) was considered as follows:

“0610-0140 For the purpose of funding administrative, transactional research expenses associated with maintaining and increasing the interest earnings on the Commonwealth’s General and Stabilization

Fund investments 150,000”.

[The Governor disapproved this item]

The question on passing item 0610-0140, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at four minutes before four o'clock P.M., as follows, to wit (yeas 31 — nays 7) [**Yeas and Nays No. 656**]:

YEAS.

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

Melconian, Linda J.	
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NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at two minutes before four o'clock P.M., item 0610-0140, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1102-3233 (Pondville Cleanup) was considered as follows:

“1102-3233 For a reserve to commence the environmental remediation and any necessary work related to said remediation at the property located in Norfolk, Massachusetts formerly known as the Department of Public Health Pondville Hospital as said property is identified in chapter 519 of the acts of 1980 so as to ensure that any and all contamination and hazardous waste or material is eliminated from said site as required by section 679 of chapter 26 of the acts of 2003; provided, that the commissioner of the division of capital asset management and maintenance shall submit an expenditure plan no later than September 1, 2004 to the house and senate committees on ways and means detailing how funds appropriated herein shall be expended; provided further, that all funds appropriated herein shall be expended solely on environmental remediation directly related to said site; and provided further, that no funds appropriated herein shall be expended for administrative related expenditures 1,000,000”.

[The Governor disapproved this item]

The question on passing item 1102-3233, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute before four o'clock P.M., as follows, to wit (yeas 36 — nays 2) [**Yeas and Nays No. 657**]

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.

Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert 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 — 36.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.
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ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at two minutes past four o'clock P.M., item 1102-3233, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 371 (BFI Landfill Closure Study) was considered as follows:

“SECTION 371. The Department of Environmental Protection, Solid Waste Management Section shall study the closure of the BFI landfill located in the city of Fall River at the completion of Phase II, Cell D. Said study shall include, but not be limited to the following; (1) the possibility of no longer accepting any waste matter, ash, or any other material with the completion of Phase II, Cell D, (2) using only materials to complete the closing will be accepted at the facility, (3) the prohibition of any expansion into any other portion of the landfill site, including Phase III, (4) the direction and flow of the subsurface groundwater surrounding the Browning Ferris Landfill in Fall River, (5) the testing of the groundwater contaminants leaching from the landfill and mapping of the travel direction and distances traveled by the contaminated groundwater, (6) and any other matters involving the closure of said landfill and the possible contamination of groundwater in areas around said landfill. The department shall report its findings together with any recommended response actions by the commonwealth to the Joint Committee on Natural Resources and Agriculture and House and Senate Committees on Ways and Means not later than May 1, 2005.”

[The Governor disapproved this section.]

The question on passing section 371, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past four o'clock P.M., as follows, to wit (yeas 33 — nays 4) [**Yeas and Nays No. 658**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.

Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

NAYS.

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Moore, Richard T. — 2.
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The yeas and nays having been completed at eleven minutes past four o'clock P.M., section 371 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 401. (Town of Pembroke Town Treasurer and Town Collector) was considered as follows:

“SECTION 401. The position of town treasurer and town collector in the town of Pembroke shall be combined and the combined position shall be appointed by the board of selectmen of the town for a term not to exceed 3 years and the person so appointed shall have all of the powers and duties by law vested in the office of the town treasurer and town collector. Any vacancy in such office shall be filled in like manner. The board of selectmen may remove any person so appointed for cause after a hearing.

Notwithstanding the foregoing, the incumbent holding the offices of town treasurer and town collector on the effective date of this act shall continue to hold such offices and to perform the duties thereof until the expiration of the terms for which she was elected, unless she sooner vacates such offices. After the term of the incumbent town treasurer and town collector holding such offices on the effective date of this act have both expired, or both offices are sooner vacated, the board of selectmen shall appoint a treasurer/collector in the manner set forth above. Should the incumbent town treasurer remain in office, upon the expiration of her term in 2005, the board of selectmen will appoint her interim town treasurer until her term as collector expires in 2006. The board of selectmen may appoint a treasurer/collector as described above.

Notwithstanding chapter 32 of the General Laws, section 116 of chapter 46 of the acts of 2003 or any other general or special law to the contrary, the incumbent treasurer and collector on the effective date of this section shall be eligible for retirement under section 116 of chapter 46 of the acts of 2003, provided however, that said incumbent must file an application for retirement by a date to be determined by the board of selectmen, such date to be not later than September 6, 2004; and provided further, that notwithstanding section 5 of chapter 32, requiring a retirement date within 4 months of filing of an application for superannuation retirement, the board of selectmen may determine a retirement date not earlier than September 6, 2004 and not later than her term ending on April 30, 2005.”

[The Governor disapproved this section.]

The question on passing section 401, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twelve minutes past four o'clock P.M., as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 659**]:

YEAS.

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

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 6.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at fourteen minutes past four o'clock P.M., section 401 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1201-0130 (Adult Enforcement Retained Revenue) was considered as follows:

“1201-0130 The department of revenue may expend an amount not to exceed \$9,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of a tax return or the payment of a tax due and payable to the commonwealth, for the costs of obtaining those delinquent

returns and collecting those delinquent taxes for a prior fiscal year; provided, that the commissioner may expend funds from this item to support the operational costs of the department funded from item 1201-0100; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of six months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws 9,640,000".

[The Governor disapproved wording as follows: “; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation” and “; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of six months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws”]

The question on passing item 1201-0130, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at a quarter past four o'clock P.M., as follows, to wit (yeas 33 — nays 5) **[Yeas and Nays No. 660]**:

YEAS.

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

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tisei, Richard R. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eighteen minutes past four o’clock P.M., item 1201-0130, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0112 (Youth Development Grants) was considered as follows:

“4000-0112 For matching grants to boys’ and girls’ clubs, YMCA and YWCA organizations and nonprofit community centers; provided, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2005 by March 1, 2005; provided further, that not less than \$920,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs to provide grants to boys and girls of Massachusetts; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$10,000 shall be expended for the Scantic Valley YMCA; provided further, that not less than \$40,000 shall be expended for the public partnership

program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$40,000 shall be expended for the Saugus YMCA; provided further, that not less than \$20,000 shall be expended for the youth counseling, GED/School-to-Career program, drug prevention and at-risk youth services at a regional youth center in Uxbridge; provided further, that not less than \$100,000 shall be expended for the YMCA Spartacus program in Worcester; provided further, that not less than \$69,000 shall be expended to the Franklin Community Action Commission for youth services; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA 2,029,000”.

[The Governor reduced said item by \$700,000 and disapproved certain wording as follows: “; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA” and “; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA”.]

After remarks, the question on passing item 4000-0112, contained in section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-four minutes past four o’clock P.M., as follows, to wit (yeas 32 — nays 5) [Yeas and Nays No. 661]:

YEAS.

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

NAYS.

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

ANSWERED “PRESENT”.

McGee, Thomas M. — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-six minutes past four o'clock P.M., item 4000-0112, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 167 (Repeal of MassHealth Estate Recovery I) was considered as follows:

“SECTION 167. Section 31 of Chapter 118E of the General Laws, as amended by chapter 26 of the Acts of 2003, is hereby amended by striking subsections (c) and (c½) and inserting in place thereof the following:—

(c) For purposes of this section, ‘estate’ shall mean all real and personal property and other assets includable in the decedent’s probate estate under the General Laws.”

[The Governor disapproved this section.]

The question on passing section 167, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-seven minutes past four o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 662]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-nine minutes before five o'clock P.M., section 167 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

During consideration of matters pending before the Senate, the President asked the members to pay their respect to several members of the Senate who will not be returning for the next Senate session.

On motion of Mr. Rosenberg, the following remarks were ordered printed in the Journal of the Senate.

Remarks of the Honorable Jo Ann Sprague.

Thank you Mr. President — and through you — my thanks to the Senator from Hampden and Hampshire who honors me greatly with his words.

Well, Mr. President, it is time to say goodbye.

Saying goodbye, Mr. President, to you and my Senate colleagues is going to be very hard for me to do.

How can I not be here with you all — in this Chamber:

Working together.

Debating each other.

Standing tall with each other.

Calling out the yeas and nays together.

How can I stop being the Senator from Bristol and Norfolk when it is one of the grandest experiences I have ever had.

So often, Mr. President, I sit in my chair in this August Chamber and I feel humbled. I am so proud to be a member of the 40 who have been chosen to speak on behalf of all the citizens of the Commonwealth.

Never, Mr. President, in my wildest dreams as an 18-year-old Army private in the deep South did I imagine that I would someday help write a page of the history of the great state of Massachusetts.

Never, Mr. President, as a young mother proudly doing my best, along with my husband, Warren, to stay a step ahead of our six young children. Never did I dream, then, that I would be standing here — on the floor of the Massachusetts Senate:

- Fighting to make the voices of my constituents heard.
- Voting to make sure our war veterans are not forgotten.
- Working to make our state a better place to live.

Saying Goodbye, Mr. President, is going to be very hard to do. As I look around me at my colleagues, I see that there isn't a single one of our members, Mr. President, that I haven't been helped by — either from observing their expertise on the floor — or by receiving their helping hands in my work.

In saying goodbye, Mr. President, let me express, through you, my gratitude to each and every one of you for your warmth, your grace and for the delight each of your personalities has brought to me.

The special qualities held, Mr. President, by you and my colleagues have enriched the lives of me and my family immeasurably. Thanks to each of you for being who you are.

It isn't possible, Mr. President, to say goodbye without telling each of you what an honor and a privilege it has been to serve with you.

Having to say goodbye to our excellent Court Officers, Mr. President, means that I'm no longer to be greeted each day with the welcoming hand of golden-voiced Ben.

Saying goodbye to each and every one of them means the loss of warmhearted Michael's smile that makes everything turn out all right for me and my constituents.

And how do I say goodbye to Mark and Bruce — those magicians of images who make us all look a little better — even on our very worst days.

And if I *could* Mr. President, I would stay a little longer — learn a little better, chat a little further with the Clerk of all Clerks, Billy Welch.

And if I could I would stay a little longer with my crack staff Doug, Joe and Carol.

But, Mr. President, I can't stay a little longer — much as I love this job and being with all of you. *Con te partiro*. It is time to say goodbye.

And now after saying goodbye to you and my colleagues, Mr. President, it is time to say "hello again" to Warren, and all my children and grandchildren, Susan, Julie, Joanne and Lauren, who are here tonight.

To those whose love, patience and loyalty have made this all possible, it is time, Mr. President to say, "Hello again . . . I'm back!"

Remarks of the Honorable David P. Magnani.

Thank you Mr. President. Before I begin my remarks I would like to thank all of my friends and family who have joined us today and ask that they rise now so that we might acknowledge them and thank them for all of their hard work on my behalf . . . Thank you, Mr. President.

And thank you Senators Rosenberg and Walsh for your most generous introductions. We've been friends for a very long time, and the affection and respect is mutual. So too is my respect, affection and admiration for each of you, my House and Senate colleagues past and present. There is, in a sense, and we all share it, a sort of foxhole fellowship among those who serve in elective office. It is born of the fact of being thrown together into an intense high stakes situation and sharing the joys and constant challenges of serving in the public interest and in the public eye.

I particularly appreciate and admire the legislative leaders with whom I have served: Speakers Keverian and Flaherty and Senate Presidents Bulger, Birmingham and Travaglini. I can truly say that I have learned from them all and benefited from their kindness. President Travaglini, and his leadership team, could not have been more kind and generous to me. He is truly a mensch, with a heart more expansive than this old Golden Dome. The committed staff of the president and of the incredibly hardworking Senator from Plymouth has been equally generous and totally professional. And partisan politics notwithstanding, I have really benefited from working with my colleagues on the other side of the aisle, and with members of this and past Republican administrations who have treated me with respect and cordiality and demonstrated true professionalism in all their dealings with me and our staff. You know the old expression, "Some of my best friends . . . ?" Well in the case of many of my colleagues, it is really true. Some of my best friends *are* Republicans.

While our relationship with the press is often tense, it is a healthy and necessary tension without which democracy, itself, would implode. And if we, and our staff, can justifiably groan at being overworked and underpaid, think how much more compellingly the folks in the press gallery can claim the same. They do vital work, and most do it with remarkable skill, integrity and good humor. I am particularly grateful to the members of the press from our own area in MetroWest for doing a very difficult job, and doing it with such professionalism.

Then there is my amazing staff. I cannot say enough about the incredible support I have received over the years from scores of bright, committed young, and not so young, people with integrity and passion for public service. My Chiefs-of-Staff Paul Sanford, Elizabeth Grob, Doe West, David McCauley and Mary Anne Padien, have truly held me up, sometimes literally, when the political shrapnel was flying, and magically made it appear as if *I* were the competent one. They have in turn worked with our extraordinarily competent and committed line staff. Most of you here are already well aware of the fact that, without these incredibly dedicated and selfless individuals, the peoples' business would grind to a halt.

Then there are the campaign workers — that core of true believers in the promise and the practice of democracy. They are the Rosalie's, the Betty's, and the Frank's of this world, who share our vision of a just society and believe that politics *can* change things for the better and they demonstrate that through their involvement in the rigors of campaign life. They volunteer their own financial resources and the hours, days, months and for some, many years of precious personal time to campaign on our behalf so that democracy can fulfill its awesome promise. These are the true heroes of the American political system. I have always been honored and humbled by their support and I thank so many of them for being with me here today. And certainly, I would not be

here today without them. Evermore vital to my being here are the thousands of voters of the Second Middlesex and Norfolk district who have expressed their trust in me by casting their vote for me in the last 20 elections!

And of course there is *family* including my brothers John and Rick and sister Rita and her husband Jeff. My sister, Dr. Janet Magnani, is emblematic of them all. She, an accomplished physician, has stood in the rain, written checks, organized the lists, stuffed the envelopes, shared her understandings, and given whatever support I needed, just to keep me going on the late nights during the tough fights. My late Mom and Dad were the foundation of it all. They gave me my values and life itself. My sons, Mike, born six days before my first election, and Matt, gave up more than anyone can calculate to have their Dad do this work for more than 20 years. They kept me grounded and gave me the joyful interludes that I needed to keep in the game. Nanette, mother of my sons and my dear wife of twenty-one years, was the one who told me to follow my dreams, and then did all she could to make them happen. Thank you, Nanette. I love you.

And lest we forget, there are people not physically present today, that walk these hallowed halls in grace and spirit, whom we must also thank. They are the founders of our Republic and our Commonwealth and the many brave men and women who have fought and died that this democracy would truly live and breathe. We, as legislators, honor their memory best by authentically committing ourselves to our nation's pledge of "liberty **and** justice for all."

Mr. President, I would ask the members' indulgence to say just a final few words about this great legislative institution to which we have all devoted at least a part of our lives. Each one of us has been chosen to represent about 170,000 citizens of Massachusetts. For all of us it is a profound honor, and one that carries great responsibilities. Each of us comes with a commitment to serve the best interests of our district and the Commonwealth. Yet each comes with a personal story that casts a special light on the way we carry out our responsibilities; hence, our healthy differences.

For me, my public awareness began at the age of seven when I started accompanying my late Father, Louie Magnani, onto the construction site where he was a stone mason on nights and weekends, after his having worked long days as a tool and die maker in a local factory. During the many years I worked with him on masonry construction, not only did I learn an important trade, and a deep respect for the dignity of manual labor, I also absorbed the values of the man whom, to this day, I still love and respect more than any other man I ever met. While not highly educated, he was a brilliant, intellectually curious, physically strong, and rigorously honest man who regularly took courageous action on behalf of his core beliefs.

Dad loved life and he loved people, *all* people. Though not widely traveled, he saw himself first as a member of the human family, constantly giving money to the poverty stricken in other lands *and*, I suppose playing against type as an older first generation Italian male, he was *committed* to economic, racial and gender justice. He walked with equal aplomb among kings and custodians. He absolutely *cherished all* children and instilled in his *own* children a commitment to education for its *own* sake. Although, I must admit, he told me he thought I had gotten a little carried away with "that education thing."

But one might ask, "What does all this have to do with my twenty years of work in the legislature"? Well, just about everything! My work on early childhood education, just now coming to fruition through the efforts of our Senate President and our Chair of Ways and Means, my role, as the Education Chair, in helping to pass, refine and implement the Education Reform Act and my current commitment, as a member of the Task Force on Higher Education Finance, to a more fair and adequate funding system for public higher education all reflect my passion for education at all levels and for all people. My work in creating the six teacher training centers around the Commonwealth for Global and Multicultural education and my commitment to improving science, math and technology education methods emerged from my experiences as a science educator and teacher trainer for the Peace Corps in West Africa.

My work to create and sustain opportunities for Massachusetts employees to own and operate their own companies, emerged from the respect I gained for the capacities of the American worker, from a commitment to economic justice and from an understanding of how such employee-owned companies can contribute to the stability of their communities.

My engineering background, the seeds of which were sown during my years in construction, gave me faith that the only way to continued economic vitality, for a region which can't compete with Mississippi as a low cost state, is to invest in the knowledge economy and its concomitant technology-based economic development. This led to my work in creating the I-495 Technology Corridor Initiative, now the *Arc of Innovation*. I commend Senator Resor for agreeing to take over as Senate Chair of this effort. As Science and Tech Chair, I was privileged to initiate what has now become the most influential caucus in the legislature, the Science and Technology Caucus, numbering today about three hundred members including large and small businesses, top managers, trade associations, institutions of higher education, top administration officials, and interested House and Senate members. The technology-based economic roadmap, which has served to guide the most recent economic stimulus package, and I suspect the next, grew out of that Caucus. I am honored that Senator Hart has agreed to carry on this important work.

And there were many more issues that I touched and that touched me in my role as a legislator. In dealing with all of them, I like you, have tried to interpret and commit to the public interest, in a way that truly reflected my highest and most deeply held values. It must be left to others to judge the degree to which I succeeded in that effort.

But, legislators know that not all of their work will succeed. But that should not deter us if we believe the cause is just. Some of you may remember my efforts to make less punitive the Welfare Reform Act of 1995. I lost on most of those issues. Not all, but most. Still, I honestly believe the battles were worth fighting *and remain so*. Our collective penchant for spending more to imprison people than to treat or educate them is still irrational and deserves serious thought leading to sensible action. This is also true of issues such as child hunger, decent and affordable health care, affordable housing, a stressed infrastructure, elderly people who are lonely, frail and impoverished, and the need for a fair tax system. As we engage these issues, let us keep foremost in our thinking, our own solemn pledge of allegiance to: "*liberty and justice for all*."

Presently, my own role on the Senate stage is fast ending. So I must commend to those who remain here the many other challenges that still face us as a Commonwealth and as a society. And I must say that, despite the increased pressure of special monied interests and the many doubts of an often disengaged public, *I have faith. I truly do*. I have faith because I know *you* and I know *this institution*. Even when the chips are down, the values and commitments of the people in this body and the people who elect them will be our bulwark against the easy cynicism of those who profit personally from the public despair they spread. I reject this cynicism. I always have. I always will.

Yes, we are human, with the frailties that implies. But let it be known here today, that in the vast majority of cases, the people have chosen well. Of my colleagues, I must truly say, I have never met a group which, taken as a whole, more clearly represent the best in the American people. Irrespective of age, faith, tradition, ethnicity, gender or geography, the vast majority of members of this institution are thoughtful, compassionate and fully committed to the public good. *I see it every day*. I see legislators stretching their thinking and courageously transcending the many political constraints upon them. While blessedly less bloody today, the Battles of Lexington and Concord are still being fought here in this great place, and they remain today the battles for "*liberty and justice for all*."

My friends, you know more than anyone, this is not an easy job, nor is it well paid. The hundreds and hundreds of hours at community events, the hundreds of municipal and individual constituent problems we are asked to solve each year, some comically trivial and some life altering, the scores of hearings, the thousands of bills and hundreds of issues about which we are to be knowledgeable, the virtually permanent challenge to be "on" in public and the rather ambitious "contract renewal process" we go through with the electorate every two years, are a regular part of *all* of our lives. I wish all could watch how my colleagues here, on both sides of the aisle and from all ideological bents, seriously weigh the often heart-wrenching and complex issues on behalf of the short- and long-term interests of *all* of our citizens. The process is demanding and is often slow and difficult. It is both *messy and majestic* and our framers intended it to be so.

But, Mr. President, I confess here and now that *I loved it*. I truly loved it and the people engaged in it. Well, most of them, and in *twenty years* I have yet to have a boring day here! To be able to go to work every day knowing that you could positively affect the lives of six million people, or even six, is both humbling and incredibly energizing.

And so my fellow Senators, please don't lose heart. I have come to understand that in your struggles to wade through the complex challenges that arise in pursuing our pledge of *liberty and justice for all*, you can *work wonders!* The people of the Commonwealth deserve your best, and I see every day that it is your *best* that you give them. Keep it up and keep the faith. Wherever I am, you know I'll stay involved. As Justice Brandeis once said, "The most important political office is that of a private citizen." I truly believe that and I intend to embrace it with gusto!

Thank You, Mr. President and my Senate colleagues. God bless you all.

Prior to the remarks of the Honorable Linda J. Melconian, Mr. Lees moved that the title of Majority Leader Emeritus be bestowed upon Ms. Melconian, the first female Majority Leader in the history of the Commonwealth.

On a standing vote of 37 to 0, the motion was adopted.

Remarks of Majority Leader Emeritus Linda J. Melconian.

Since my first term in the Senate, I have dreaded this day, seeking to avoid it like the 14th-Century black plague. Perhaps, one reason why I kept running for re-election ten times was so that this day would never arrive.

When I think about it, how did I ever get elected in the first place? With a surname like Melconian, being a woman, and the daughter of a father who never finished high school; whose mother was brilliant, but dirt poor, and lived at a time when no college loans or scholarships existed for poor young women like her, the challenges ahead appeared endless.

I was the first Democratic woman elected to the Senate west of I-495, and I can remember that first campaign. As I traveled, door to door, men would ask me, "Why should I vote for you, I've never voted for a woman in my life," or the more frequent question, "What does your husband think about you running?" When I'd respond, "I'm not married," I would receive a long look followed by the comment, "Oh, you're one of those!" Well, after I finished talking to them, many of those men must have voted for me, because I won that election by 200 votes and with a recount picked up 70 more. And yes, Representative Bill Galvin (now Secretary of State) came out to handle my recount.

The night I won, the outcome was in doubt until the wee hours of the morning. Starting at 10 P.M., my mentors, Speaker Tip O'Neill and Leo Diehl, "Tip's right arm," who were monitoring Congressional election returns in the U.S. capital, began calling and continued every hour to see how their protege was doing. Finally, at three o'clock A.M., I called the Speaker personally to tell him it was official, I had won. He was so proud of me. Then I asked him, what was the best advice he could give me to begin my career as a Massachusetts State Senator, and he responded, "The most important thing, Linda, is to be liked by your colleagues." Reviewing my Senate experiences, I now realize how sagacious those words truly were.

In the middle of my first swearing-in ceremony, one of my supporters, who we fondly called the "Mayor of Springfield's South End," was in the balcony with a dozen roses. She was about to throw them to me over the rail, when the court officer politely reminded her that this was the Massachusetts Senate, not an Italian Opera House.

I remember my first constituent request. At four o'clock in the morning, three days after my swearing in, my phone rang at home. One of my constituents was complaining that his cow needed a state inspection. He called me every day for one week — every day at four o'clock in the morning. I worked on that request fervently for a week, and on the seventh day told him that the inspector would be out the next day, and he was. The four o'clock A.M. phone calls stopped — for one week. Then seven days later the four o'clock call came back anew . . . the wrong cow had been inspected! I knew then, I would quickly become a more urban Senator.

Coming from Western Massachusetts, I soon realized, it was a real trip. Some members asked me — do you really have paved roads? Do you get acrophobia in the tall buildings of Boston? And when I would invite them to visit our beautiful, expansive portion of the state, they agreed — on the condition I send them a helicopter.

I've served with three Senate Presidents. The first one intimidated me with his deep insights into all of our psyches, the second one recognized my talents and abilities and respected my opinions and guidance, and the third one continues to surprise and impress me as he fills those formidable shoes.

I owe a debt of gratitude and appreciation to so many in this Chamber. To Senate Clerk Bill Welch and his two predecessors Patrick Scanlan, and the late Ed O'Neill and to the staff: Ruth Ann, Mike, Chris, Dennis, thank you for always giving us your best each day. Bill, remember the day when your fellow alumnus from St. Joseph's, Bruiser Flint, the former coach of the UMass basketball team was a guest of the Senate? Recall our ongoing rivalry as we shared notes, passing conversations, and intimate jokes about our respective teams. One thing is certain, neither one of our teams will make the Final Four anytime soon!

To Senate Counsel, David Sullivan, my dear friend and former colleague Marty Dunn, Julie, Kathy, Eileen, Bob and the entire Counsel staff, what would the Senate do without you? Dave Sullivan, you are one of the most ethical, decent and capable individuals I know, always rendering legal advice to assure that the Senate appropriately fulfills its responsibility not hastily reacting to passing political correctness.

To the court officers, who always make sure that we can do our jobs here in the chamber; thank you. No matter how intense the activity outside the chamber or in the gallery, your dedication to the members of the Senate allows us to continue safely, with respect for Senate decorum, day in and day out. Mike Tierney, I won't ever forget the good times we had taking the Committee on Science and Technology on road trips across the state, gaining knowledge on 21st Century hot button issues.

To my colleagues present in the Senate, what great times we've shared. And especially to those who have left us, but with whom I have had lasting memories and enduring friendships: the late Anna Buckley, who mothered us all, Michael LoPresti, with whom I had a simpatico relationship since it was his own father whom Tip O'Neill defeated in his election to Congress, Mary Padula, a good classmate, J.P. Burke, the only one of my colleagues invited to my wedding, Artie Lewis, with whom I had so many laughs and fifth floor fellowship, and Pat McGovern, who showed me how far a woman could go in this Chamber. To the women members of the Senate — don't be afraid to take risks; and learn to support each other more fervently, more passionately, more convincingly.

I have served with two future Governors, Paul Cellucci and Jane Swift. In fact, Paul Cellucci's office was right across from mine on the fifth floor. One particular summer, I wondered why my male staff members spent all their time across the hall, until I realized that his office employed three beautiful blonde interns. I quickly brought this to Paul's attention and asked him to please hire fewer bombshells.

Mr. President, I commend you for your professional and competent staff who have been quick to respond to all of us — Dave Friedman, Dave Morales, Mary Hart, and especially Arthur Bernard, who as a Staff member of Ways and Means years ago, worked with me on so many issues. No matter how divisive or complex the issue, Arthur always maintains a willingness to achieve a reasonable resolution.

Indeed, we are all only as good as our staff. Having been a staff person myself with Speaker "Tip" O'Neill, I appreciate the fine work that they do, always making us look good. Loyalty remains paramount in our working relationships. Over the years, I have been blessed to have had an outstanding, top-notch staff, especially Rosemary Sandlin, a successful school committee woman in her own right, and past president of the Massachusetts Association of School Committees; and Wilfredo Rivera, to my

knowledge, the first ever Hispanic aide hired in a Senate office. Yes, they have kept it going since the beginning. Jeff Haggarty, now a successful lawyer and lobbyist with Hickey and Associates and Attorney Cynthia Tucker, now the commissioner of the Massachusetts Commission Against Discrimination were with me through my Insurance Committee years; then through my leadership years — Chris Calabrese, now an up-and-coming lawyer with the ACLU, Michael Walsh, following in my footsteps as an Assistant District Attorney and I'm sure a future elected official, and Gilda DeRosa, the President's constituent, who was my personal aide and long time confidante. Presently, on my staff, I have two of my former interns; bright and talented Claire Bartholome, one of my own from Mount Holyoke, and Ryan McCollum, whose political instincts will take him far in life. Of course, I cannot forget to mention my former legislative assistant and fellow Armenian who is now State Representative Rachel Kaprielian.

I believe that government policies we now take for granted are the results of long nights, tough battles, and wars we have fought and won. In the early days, the fights to establish mandated benefits for cardiac rehabilitation, medical care for pregnant women and teenagers, off-label prescription drug coverage for the treatment of cancer and HIV/AIDS, early intervention services for children, Healthy Starts and Healthy Families were all won after years of struggle. My colleague, Senator Berry remembers the Children's Trust Fund, where we had to convince the members of the Senate that prevention was just as important as treatment. I'm proud of our accomplishments — these are real life and death issues for so many people.

The first law I wrote as Chairwoman of the Committee on Insurance was the liquor liability act in response to the crisis of availability and affordability of liquor liability insurance across the state. The issue began in Springfield when three restaurant owners visited me; I drafted legislation, held hearings, and pushed hard to make this a priority in the Senate, and nothing happened. Indeed, it wasn't until the owner of Anthony's Pier 4 called on the Senate President that the legislature realized that this crisis had to be resolved.

Medical Malpractice was a real insurance crisis. Doctors were leaving; premiums were skyrocketing at astronomical rates especially in the riskier areas of specialization. I can remember one Sunday morning three doctors appeared at my front door at eight in the morning. My husband, still in bed yelled, "Who's at the door?" I told him the "docs" were here to talk about the cap for pain and suffering. So he slyly looked at me with one eye open, pulled the pillow across his face and said, "You're the Senator. I'm sleeping," and left me alone to deal with my constituents. Medical Malpractice Reform is a law that has stood the test of time nearly 20 years and we're only now talking of changes.

I created a Senate Committee, the Committee on Science and Technology and served as its first chair, to examine 21st century issues — and we have the right to genetic privacy, stem cell research, human cloning, utilization of new technologies, and the creation of new economic development opportunities. Of course, my greatest achievement was the honor you bestowed upon me as the first woman to serve as Majority Leader in the history of the Massachusetts Legislature. On the day I was appointed, as Senator Wilkerson will remember well, which also happened to be Martin Luther King Jr.'s birthday, the lights went out in my Springfield neighborhood due to a massive power failure. The media came to the house; friends and neighbors arrived with candles to light up the pitch black Victorian rooms; when the all-male reporting staff asked why I couldn't do anything in my new position to prevent the power outage, I responded, "There truly is discord in Massachusetts . . . a woman has been elected Majority Leader. You see the evidence right here." Yes, the heavens had been shaken up. When my husband arrived home later that evening, the revelers were still with me, in my candle lit home, congratulating me and celebrating. As he approached the house he feared the worst. He knew then, peace would not reign in our home again.

When I became Majority Leader I did my research and discovered that Justice Sandra Day O'Connor was the first woman Majority Leader in any State Legislature in 1972 and was elected to that position after just three years in the Arizona Senate. Here in progressive Massachusetts, it was twenty-seven years later and it had taken me more than a decade as a State Senator to achieve the comparable position in our Commonwealth. As many of you know, one of the first things I did when I occupied that office was to remove the pictures of those I affectionately called "the old geezers," those men who had occupied this position in the 19th and early 20th Centuries. I knew they would not approve of my ascendancy so I replaced them with kinder, gentler, more inviting Monet's and Homer's along with inspirational photos of my mentor, Tip O'Neill and me.

As Majority Leader, I wanted all our Senate Democrats to look good both here and in your districts. As your party's leader I was there to help you with policy issues, district projects, and your reelection efforts. I've never been one-dimensional, and no one issue has ever dominated my career. Yes, I've been persistent and tenacious, and at times I've advocated forcefully; yet I've never been afraid to take risks, and I've never shied away from fighting for something I believed was the right thing to do, no matter how controversial or politically unpopular. I've tried to use some of the skills and tools that I learned from my mentors, "Tip" O'Neill, Leo Diehl, Ella Grasso and Eddie Boland; that is, to act with insight, creativity, and flexibility. My motivation has been to break down the impediments that inhibit the development of our potential as individuals and as a Commonwealth. I believe firmly that the Senate must stand for something, that our actions and decisions must uphold certain values. Public policy and budgetary decisions truly are about rights, opportunities, and the priorities of our society.

I'm proud of our accomplishments: requiring high standards of excellence in education; increasing access to healthcare for all our citizens, especially women, children and the elderly; breaking down barriers of prejudice, bigotry and exclusion; enhancing economic growth and development opportunities and investing in worker retraining to provide skills that create jobs.

Most recently, I saw the Senate’s finest hour. In this session’s Constitutional Convention I was honored to participate in the most passionate defense of civil rights in my career. Regardless of our individual positions on the issue of same sex marriage, we were part of a collective evolution. On that historic occasion the potential for polarization, intense divisiveness, and extreme confrontations was overshadowed by the decorum, understanding, cooperation, and leadership we found as a collective body of legislators. Massachusetts set the tone for dealing with this explosive issue, and with all eyes turned on Beacon Hill, we stood up to the challenge and engaged in venerable debate and honest discussion.

Today, I am ready to leave the Senate. Each one of us must know when our time has come to move on. I’ve had a wonderful, long run — I have loved my job, loved serving in the Massachusetts Senate. Yet, I feel the time has come to devote my energies and passions to other endeavors, to redirect my talents and abilities to pursue new and different challenges.

As I think about leaving the Senate later this year, I recall the day I left Washington. I left Speaker O’Neill to come home and take care of my sick mother. I remember renting a U-Haul truck and driving home from the U.S. Capitol at the end of the work day — a seven hour trip, the tears rolling down my cheeks all the way through Maryland, Delaware, New Jersey, New York and Connecticut. I hated to leave the job I loved, but my mother needed me, and I had no idea at the time what the future would hold.

I will soon leave the Senate with no tears in my eyes; rather, I will leave with a big broad smile, a sense of joy and gratitude at having served in the oldest legislative chamber in America still in use. I leave knowing that the friendships I’ve made here will continue to be cherished. I leave knowing especially that Brian Lees will surely miss me; that the experiences I’ve had and the accomplishments I’ve made will allow me to look forward and move on to other great things. I made history as a staff person on Capitol Hill, the first female staffer to have standing House floor privileges for all three leadership positions, and you’ve allowed me to make history here as the first woman Majority Leader on Beacon Hill. From the bottom of a truly grateful heart, thank you for the joy, thrill, and excitement of serving with all of you in this august body for so many wonderful years.

Recess.

There being no objection, at eleven minutes past six o’clock P.M., the President declared a recess, subject to the call of the Chair; and, at fourteen minutes past seven o’clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Mr. Rosenberg 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 yeas and nays vote.

PAPERS FROM THE HOUSE.

Engrossed Bill — Land Taking for Conservation, Etc.

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), an engrossed Bill protecting the Nashua River Basin (see Senate, No. 2347) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at seventeen minutes past seven o’clock P.M., as follows, to wit (yeas 37 — nays 0 [**Yeas and Nays No. 663**]):

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.

Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 38.
McGee, Thomas M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 2.
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The yeas and nays having been completed at twenty-four minutes past seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

Engrossed Bill.

An engrossed Bill further regulating the setting of private passenger automobile insurance rates (see House, No. 4675, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 168 (Repeal of MassHealth Estate Recovery II) was considered as follows:

“SECTION 168. Section 32 of Chapter 118E of the General Laws, as amended by chapter 26 of the Acts of 2003, is hereby amended by striking it in its entirety and inserting in place thereof the following:—

Section 32. (a) Notwithstanding any provision of law to the contrary, a petition for admission to probate of a decedent's will or for administration of a decedent's estate shall include a sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within thirty days of a request by the division, an executor or administrator shall, complete and send to the division by certified mail a form prescribed by the division and provide such further information as the division may require.

In the event a petitioner fails to send copies of the petition and death certificate to the division and the decedent received medical assistance for which the division is authorized to recover under section thirty-one, any person receiving a distribution of assets from the decedent's estate shall be liable to the division to the extent of such distribution.

(b) The division may present claims against a decedent's estate as follows: (1) within four months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or (2) within one year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31 do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator shall have an additional 60 days to mail notice to the division under subsection (d)(1).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery for undue hardship.

(g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing four months plus 60 days after approval of the official bond of the executor or administrator.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division under said clause (2) cease to exist. The executor or administrator shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) notice, and upon request by the division, shall provide updated, documentation verifying that the circumstances or conditions continue to exist. If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:

(1), the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim."

[The Governor disapproved this section.]

The question on passing section 168, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes past seven o'clock P.M., as follows, to wit (yeas 35 — nays 1) **[Yeas and Nays No. 664]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 35.
McGee, Thomas M.	

NAY.

ABSENT OR NOT VOTING.

Hedlund, Robert L.	Shannon, Charles E. — 3.
Moore, Richard T.	

The yeas and nays having been completed at twenty-seven minutes past seven o'clock P.M., section 168 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 244 (Repeal of MassHealth Estate Recovery III) was considered as follows:

“SECTION 244. Section 703 of chapter 26 of the acts of 2003 is hereby repealed.”

[The Governor disapproved this section.]

The question on passing section 244, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes past seven o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 665**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Melconian, Linda J.
Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	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 — 36.

NAY.

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 2.
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The yeas and nays having been completed at a half past seven o'clock P.M., section 244, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0300 (Division of Medical Assistance Administration) was considered as follows:—

“4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha’s Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated herein shall be expended for the administrative, contracted services and non-personnel system costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided further, that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office of health and human services shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the social security act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E shall be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that the no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, to providers by item of appropriation from which said payments were made; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed at certain hospitals or by community health centers which are funded in whole or in part by federally permissible in-kind services or provider donations from the hospitals or health centers, shall be credited to this item and may be expended without further appropriation in an amount specified in the agreement with each donating provider hospital or health center; provided further, that the federal financial participation received from claims filed based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the so-called “covering kids initiative” and in accordance with the federal revenue criteria in 45 CFR 74.23 or any other federal regulation which provides a basis for federal financial participation, shall be

credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement with the organizations participating in the initiative; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that federal reimbursements received, for administrative expenditures made pursuant to this item shall be credited proportionally to the General Fund and the Children's and Seniors' Health Care Assistance Fund, established under section 2FF of chapter 29 of the General Laws, in the same percentages as expenditures are made from this item; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and outpatient efficiency standards, so called, being applied to their rate methodology; provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members 119,763,756".

[The Governor disapproved certain wording as follows: “; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation” and “; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and “outpatient efficiency standards, so called, being applied to their rate methodology;” provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members”.]

The question on passing item 4000-0300 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes before eight o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 666**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Melconian, Linda J.
Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.

Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	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 — 36.

NAY.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 2.
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The yeas and nays having been completed at twenty-eight minutes before eight o'clock P.M., item 4000-0300 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0550 (Community Health Centers Incentive rate Add-on) was considered as follows:

“4000-0550 For the purposes of funding in fiscal year 2005 a one-time program of one-time incentive payments to community health centers which enroll MassHealth eligible patients in MassHealth managed care organizations dedicated to providing primary care in low cost settings; provided further, that said program shall provide a one-time rate add-on to participating community health centers which shall be passed through and paid to patients who enroll in MassHealth and simultaneously choose their primary care physician at a community health center; provided further, that said add-on shall not result in a payment to any enrollee which would exceed \$5 per enrollee; provided further, that enrollees shall be eligible for only one \$5 incentive payment and that said payments shall not apply to persons currently enrolled at a community health center; provided further, that no funds shall be expended in excess of the amount appropriated herein; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or enforceable entitlement to the services funded herein; and provided further, that said division shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein 500,000”.

[The Governor disapproved this item.]

The question on passing item 4000-0550 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-seven minutes before eight o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 667**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Melconian, Linda J.

Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	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 — 36.

NAY.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 2.
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The yeas and nays, having been completed at twenty-six minutes before eight o’clock P.M., item 4000-0550 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7114-6105 (Aquaculture Program) was considered as follows:

“7114-0105 For the aquaculture program at Salem State College established pursuant to section 274 of chapter 38 of the acts of 1995 200,000”.

[The Governor disapproved this item.]

The question on passing item 7114-0105 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes before eight o’clock P.M., as follows, to wit (yeas 34 — nays 3) [**Yeas and Nays No. 668**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
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Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	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 — 34.

NAYS.

Brown, Scott P.	Sprague, Jo Ann — 3.
Hedlund, Robert L.	

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 2.
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The yeas and nays having been completed at twenty-three minutes before eight o’clock P.M., item 7114-0105 (contained in section 2), stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0335-0001 (Boston Municipal Court Administration) was considered as follows:

“0335-0001 For the central division of the Boston municipal court department including the administrative costs of said court department 3,185,464”.

[The Governor reduced this item by \$1,000,000.]

After remarks, the question on passing item 0335-0001 (contained in section 2), in concurrence, the reductions of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-two minutes before eight o’clock P.M., as follows, to wit (yeas 25 — nays 12) [**Yeas and Nays No. 669**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Hart, John A., Jr.	Tolman, Steven A.
Havern, Robert A.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 25.
Menard, Joan M.	

NAYS.

Brewer, Stephen M.	Knapik, Michael R.
Brown, Scott P.	Lees, Brian P.
Chandler, Harriette L.	O'Leary, Robert A.
Glodis, Guy W.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R. — 12.

ABSENT OR NOT VOTING.

Moore, Richard T.	Shannon, Charles E. — 3.
Rosenberg, Stanley C.	

The yeas and nays having been completed at seventeen minutes before eight o'clock P.M., item 0335-0001 (contained in section 2) stands, in concurrence, notwithstanding the reductions of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8000-0000 (Office of the Secretary of Public Safety) was considered as follows:

“8000-0000 For the office of the secretary, including the administration of the committee on criminal justice, the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402, and the hate crimes awareness program; provided, that not less than \$200,000 shall be expended for the creation of an undersecretary of forensic services and forensic support services; provided further, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that

not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the Commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission 1,951,429”.

[The Governor reduced this item by \$75,000 and disapproved certain wording as follows: “, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission, which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the Commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission”.]

The question on passing item 8000-0000 (contained in section 2), in concurrence, the reductions and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at sixteen minutes before eight o'clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 670]:**

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.

Brown, Scott P.	O’Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 34.

NAYS.

Hedlund, Robert L.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter before eight o’clock P.M., item 8000-0000 (contained in section 2) stands, in concurrence, notwithstanding the reductions and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 171 (DMR User Fee II) was considered as follows:

“SECTION 171. Section 18 of chapter 118G of the General Laws is amended by adding the following paragraph:

(p) Within the Uncompensated Care Trust Fund, there shall be established a department of mental retardation transfer account, administered by the secretary of health and human services, consisting of any receipts from the assessment collected pursuant to section 27 of chapter 118G of the General Laws, including transfers by the department of mental retardation of amounts sufficient to pay the assessment for public facilities, any federal financial participation received by the commonwealth as a result of expenditures funded by such assessments, and any interest thereon. The secretary may authorize expenditures of amounts from such account without further appropriation. The comptroller shall transfer no later than the first business day of each quarter, the amounts indicated by the department of mental retardation to provide the appropriate payment adjustments for operating the intermediate care facilities for the mentally retarded and the community residences serving individuals with mental retardation. The comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper transfer, accounting and expenditures of funds under this section. The comptroller may make payments in anticipation of receipts and shall establish procedures for reconciling overpayments and underpayments from said account. The secretary shall account for revenue and expenditure activity within said account.”

[The Governor disapproved this section.]

The question on passing section 171, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes before eight o’clock P.M.; as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 671**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twelve minutes before eight o'clock P.M., section 171 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 172 (DMR User Fee I) was considered as follows:

“SECTION 172. Chapter 118G of the General Laws is hereby amended by adding the following section:—

Section 27. (a) For the purposes of this section, the following terms shall have the following meanings:

‘Assessment,’ the user fee imposed pursuant to this section.

‘Intermediate care facility for the mentally retarded or ICF/MR,’ a privately or publicly operated intermediate care facility for the mentally retarded.

‘Community based residence,’ a privately or publicly operated community based residence serving individuals with mental retardation licensed or certified in accordance with G.L. c. 19B, section 15.

'Bed day,' a day of services provided to an individual living in an intermediate care facility for the mentally retarded or a community based residence serving individuals with mental retardation.

(b) Each intermediate care facility for the mentally retarded and each community-based residence serving individuals with mental retardation shall pay an assessment per bed day. The assessment shall be implemented as a broad-based health care related fee as defined in 42 U.S.C. Sec. 1396b(w)(3)(B). The assessment shall be imposed at a uniform rate and shall be sufficient in the aggregate to generate an amount equal to six per cent of the total gross revenues generated by all such facilities in each fiscal year. The assessment shall be paid to the division at least quarterly. The division may promulgate regulations that authorize the assessment of interest on any unpaid liability at a rate not to exceed an annual rate of 18% and late fees at a rate not to exceed 5 percent per month. The receipts from the assessment, any federal financial participation received by the commonwealth as a result of expenditures funded by these assessments and interest thereon shall be credited to an account established within the Uncompensated Care Trust Fund.

(c) The commissioner shall prepare a form on which each ICF/MR and each community based residence shall report its total bed days and shall calculate the assessment due. The commissioner shall distribute the forms to each intermediate care facility for the mentally retarded and each community based residence for individuals with mental retardation at least annually. The failure to distribute the form or the failure to receive a copy of the form shall not stay the obligation to pay the assessment by the date specified in this section. The division may require additional reports, including but not limited to monthly census data, as it deems necessary to monitor collections and compliance.

(d) The division shall have the authority to inspect and copy the records of an ICF/MR or community residence for the purposes of auditing its calculation of the assessment. In the event that the division determines that an ICF/MR or a community-based residence has either overpaid or underpaid the assessment, the division shall notify the ICF/MR or the community based residence of the amount due or refund the overpayment. The division may impose per diem penalties if an ICF/MR or a community-based residence fails to produce documentation as requested by the division.

(e) In the event that an ICF/MR or a community based residence is aggrieved by a decision of the division as to the amount due, the ICF/MR or the community based residence may file an appeal to the division of administrative law appeals within 60 days of the notice of underpayment or the date the notice was received, whichever is later. The division of administrative law appeals shall conduct each appeal as an adjudicatory proceeding pursuant to chapter 30A, and an ICF/MR or a community based residence aggrieved by a decision of the division of administrative law appeals shall be entitled to judicial review pursuant to section 14 of said chapter 30A.

(f) The division shall establish by regulation appropriate mechanisms for enforcing the provisions of this section. Such enforcement may include notification to the department of mental retardation to take appropriate actions, including the revocation of licensure or certification for failure to remit delinquent fees.

(g) The division, in consultation with the department of mental retardation and the division of medical assistance, shall promulgate regulations necessary to implement this section."

[The Governor disapproved this section.]

The question on passing section 172, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes before eight o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 672]:**

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.

Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nine minutes before eight o'clock P.M., section 172 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 303 (DMR User Fee III) was considered as follows:

“SECTION 303. Notwithstanding any general or special law to the contrary, in fiscal year 2005, the comptroller shall transfer from the Uncompensated Care Trust Fund account established pursuant to section 18(p) of chapter 118G of the General Laws, an amount sufficient to reflect the costs of the assessment on public facilities and an amount sufficient to fund rate increases for services provided to MassHealth members by non-public intermediate care facilities and community based residences. The comptroller shall transfer the federal financial participation received as a result of expenditures funded by the assessments to an account established for the department of mental retardation to administer for the purposes described above. The assessments and federal financial participation collected, pursuant to section 27 of chapter 118G of the General Laws shall be expended to fund payments for services provided to MassHealth members by intermediate care facilities for the mentally retarded and community based residences. The assessments shall not be collected, and the expenditures required by this act shall not be authorized until the department of mental retardation and division of medical assistance, certify the receipt of federal approval of any home and community based waiver amendments and related Title XIX state plan amendments, if required.”

[The Governor disapproved this section.]

The question on passing section 303, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before eight o'clock P.M., as follows, to wit (yeas 38 — nays, 0) [**Yeas and Nays No. 673**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.

Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at six minutes before eight o'clock P.M., section 303 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 353 (Mass Highway Route 1A/Main St. Intersection Improvement) was considered as follows:

SECTION 353. Notwithstanding any general or special law or regulation to the contrary, the Massachusetts Highway Department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005."

[The Governor disapproved this section.]

The question on passing section 353, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before eight o'clock P.M., as follows, to wit (yeas 37 — nays 1) [**Yeas and Nays No. 674**]:

YEAS.

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

Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O’Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert 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.	

NAY.

Hedlund, Robert L. — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at three minutes before eight o’clock P.M., section 353 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2800-9004 (Chickatawabut Trailside Museum) was considered as follows:

“2800-9004 For certain payments for the maintenance and use of the trailside museum and the Chickatawabut Hill center 375,000”.

[The Governor disapproved this item.]

The question on passing item 2800-9004 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before eight o’clock P.M., as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 675**]:

YEAS.

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

Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 32.

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 6.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eight o'clock P.M., item 2800-9004 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 6000-0100 (Executive Office of Transportation and Construction) was considered as follows:

“6000-0100 For the office of the secretary of transportation; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to families with dependent children program pursuant to item 4401-1000; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through

the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the source of funding and any other information deemed necessary; provided further, that the office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0001, 6010-0002 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate the information for full time employees, part-time employees and contracted personnel; provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways are hereby authorized and directed to proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required 199,638”.

[The Governor disapproved certain wording as follows: “; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described, in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary” and “; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways are hereby authorized and directed to proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required”.]

The question on passing item 6000-0100 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute past eight o'clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 676**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at four minutes past eight o'clock P.M., item 6000-0100 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 82 (Pension Reserves Investment Management Board — Confidentiality of Certain Records) was considered as follows:

“SECTION 82. Section 23 of chapter 32 of the General Laws, as most recently amended by section 3 of chapter 502 of the Acts of 2002, is hereby further amended by adding after subdivision (5) the following subdivision:

(6) Confidentiality of certain records. Any documentary material or data made or received by any person of the state investment (PRIM) board, which consists of trade secrets or commercial or financial information that relates to the investment of public trust or retirement funds, shall not be disclosed to the public if disclosure is likely to impair the government's ability to obtain such information in the future or is likely to cause substantial harm to the competitive position of the person or entity from whom the information was obtained. The provisions of the open meeting law shall not apply to the PRIM Board when it is discussing the information described in this paragraph. This subdivision shall apply to any request for information covered by this subdivision for which no disclosure has been made by the effective date of this subdivision.”

[The Governor disapproved this section.]

The question on passing section 82, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes past eight o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 677]**:

YEAS.

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

NAYS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 6.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at six minutes past eight o’clock P.M., section 82 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 145 (Office of Environmental Law Enforcement) was considered as follows:

“SECTION 145. Section 10C of chapter 91 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the word “division” and inserting in place thereof the following word:— office.”

[The Governor disapproved this section.]

The question on passing section 145, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes past eight o’clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 678**]:

YEAS.

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

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tisei, Richard R. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at ten minutes past eight o’clock P.M., section 145 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 181 (ABC – Primary Sources Alcohol Purchasing Restrictions) was considered as follows:

“SECTION 181. Section 18 of chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding at the end thereof the following paragraph:—

It shall be unlawful for any licensee under this section to purchase alcoholic beverages from any source other than the primary American source of supply unless authorized by the primary American source of supply. “Primary American source of supply” shall mean the distiller, bottler, brewer, vintner, brand owner, or designated agent of the distiller, bottler, brewer, vintner, or brand owner.”

[The Governor disapproved this section.]

The question on passing section 181, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes past eight o'clock P.M., as follows, to wit (yeas 34 — nays 4) [**Yeas and Nays No. 679**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 34.

NAYS.

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twelve minutes past eight o'clock P.M., section 181 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 206 (Notary Requirements) was, considered as follows:

“SECTION 206. Chapter 222 of the General Laws is hereby amended by adding the following section:—

Section 12. Notwithstanding any general law, rule, regulation or order to the contrary, attorneys-at-law and counselors-at-law as well as paralegals, legal secretaries and other legal staff, who by virtue of their employment perform notary duties shall be exempt from maintaining a journal of their notary transactions.”

[The Governor disapproved this section.]

The question on passing section 206, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past eight o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 680**]:

YEAS.

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

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter past eight o'clock P.M., section 206 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 271 (Essential MassHealth Hospital Designation) was considered as follows:

“SECTION 271. Notwithstanding any general or special law or regulation to the contrary, for the purpose of qualification as an essential MassHealth hospital, teaching hospitals affiliated with a commonwealth-owned university medical school shall include hospitals with the affiliation that: (i) have at least 25 full time equivalent residents and interns; or (ii) provide clinical training programs for nurses and allied health professionals and technicians through affiliations with community colleges and private universities.”

[The Governor disapproved this section.]

After debate, the question on passing section 271, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eighteen minutes past eight o'clock P.M., as follows, to wit (yeas 37 — nays 1) [**Yeas and Nays No. 681**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 38.
McGee, Thomas M.	

NAYS.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty minutes past eight o'clock P.M., section 271 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation, to wit:

Relative to credit union deposits (see House, No. 483);

Relative to meningitis immunization awareness (see Senate, No. 2155); and

Requiring college students immunization against meningococcal disease (see Senate, No. 2159, amended).

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 316 (Charter School Expenditure Cap Removal Student Protection) was considered as follows:

“SECTION 316. Notwithstanding subsection (i) of section 89 of chapter 71 of the General Laws or any other general or special law to the contrary, the commissioner of education may assess additional charter school tuition charges to the Hull, Nauset, and Up Island school districts' net school spending not to exceed 13% of the Hull school district's net school spending, 12% of the Up Island school district's net school spending, and 11% of the Nauset regional school district's net school spending in order to provide for the continuing education of students from said districts enrolled in charter schools as of October 1, 2004.”

[The Governor disapproved this item.]

The question on passing section 316, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-one minutes past eight o'clock P.M., as follows, to wit (yeas 28 — nays 10) **[Yeas and Nays No. 682]**:

YEAS.

Baddour, Steven A.	McGee, Thomas M.
Barrios, Jarrett T.	Melconian, Linda J.
Berry, Frederick E.	Menard, Joan M.
Brewer, Stephen M.	Montigny, Mark C.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.

Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Wilkerson, Dianne — 28.

NAYS.

Antonioni, Robert A.	Shannon, Charles E.
Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
O’Leary, Robert A.	Walsh, Marian — 10.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-six minutes past eight o’clock P.M., section 316 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds, of the members present and voting having approved the same.

Section 375 (Cost of Living Adjustments Increase Study) was considered as follows:

“SECTION 375. The Public Employee Retirement Administration Commission in consultation with the state and state teachers’ retirement boards shall analyze, study, and, evaluate the costs and actuarial liabilities attributable to increasing the base to which cost of living adjustments are applied under section 102 of chapter 32 of the General Laws. The study shall include the cost and actuarial liability associated in increasing the base from 12,000 to 22,000 incrementally by the thousand. In order to effectuate the funding for the change in the base, the commission shall prepare supplemental pension funding schedules which shall be designed to reduce the actuarial unfunded liability, attributable to the increased COLA base, to 0 on or before June 30, 2028 and shall provide 2 alternative schedules providing the option of reducing the unfunded liabilities to 0 by June 30, 2034 and June 30, 2038, respectively; provided, that in preparing such schedules, the commission shall consider the actuarial value and the market value of the system’s assets and liabilities, the long term investment rate of return on the systems assets and the system’s unfunded actuarial liability. The commission shall file the study together with its recommendations and proposed funding schedule to the house and senate committees on ways and means, along with the joint committee on public service on or before December 31, 2005. The commission shall provide assistance in developing funding schedules for the purpose of increasing the COLA base to city, town, county, regional, district and authority retirement systems at the request of the appropriate retirement board.”

[The Governor disapproved this item.]

The question on passing section 375, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, at twenty-seven minutes past eight o’clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays, No. 683**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.

Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-nine minutes past eight o'clock P.M., section 375 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1102-3299 (Cohannet School Building Renovation) was considered as follows:

“1102-3299 For additional renovations to the third floor of the Cohannet School building in the City of Taunton to ensure that the temporary court facility to be housed in said building will be adequate for the courts business and to ensure said facility will be in full compliance with public health and safety standards 1,500,000”.

[The Governor disapproved this item.]

The question on passing item 1102-3299 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at a half past eight o'clock P.M., as follows, to wit (yeas 28 — nays 10) [**Yeas and Nays No. 684**]:

YEAS.

Antonioni, Robert A.	Magnani, David P.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Montigny, Mark C.

Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 28.

NAYS.

Barrios, Jarrett T.	O'Leary, Robert A.
Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tucker, Susan C. — 10.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-two minutes before nine o'clock P.M., item 1102-3299 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered as follows:

The House Bill relative to the membership of the conservation commission of the town of Bourne (House, No. 4057), — was read a third time and passed to be engrossed, in concurrence.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts, of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 1599-3857 (Kerr Mill Project in Fall River) was considered as follows:

“1599-3857 For capital lease payments from the university of Massachusetts to the Massachusetts development finance agency and for annual operations of the advanced technology and manufacturing center in Fall 1,100,000”.

[The Governor reduced this item by \$549,558.]

After debate, the question on passing item 1599-3857 (contained in section 2), in concurrence, the reductions of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eighteen minutes before nine o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 685**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter before nine o'clock P.M., item 1599-3857 (contained in section 2) stands, in concurrence, notwithstanding the reductions of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7116-0105 (Worcester State College Matching Grant) was considered as follows:

“7116-0105 For a matching grant for improvements to rockwood field located at Worcester State College; provided, that said match shall be one dollar of private funds for every dollar of state funds raised through alumni contributions; provided, that no funds shall be expended until an equal or greater amount has been raised through alumni contribution and committed by Worcester State College foundation for said project; and provided further, that said college shall work with the city of Worcester 125,000”.

[The Governor disapproved this item.]

The question on passing item 7116-0105 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes before nine o'clock P.M., as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 686**]:

YEAS.

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

NAYS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tisei, Richard R. — 6.

ABSENT OR NOT VOTING.

The yeas and nays having been completed at twelve minutes before nine o'clock P.M., item 7116-0105 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 20 (Social Service Provider) was considered as follows:

“SECTION 20. Section 4A of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 4 paragraphs:—

In the event a new governmental mandate effective on or after July 1, 2004 is imposed upon a contractor providing a social service program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section 274 of said chapter 110, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, except a contractor for goods or services related to special education as defined in section 1 of chapter 71B, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate, provided that the contractor furnishes substantial evidence to the governmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a ‘new governmental mandate’ shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly imposes an obligation upon the contractor to take any action or to refrain from taking any action in order to fulfill its contractual duties.

For the purposes of this section, a ‘material adverse financial impact’ shall mean: (a) an increase in the reasonable costs to the contractor in performing the contract of the lesser of: (i) 3 per cent of the maximum obligation amount or unit price of the contract; or (ii) \$5,000, in the aggregate as a result of all such mandates in effect during the contract year; or (b) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H for a hearing and decision de novo on all issues. A contractor’s request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination is not received within 30 days of the governmental unit’s receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the superior court, Suffolk division, pursuant to chapter 30A.”

[The Governor disapproved this item.]

The question on passing section 20, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes before nine o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 687**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O’Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.

Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nine minutes before nine o'clock P.M., section 20 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 60 (Information Technology Expenditures Notification) was considered as follows:

“SECTION 60. Section 27B of said chapter 29, as so appearing, is hereby amended by inserting after the word ‘four’, in line 7, the following words:— , and at least 30 days written notification has been given to the house and senate committees on ways and means.”

[The Governor disapproved this item.]

The question on passing section 60, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before nine o'clock P.M., as follows, to wit (yeas 31 — nays 7) [**Yeas and Nays No. 688**]:

YEAS.

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

Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 31.
Melconian, Linda J.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at seven minutes before nine o'clock P.M., section 60 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 61 (Contingency Contracts Notification Requirement) was considered as follows:

“SECTION 61. Section 29E of said chapter 29, as so appearing, is hereby amended by inserting after the first sentence, the following sentence:—

The comptroller shall notify, in writing, the house and senate committees on ways and means 60 days prior to entering into any contract authorized pursuant to this section.”

[The Governor disapproved this section.]

The question on passing section 61, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at six minutes before nine o'clock P.M., as follows, to wit (yeas 31 — nays 7) **[Yeas and Nays No. 689]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese

Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 31.
Melconian, Linda J.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapiak, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at four minutes before nine o’clock P.M., section 61 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 62 (Agency Employee Transfer) was considered as follows:

“SECTION 62. Chapter 30 of the General Laws, is hereby amended by inserting after section 9I, as appearing in the 2002 Official Edition, the following section:

Section 9J. In the event that the functions performed by employees, in one department or agency are transferred to another department or agency, the employees performing such functions shall be transferred to the receiving department or agency without impairment of wages, seniority, collective bargaining, civil service or other rights enjoyed at the time of the transfer. Nothing in this section shall prohibit any reduction in workforce otherwise permitted under collective bargaining agreements or civil service rules or regulations.”

[The Governor disapproved this section.]

The question on passing section 62, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes before nine o’clock P.M., as follows, to wit (yeas 37 — nays 1) [**Yeas and Nays No. 690**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at two minutes before nine o'clock P.M., section 62, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 178. (Alcohol not to be drunk on premise — Local Licensing Authorities) was considered as follows:

SECTION 178. Section 15 of chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding after the word 'commonwealth', in line 22, the following words:— , or participate in decisions regarding the purchasing of alcoholic beverages or the purchasing of insurance or accounting or bookkeeping services, or receive any percentage or fee derived from gross revenues in exchange for management assistance, or participate in any other action designed to effect common results of more than 3 licensees under this section."

[The Governor disapproved this section.]

After remarks, the question on passing section 178, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past nine o'clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 691**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at five minutes past nine o'clock P.M., section 178 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7003-0702 (Workforce Development One-Time Grants) was considered as follows:

“7003-0702 For grants to be administered by the department of workforce development; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner; provided further; that not less than \$250,000 shall be expended for the center for women and enterprise; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other

transitional services in the city of Chelsea; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further, that not less than \$300,000 shall be expended for a hospital skill training program operated by the Commonwealth Corporation; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career Development Institute; provided further, that not less than \$900,000 shall be expended on the Massachusetts Service Alliance; provided further, that not less than \$150,000 shall be expended for a Farm Workers' Council serving low income people and the Hispanic population in Western Massachusetts; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr., Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000, shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall, require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; and provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents 4,379,500".

[The Governor reduced said item by \$2,379,500 and disapproved certain wording as follows: “; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner” and “; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea” and “; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn” and “; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career Development Institute” and “; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; and provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents”.]

[The Governor disapproved this section.]

The question on passing item 7003-0702 (contained in section 2), in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at six minutes past nine o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 692]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert 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 — 36.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.
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ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at seven minutes past nine o’clock P.M., item 7003-0702 (contained in section 2) stands, in concurrence, notwithstanding the reductions and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0321-2205 (Social Law Library in Suffolk County) was considered as follows:

“0321-2205 For the expenses of the social law library located in Suffolk County 1,704,671”.

[The Governor reduced this item by \$504,671.]

The question on passing item 0321-2205 (contained in section 2), in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes past nine o’clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 693**]:

YEAS.

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

NAYS.

Brewer, Stephen M.	Lees, Brian P.
Brown, Scott P.	Sprague, Jo Ann — 5.
Hedlund, Robert L.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at ten minutes past nine o'clock P.M., item 7003-0702 (contained in section 2) stands, in concurrence, notwithstanding the reductions of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 64 (Attorney Consent Language) was considered, as follows:

“SECTION 64. Section 65 of said chapter 30, added by section 173 of chapter 26 of the Acts of 2003, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written request by the head of any department, agency, board or commission, with the written approval of the head thereof and with the voluntary written consent of the attorney who is a state employee, provide specific legal services for the requesting department, agency, board or commission for a period not exceeding 3 months but subject to renewal with the voluntary written consent of the attorney. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of

the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel.”

[The Governor disapproved this section.]

The question on passing section 64, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes past nine o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 694**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at thirteen minutes past nine o'clock P.M., section 64 stands in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 322 (Spouse of retiree) was considered as follows:

“SECTION 322. Notwithstanding any general or special law to the contrary, where (i) 2 spouses married to each other are both members of the same or different systems, (ii) each of the spouses were members in service on or before November 1, 2003, and (iii) 1 of the 2 members is retired under the provisions of sections 1 to 28, inclusive, of said chapter 32; then the other member, upon his or her written application to the board, shall be retired for superannuation regardless of such member’s age. The retirement of the other member shall occur on a date specified in the application, and must be subsequent to, but not more than, 4 months after the date of filing the application. The form of the application shall be prescribed by the board. Terms used in this section not herein defined are used as such terms are defined in chapter 32 of the General Laws.”

[The Governor disapproved this section.]

The question on passing section 322, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes past nine o’clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 695**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at sixteen minutes past nine o'clock P.M., section 322 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 102 (Electronic PAC Contributions I) was considered as follows:

SECTION 102. Section 9A of chapter 55 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 6, the words "said contributor's" and inserting in place thereof the following words:— the contributor's employer, or the contributor's.

[The Governor disapproved this section.]

The question on passing section 102, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seventeen minutes past nine o'clock P.M., as follows, to wit (yeas 33 — nays 5) **[Yeas and Nays No. 696]**:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nineteen minutes past nine o'clock P.M., section 102 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 103 (Electronic PAC Contributions II) was considered as follows:

“SECTION 103. Said section 9A of said chapter 55, as so appearing, is hereby further amended by inserting after the word ‘the’, in line 15, the second time it appears, the following:— contributor’s employer, or the.”

[The Governor disapproved this section.]

The question on passing section 103, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty minutes past nine o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 697**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-two minutes past nine o'clock P.M., section 103 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 221 (Charter School Expenditure Cap Removal) was considered as follows:

“SECTION 221. Section 6 of chapter 46 of the Acts of 1997 is hereby repealed.”

[The Governor disapproved this section.]

The question on passing section 221, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays as required by Chapter I, Section I, Article II, of the Constitution at twenty-three minutes past nine o'clock P.M., as follows, to wit (yeas 29 — nays 9) **[Yeas and Nays No. 698]**:

YEAS.

Baddour, Steven A.	Melconian, Linda J.
Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 29.
McGee, Thomas M.	

NAYS.

Antonioni, Robert A.	Sprague, Jo Ann
Brown, Scott P.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tucker, Susan C. — 9.
O'Leary, Robert A.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-seven past nine o'clock P.M., section 221 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

A Bill concerning storage of personal property upon execution of a summary process judgement (House, No. 2100, amended,— on Senate, No. 934),— was read.

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

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill providing coverage for lymphedema treatments (Senate, No. 848),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2471).

The rules were suspended, on motion of Ms. Murray, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2471) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Papers from the House.

A Bill authorizing the town of Weston to appropriate money from the Community Preservation Fund (House, No. 4999,— on House, No. 4687),— was read.

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

The Senate Bill authorizing the commissioner of the Division of Capital Asset Management and Maintenance to convey easements for the transmission of natural gas over lands formerly under the control of the county of Essex in the town of Middleton and the cities of Peabody and Salem to Maritimes & Northeast Pipeline, L.L.C. (Senate, No. 1678, amended),— came from the House passed to be engrossed, in concurrence *with an amendment* in section 1, in line 8, by striking out the words "North Andover" and inserting in place thereof the word "Middleton".

The rules were suspended, on motion of Ms. Murray, and the House amendment was considered forthwith and adopted, in concurrence.

Engrossed Bill.

An engrossed Bill relative to the reporting and liability of the chief and district medical examiners (see House, No. 4923) (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 re-enacted and was signed by the President and again laid before the Governor for his approbation.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:

The House Bill relative to the use of certain funds by municipalities (House, No. 4184, changed and amended);— was read a third time and passed to be engrossed, in concurrence.

The Senate Bill allowing certain temporary farm signs (Senate, No. 1143) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time and passed to be engrossed.

Sent to the House for concurrence

Papers from the House.

A Bill authorizing the city of Chicopee to convey certain park land in the city of Chicopee (House, No. 4992,— on House, No. 4848) [Local approval received on House, No. 4848] (Representative Jehlen of Somerville of the committee on State Administration dissenting),— was read.

There being no objection, the rules were suspended, on motion of Mr. Knapik, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Ms. Melconian presented an amendment in section 2, by adding the following sentence:— “The proceeds of the conveyances shall be used for conservation or recreation purposes.”

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

A Bill establishing a retirement benefit for employees of the Massachusetts Port Authority (House, No. 2149,— on petition),— was read.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act establishing a retirement benefit for employees of the Massachusetts Port Authority.”

Engrossed Bill.

An engrossed Bill providing for dissection choice in the public schools (see House, No. 1252, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

Ms. Menard in the Chair, message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 7007-0500 (MA Biotech Research Institute) was considered as follows:

“7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth 500,000”.

[The Governor disapproved this item.]

The question on passing item 7007-0500 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twelve minutes before ten o'clock P.M., as follows, to wit (yeas 30 — nays 7) [**Yeas and Nays No. 699**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese

Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 30.

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Moore, Richard T. — 2.
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The yeas and nays having been completed at ten minutes before ten o'clock P.M., item 7007-0500 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0610-0050 (Alcoholic Beverage Control Commission) was considered as follows:

“0610-0050 For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided, further, that said commission is authorized and directed to work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; provided further, that not less than \$60,000 be provided for an additional investigator for Western Massachusetts region; and provided further, that said commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the traffic of alcoholic beverages 1,826,478”.

[The Governor reduced this item by \$1,326,478.]

The question on passing item 0610-0050 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nine minutes before ten o'clock P.M., as follows, to wit (yeas 35 — nays 2) **[Yeas and Nays No. 700]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.
Melconian, Linda J.	

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.
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ABSENT OR NOT VOTING.

Berry, Frederick E.	Moore, Richard T. — 2.
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Mr. Havern in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair, the yeas and nays having been completed at six minutes before ten o'clock P.M., item 0610-0050 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1000-0001 (Office of the State Comptroller Administration) was considered as follows:

“1000-0001 For the office of the state comptroller for the purpose and cost of compliance with the Single Audit Act of 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 2005 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of the audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of \$750,000 to other items of appropriation for the cost of the audit; provided further, that notwithstanding any general or special

law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be retained and expended from a separate item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited, and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within ten days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation, with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this section; provided further, that the budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance projects which are undertaken pursuant to the provisions of this section; and provided further, that the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws 7,905,392”.

[The Governor disapproved certain wording as follows; “; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted” and “; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information”.]

The question on passing item 1000-0001 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before ten o'clock P.M., as follows, to wit (yeas 30 — nays 7) [**Yeas and Nays No. 701**]:

YEAS.

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

Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 30.

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Berry, Frederick E.	Moore, Richard T. — 2.
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The yeas and nays having been completed at three minutes before ten o'clock P.M., item 1000-0001 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1750-0111 (Civil Service Continuous Testing and Bypass Appeals) was considered as follows:

“1750-0111 For the planning and implementation of a civil service continuous testing program and the operation of the bypass appeals process program; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said 102,437”.

[The Governor disapproved certain wording as follows;”: provided, that the division shall file quarterly reports with the house and, senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program”.]

The question on passing item 1750-0111 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before ten o'clock P.M., as follows, to wit (yeas 31 — nays 7) **[Yeas and Nays No. 702]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.

Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 31.
Melconian, Linda J.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at ten o'clock P.M., item 1750-0111 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2000-0100 (Office of the Secretary of Environmental Affairs) was considered as follows:

“2000-0100 For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control chapter program, and a central data processing center for the secretariat; provided, that the secretary of environmental affairs may enter into interagency agreements with any line agency within the secretariat, whereby the line agency may render data processing services to said secretary; provided further, that the comptroller may allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided further, that funds may be expended for volunteer water monitoring grants; provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay; provided further, that funds may be expended on the watershed initiative; and provided further, that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize

staff disruption by examining the possibility of repairing portions of the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings 7,575,647”.

[The Governor reduced this item by \$100,000 and disapproved of certain wording as follows: “; provided, further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance” and “; provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay” and “; and provided further, that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize staff disruption by examining the possibility of repairing portions of the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings”.

The question on passing item 2000-0100 (contained in section 2), in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute past ten o’clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 703]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 34.

NAYS.

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at three minutes past ten o'clock P.M., item 2000-0100 (contained in section 2) stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2000-9912 (Lake Restoration and Preservation Program) was considered as follows:

“2000-9912 The executive office of environmental affairs may expend an amount not to exceed \$400,000 from additional fees paid on the registration of watercrafts as described in this act, for milfoil, fanwort, and other exotic plants prevention grant program 400,000”.

[The Governor disapproved this item.]

The question on passing item 2000-9912 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at four minutes past ten o'clock P.M., as follows, to wit (yeas 35 — nays 3) [**Yeas and Nays No. 704**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 35.

Melconian, Linda J.	
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NAYS.

Knapik, Michael R.	Sprague, Jo Ann — 3.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at six minutes past ten o'clock P.M., item 2000-9912 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2200-0100 (Department of Environmental Protection Operations) was considered as follows:

“2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental protection results and strategic planning, the bureau of resource protection, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws; provided further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section 19 of chapter 21A of the General Laws; provided further, that \$168,000 shall be expended for sediment control in, Lake Webster; provided further, that funds may be expended for a water resource identification project in the town of Carver; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay in the town of Dartmouth; and provided further, that funds may be expended for the purpose of conducting a Comprehensive Site Assessment of South Meadow Pond and the presence of leachate from the former Clinton Landfill site 28,373,935”.

[The Governor reduced this item by \$518,000 and disapproved of certain wording as follows: “; provided further, that \$168,000 shall be expended for sediment control in Lake Webster” and, “; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay in the town of Dartmouth”.]

The question on passing item 2200-0100 (contained in section 2), in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past ten o'clock P.M., as follows, to wit (yeas 33 — nays 5) **[Yeas and Nays No. 705]**:

YEAS.

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

Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 33.
Melconian, Linda J.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tisei, Richard R. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nine minutes past ten o'clock P.M., item 2200-0100 (contained in section 2), stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2820-0100 (Division of Urban Parks and Recreation Operations) was considered as follows:

“2820-0100 For the administration, operation and maintenance of the division of urban parks and recreation including, for the maintenance operation and related costs of the parkways, boulevards, roadways, bridge’s and related appurtenances under the care, custody and control of the division, flood control activities of the division, purchase of all necessary supplies and related equipment, and the civilianization of crossing guards located at division intersections where state police previously performed such duties; provided, that said parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation; and provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth; provided further, that not less than \$3,902 shall be expended on additional school crossing guards for the corner of Mystic Avenue and Shore Drive in the city of Somerville; provided further, that \$250,000 shall be expended for a linked trail system for state and local parks along the Back River in the town of Weymouth; provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford; provided further, that \$45,000 shall be expended on the maintenance of Red Rock Park on Lynn Shore Drive, in the city of Lynn; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than October 1, 2004, on the reconstruction on the Vietnam Veterans Memorial Pool in Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost, estimate to, repair said pool and structures, (d) an estimate of the time to complete said repairs, (e) and any other information that said division deems necessary for the completion of this report; provided further, that \$225,000 shall be expended for maintenance and infrastructure repair of the southwest corridor park; provided further, that \$50,000 shall be expended for the removal of a pedestrian bridge at the end of Fairlawn Street in the City of Malden; provided further, that \$50,000 shall be expended for flood mitigation at Fellsmere Pond; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center in Boston; provided further, that \$85,000 shall be expended for the town of Boylston; and provided further, that funds shall be expended for environmental preservation of the historic Park Avenue Fire Barn in Worcester 20,186,478”.

[The Governor reduced this item by \$518,000 and disapproved of certain wording as follows: “; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth” and “; provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford” and “; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than, October 1, 2004 on the reconstruction on the Vietnam Veterans Memorial Pool in

Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related, structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost estimate to repair said pool and structures, (d) an estimate of the time to complete said repairs, (e) and any other information that said division deems necessary for the completion of this report” and “; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center in Boston; provided further, that \$85,000 shall be expended for the town of Boylston”.]

The question on passing item 2820-0100 (contained in section 2), in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at ten minutes past ten o'clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 706**]:

YEAS.

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

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twelve minutes past ten o'clock P.M., item 2820-0100 (contained in section 2), stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0115 (MA Technology Collaborative Matching Grants) was considered as follows:

“4000-0115 For matching grants to the Massachusetts Technology Collaborative to implement inpatient hospital-based computerized physician order entry systems in eligible hospitals in Massachusetts for the purposes of improving patient safety and hospital efficiency; provided, that said secretary shall submit a report not later than October 30, 2004 to the house and senate committees on ways and means on the disbursement and uses of said grants; provided further, that no funds appropriated herein shall be granted unless the amount of said grant is matched dollar for dollar by the recipient; provided further, that not less than \$500,000, of which a minimum of 75% must be eligible for federal financial participation, shall be available, for said office to acquire through procurement professional and consulting services to enhance the fraud and abuse detection, program management, budgeting, and performance measurement capabilities of said executive office’s existing or planned data warehouse to achieve cost-savings in the Medicaid program and identify program and policy efficiencies across all human service programs; provided further, that such procurement must be completed no later than January 1, 2005; provided further, that any vendor or vendors engaged contractually by said executive office must have prior Medicaid data warehouse experience in states whose Medicaid budgets are equal to or greater than Massachusetts to ensure a greater likelihood of success 1,000,000”.

[The Governor disapproved this item.]

After debate, the question on passing item 4000-0115 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past ten o'clock P.M., as follows, to wit (yeas 33 — nays 5) **[Yeas and Nays No. 707]**:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter past ten o'clock P.M., item 4000-0115 (contained in section 2), stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 6010-0001 (Department of Highways Administration) was considered as follows:

“6010-0001 For personnel costs of the department of highways, for certain administrative and engineering expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges, and for the costs associated with the global positioning system program; provided, that no expenditures shall be made from the AA subsidiary; provided further, that notwithstanding any general or special law to the contrary, the department may expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall develop a plan that, by June 30, 2007, shall phase into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further, that such plan be reported to the house and senate committees on ways and means by December 31, 2004; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of the department, and for all administrative and personnel expenses of the department charged to such bonds; provided further, that such reports shall be filed not later than 30 days after the end of each quarter; provided further, that notwithstanding any administrative bulletin or general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided further, that the department shall not be subject to section 36A of chapter 30 of the General Laws and section 22 of chapter 7 of the General Laws, but shall submit to the secretary of transportation for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C and for costs associated with police services and overtime within the areas shall be paid from this item; provided further, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair; provided further, that the department shall expend \$100,000 on a traffic signal in Worcester on Route 12; provided further, that \$50,000 shall be expended for the cost of the installation of sidewalks in Worcester on Massasoit Road from Benson Street to the Our Lady of Loreto Church Property; provided further, that \$50,000 be expended for the installation of a sidewalk behind the Roosevelt Elementary School in Worcester; provided further, that said department shall perform storm water management construction for the protection of Webster Lake; provided further, funds shall be expended to study the flow of traffic along Commonwealth Avenue in Allston-Brighton to determine the impact of regional traffic accessing downtown Boston; provided further, that funds shall be expended to mill and pave Route 20A in the city of Springfield and that said milling and paving shall be completed by June 30, 2005; provided further, that the Secretary is hereby authorized and directed to expend an amount necessary to complete the final phase, within the fiscal year, of the reconstruction and enhancement of that portion of the state road known as “Somerville Avenue” in Somerville; provided further, that funds shall be expended for the design and construction of traffic lights at the intersection of South Street and Salem Street in the Town of Tewksbury and said project shall be completed by June 30, 2005; provided further that said department shall work in conjunction with the Division of Capital Asset Management to study the closure of the rest stop area on Route 2 west in the town of Harvard and shall submit the findings of said study to the joint committee on transportation by December 15, 2004; provided further, that funds shall be expended for Berkshire Hills Regional School District for the construction of a traffic signal and necessary road improvements at the intersection of Monument Valley Road and Route 7 in the Town of Great Barrington; provided further, that funds shall be expended for traffic signalization on Route 12 in the city of Worcester; provided further, that funds shall be expended to fund the construction of improvements to route 126 in the town of Medway; provided further, that said department shall conduct a noise reduction study, along Route 3 South in Kingston no later than December 31, 2004 and shall submit its finding to the joint committee on transportation and the house and senate committees on ways and means no later than June 30,

2005; provided, further, that the department shall maintain the motorist emergency call system installed on interstate highway route 91, interstate highway route 93, interstate highway route 195, and interstate highway route 495, in an operational condition for use in emergencies by the public; provided further, that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, so-called, in the city of Medford to commercial traffic between the hours of 12 P.M. and 6 A.M. effective September 1, 2004, unless the said department declares it a public necessity that said roadway should be open to commercial, traffic; provided that funds shall be expended to conduct a noise study along Route 290 in the Town of Northborough; provided further, that said department shall expend funds for the purpose of repair and maintenance of the Mount Vernon Street Bridge on Washington Street in Winchester; provided further, that said department shall construct sound barriers in the towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the northerly side of Route 3; provided, further, that said barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided further, that the department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; provided, further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford, designated Area 1, LedgeWood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document; and provided further, that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond 14,857,993”.

[The Governor disapproved certain wording as follows: “; provided further, that said department shall fully perform storm water management construction for the protection of Webster Lake; provided further, funds shall be expended to study the flow of traffic along Commonwealth Avenue in Allston-Brighton to determine the impact of regional traffic accessing downtown Boston; provided further, that funds shall be expended to mill and pave Route 20A in the city of Springfield and that said milling and paving shall be completed by June 30, 2005; provided further, that the Secretary is hereby authorized and directed to expend an amount necessary to complete the final phase, within the fiscal year, of the reconstruction and enhancement of that portion of the state road known as “Somerville Avenue” in Somerville; provided further, that funds shall be expended for the design and construction of traffic lights at the intersection of South Street and Salem Street in the Town of Tewksbury and said project shall be completed by June 30, 2005” and “; provided further, that funds shall be expended for Berkshire Hills Regional School District for the construction of a traffic signal and necessary road improvements at the intersection of Monument Valley Road, and Route 7 in the Town of Great Barrington; provided further, that funds shall be expended for traffic signalization on Route 12 in the city of Worcester; provided further, that funds shall be expended to fund the construction of improvements to route 126 in the town of Medway; provided further, that said department shall conduct a noise reduction study along Route 3 South in Kingston no later than December 31, 2004 and shall submit its finding to the joint committee on transportation and the house and senate committees on ways and means no later than June 30, 2005” and “; provided further that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, in the city of Medford to commercial traffic between the hours. of 12 P.M. and 6 A.M effective September 1, 2004, unless the said department declares it a public necessity that said roadway should be open to commercial traffic; provided that funds shall be expended to conduct a noise study along Route 290 in the town of Northborough; provided further, that said department shall expend funds for the purpose of repair and maintenance of the Mount Vernon Street Bridge on Washington Street in the town of Winchester; provided further, that said department shall construct sound barriers in the towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the northerly side of Route 3; provided, further, that said barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided further, that the department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in the town of Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; provided, further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford, designated Area 1, LedgeWood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document; and provided further, that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond”.]

The question on passing item 6010-0001 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at sixteen minutes past ten o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 708]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.

Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at eighteen minutes past ten o'clock P.M., item 6010-0001 (contained in section 2), stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8100-0000 (State Police Administration) was considered as follows:

“8100-0000 For the administration and operation of the department of state police; provided, that the department shall expend funds from this item for the purposes of maximizing federal grants for the operation of a counter-terrorism unit; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of environmental affairs department of fisheries, wildlife and environmental law enforcement at no cost to, or compensation from, that office; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005; provided further, that not less than \$750,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Lawrence, Revere, Springfield and Worcester; and provided further,

that the department may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the criminal justice training council and the criminal history systems board 196,375,102

Highway Fund 88.20%

General Fund 11.80% ”.

[The Governor reduced this item by \$2,328,946 and disapproved of certain wording as follows: “; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005”.]

The question on passing item 8100-0000 (contained in section 2), in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty minutes past ten o’clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 709]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-two minutes past ten o'clock P.M., item 8100-0000 (contained in section 2), stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 162 (MassHealth Ventilator Dependent Patient Care) was considered as follows:

“SECTION 162. Section 13A of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:—

For any hospital fiscal year commencing on or after October 1, 2003, the division shall not classify any ventilator dependent patients in a public payor-dependent non-acute hospital as an administratively necessary day patient, unless a physician member of the hospital's utilization review committee finds and certifies that the medical services required by the patient are actually available in a non-hospital facility located within a 25 mile radius of the patient's principle residence and that the patient will receive safe and effective care. The division shall not make any decision or take any action as to the continuing necessity of hospital care in a public payor-dependent non-acute hospital which is inconsistent with the hospital utilization review committee findings. The division shall pay public payor-dependent non-acute hospitals at the full hospital inpatient per diem rate for services provided to such ventilator dependent patients entitled to medical assistance and the ventilator dependent patients shall not be subject to administratively necessary day rates.”

[The Governor disapproved this item.]

The question on passing section 162, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes past ten o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 710]**:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian

Magnani, David P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS.

Sprague, Jo Ann — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1

The yeas and nays having been completed at twenty-five minutes past ten o'clock P.M., section 162 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

The Senate Bill authorizing the University of Massachusetts to convey a certain parcel of land and buildings in the town of Nantucket to the Nantucket Conservation Foundation (Senate, No. 2442, amended),— came from the House passed to be engrossed, in concurrence *with an amendment*, striking out section 5 (inserted by amendment by the Senate) and inserting in place thereof the following section:—

“SECTION 5. The property described in section 1 shall be held in its predominantly open and natural condition for and in support of educational, research and conservation purposes and for the purposes set forth in the documents conveying the property from the University of Massachusetts to the Nantucket Conservation Foundation. In the event that the property described in section one ceases to be used for such purposes, upon notice of the commissioner of capital asset management and maintenance, in consultation with the University of Massachusetts and following ninety days notice of reversion to the owner of the property, shall revert to the University of Massachusetts if such use is not cured within the ninety day notice period.”

The rules were suspended, on motion of Mr. Tolman, and the House amendment was considered forthwith and adopted, in concurrence.

Engrossed Bill.

An engrossed Bill relative to certain consumer transactions and the satisfaction of security interests (see Senate, No. 2238, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Havern) and laid before the Governor for his approbation.

At twenty-five minutes past ten o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Havern), declared a recess; and at twenty-eight minutes past eleven o'clock P.M., the Senate reassembled, Mr. Havern in the Chair.

PAPERS FROM THE HOUSE.

Engrossed Bill Returned by Governor

With His Objections Thereto.

The engrossed Bill relative to certain retirements in the city of Holyoke (see House, No. 4391), which, on Wednesday, June 9, 2004, had been laid before His Excellency the Governor for his approbation,— came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing, (for message, see House, No. 4865) and having passed that branch, notwithstanding said objections.

The message (House, No. 4865) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

The question on passing the bill, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes past eleven o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 711]:**

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	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.	

NAY.

Barrios, Jarrett T. — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-eight minutes before twelve o'clock midnight, the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Wareham to construct a sewer in certain park land (see House, No. 4150, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-seven minutes before twelve o'clock midnight, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 712**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-five minutes before twelve o'clock midnight, the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Havern) and laid before the Governor on Wednesday, July 23, 2004 for his approbation.

Report of Committees.

By Mr. Baddour, for the special committee consisting of the Senate members of the Transportation committee, established by special order, that the House Bill modernizing the transportation system of the Commonwealth (House, No. 4771),— ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2470.

Referred, under Senate Rule 27, to the committee on Ways and Means.

Subsequently, Ms. Murray, for the committee on Ways and Means, reported, that the amendment, previously recommended by the special committee, ought to be adopted.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time.

Pending the question on adoption of the amendment as recommended by the special committee and the committee on Ways and Means, Ms. Menard moved that the amendment be amended in section 87 by striking out, in line 5, the words “The pilot wetlands mitigation bank may only be used for projects that are financed by the commonwealth or by a city or town of the commonwealth”;

In subsection (e), by replacing in line 1 the words, “the team” and adding the following words:—: “executive office of environmental affairs and the executive office of transportation”; and

In subsection (f), by striking out the words, “shall have 6 members and”; and in section 87 in subsection (f), by inserting in line 9 after the word “watershed” the following words:— “1 representative of each of the following agencies: department of fisheries, wildlife and environmental law enforcement, United States Environmental Protection Agency, United States Army Corps of Engineers and United States Department of Fish and Wildlife”.

The amendment was adopted.

Mr. Knapik moved that the bill be amended by inserting after section 91 the following section:—

“SECTION 92. The Executive Office of Transportation and Construction shall make funds available for costs associated with the construction and improvement of ramps and hangars as part of Phase I improvements at Westover Metropolitan Airport.”

The amendment was adopted.

Mr. Knapik moved that the bill be amended by striking out section 59.

The amendment was *rejected*.

Mr. Hart moved that the bill be amended in section 2J, in item 6001-2040 by inserting after the word “line”, in line 3, the following words:— “and renovations to the Ashmont Red Line MBTA Station”.

The amendment was adopted.

Mr. Brewer moved that the bill be amended, in section 62, in the first paragraph, by striking out the last sentence and inserting in place thereof the following sentence:— “The route 122 scenic byway corridor shall begin at the town line of Worcester and Paxton and end at the town line of Barre and Petersham.”

The amendment was adopted.

Ms. Wilkerson moved that the bill be amended by inserting after section 33A the following sections:—

“SECTION 33A. Chapter 147 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 21A the following new section:—

Section 21B. The person or officer authorized to appoint police officers for the Massachusetts Bay Transportation Authority Police Department, may, when so authorized by the board of directors of said authority, appoint as a police cadet, for a period of full time, on-the-job training, any citizen resident of the commonwealth who is not less than 18 nor more than 25 years of age and who meets the physical qualifications required of applicants for appointment to such police force, and who is determined by the appointing authority to be of good moral character. Such appointment shall not be subject to the civil service law or rules, nor shall a police cadet be entitled to any benefits of such law or rules. Such appointments may be terminated by the appointing authority at any time, and shall be terminated whenever a cadet fails to maintain a passing grade in any course of study the appointing authority determines he should undertake, and when he reaches the age of 25. A police cadet shall receive such compensation and such leave with pay as the appointing authority shall determine.

A police cadet shall maintain and file records, operate office machines, answer telephones, receive complaints, enter and index official documents, prepare routine reports, prepare and tabulate facts and figures for statistical purposes, and have similar duties of an administrative rather than an enforcement type. A cadet shall not carry arms, nor shall he have the power of arrest other than that of an ordinary citizen. A cadet shall be considered an employee of the Massachusetts Bay Transportation Authority for the purposes of workers' compensation.

A police cadet shall not be subject to or entitled to the benefits of any retirement or pension law nor shall any deduction be made from his compensation for the purpose thereof; but a police cadet who during the period of his on-the-job training passes the competitive civil service examination for appointment to the Massachusetts Bay Transportation Authority police department and is appointed a permanent full-time police officer shall have his police cadet service considered as creditable service for the purposes of retirement, provided that he pays into the annuity savings of the Massachusetts Bay Transportation Authority police

retirement system such amount as the retirement board determines equal to that which he would have paid had he been a member of the retirement system during the period of his training as a police cadet.”; and by adding the following section:—

“SECTION 92. (a) Notwithstanding chapter 31 of the General Laws, any person who has completed not less than 2 years of service as a police cadet in the police department of the Massachusetts Bay Transportation Authority under section 21B of chapter 147 of the General Laws, may, subject to a program established by the police chief of said authority and approved by the personnel administrator of the division of personnel administration and the municipal police training committee be appointed to fill a vacancy in a position in the lowest grade in the police force of said authority without certification from an eligible list prepared under said chapter 31 of the General Laws if such person either is on a police entrance eligible list prepared under said chapter 31 or passes a qualifying examination to be given by said personnel administrator. Such program shall include provisions for recruitment of applicants for appointment as police cadets in said Authority and for appointment from an eligible list prepared after a competitive examination administered under the supervision of the police chief of said Authority. Appointments from such a list may, at the discretion of the police chief, be made on a selective basis for the purposes of affirmative action in the employment of females and minorities as police cadets.

(b) If any federal or state, administrative or court order requires the listing of candidates in separate groups, each group to be listed according to the law of the commonwealth, then this section shall be subject to such listing.

Not more than 12, or 33¹/₃ per cent, whichever is greater, of the total number of appointments to the police force of the Massachusetts Bay Transportation Authority in any calendar year shall be made under this act. The police chief of the Authority shall report in writing forthwith to the personnel administrator in division of the personnel administration any appointment made under this section.

Section 20D of chapter 31 of the General Laws shall apply to appointments made under this section.”

The amendment was adopted.

Ms. Wilkerson further moved that the bill be amended by inserting after section 24 the following section:—

“SECTION 24A. Chapter 21A of the General Laws is hereby amended by striking out section 11A as amended by section 115 of chapter 26 of the acts of 2003 and inserting in place thereof the following section:

Section 11A. There is hereby established within the executive office of transportation a bicycle/pedestrian advisory board. The board shall oversee the state’s bicycle and pedestrian’s activities and advise the bicycle/pedestrian program office. The board shall consist of the secretary of transportation and construction or his designee; the secretary of environmental affairs or his designee; the commissioner of highways or his designee; the commissioner of environmental management or his designee; the commissioner of the department of conservation and recreation or his designee; the general manager of the Massachusetts Bay Transportation Authority or his designee; the colonel of state police or his designee; the commissioner of public health or his designee; the executive director of travel and tourism or his designee; 1 representative of a regional planning agency and 7 nongovernmental members who shall be appointed by the governor upon recommendation of the co-chairman of the board; 3 of whom shall be experts in bicycle safety; 1 of whom shall be a representative of the commercial bicycle industry; 3 of whom shall be representatives of bicycle organizations; and 7 members who are experts in pedestrian transportation. The bicycle/pedestrian program manager shall serve ex-officio. Each appointee shall serve without compensation for a term of 2 years and may be reappointed to serve for not more than 3 consecutive terms. Two co-chairmen shall be selected by a majority vote of the board members but at least 1 of the chairmen shall not be an employee of the commonwealth. The advisory board shall meet at least 4 times each year. The board shall monitor the implementation of the Massachusetts statewide bicycle transportation plan and the Massachusetts statewide pedestrian transportation plan and assist the bicycle/pedestrian program office in preparing future plan updates. Initially, the nongovernmental members shall be appointed by the governor, chosen from a list of qualified applicants fairly representing the various geographical regions of the commonwealth, as provided by the Bicycle Coalition, also known as MassBike, a statewide bicycle advocacy organization and by WalkBoston, a metropolitan-area pedestrian organization.”

The amendment was adopted.

Ms. Chandler moved that the bill be amended, in section 2, in item 6033-0417, by striking out the words “; provided further, that funds shall be expended for a noise study along route 290 in the town of Northborough” and inserting in place thereof the following words:— “; provided further, that funds shall be expended for a noise study along route 290 in the city of Worcester adjacent to Trinity, Colby, and Laselle Avenues”.

The amendment was adopted.

Mr. Pacheco moved that the bill be amended, in section 58, by adding the following sentence:— “The Massachusetts Bay Transportation Authority shall develop a proposed mitigation plan to maintain the same per cent valuation of the average property value of like properties in the municipalities of Easton, Taunton and Raynham for property owners in said municipalities

whose property abuts the commuter rail line extension and is taken for such purpose or is not taken but is adversely affected by the commuter rail line extension and shall submit the same within 90 days after the effective date of this act to the house and senate committees on ways and means and the joint committee on transportation.”

The amendment was adopted.

Mr. Baddour moved that the bill be amended by adding the following section:—

“SECTION 92. Notwithstanding any general or special law to the contrary, the department of highways shall examine the cost impact of adjusting the unit prices for steel required in order to complete performance of highway and bridge construction contracts awarded on or before July 1, 2004. The department shall determine the cost to compensate contractors for the difference between: (1) the cost of steel at the date the bids were opened; and (2) the cost of steel at the date of purchase with no allowance for overhead or profit on the construction contract. The department shall submit its findings to the joint committee on transportation and the senate and house committees on ways and means within 30 days after the effective date of this act.”

The amendment was adopted.

Mr. Barrios moved that the bill be amended, in section 2A, in item 6033-0417, by adding the following words:— “; and provided further, that the department of highways shall allocate the necessary funding to complete an environmental impact review for the reconfiguration of Rutherford avenue and Sullivan square in the Charlestown section of the city of Boston”.

The amendment was adopted.

Mr. Montigny moved that the bill be amended in section 2A, in item 6033-0417, by adding the following words:— “provided further, that an amount not to exceed \$2,300,000 for the design, construction and necessary land takings for the Mattapoisett portion of the bike path on the existing Old Colony Railroad right of way; provided further, that not less than \$500,000 shall be expended for the redesign of the New Bedford Regional Airport access road; provided further, that not less than \$1,000,000 shall be expended for the extension of the Joseph Saulnier bike path in the City of New Bedford; provided further, that not less than \$1,000,000 shall be expended for the re-design of South Main Street in the town of Acushnet; provided further, that the department shall expend funds on improvements and reconstruction of state highway route 18/ John F. Kennedy Highway;”.

The amendment was adopted.

Mr. Lees moved that the bill be amended, in section 2A, in item 6033-0417, by striking out the words “Birchland Elementary School on Elm Street” and inserting in place thereof the following words:— “Birchland Park Middle School on Hanward Hill”; and, by striking out the words “Parker Road” and inserting in place thereof the following words:— “Parker Street”.

The amendment was adopted.

Mr. Montigny, Ms. Menard and Mr. Pacheco moved that the bill be amended by adding the following section:—

“SECTION 92. Notwithstanding any general or special law to the contrary, the secretary of the executive office of transportation and construction shall establish a priority list for projects to be completed by the Massachusetts Bay Transportation Authority, which gives first priority to those projects which serve cities and towns not presently served by commuter rail or rapid transit.”

The amendment was adopted.

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

SECTION —. Section 1B of Chapter 152 of the Acts of 1997, in item 1100-7985, by inserting after the words “Colonial Theater renovation project, so called,” the following:— “and for the acquisition of adjacent properties on South Street in Pittsfield needed to bring said Theater into compliance with Massachusetts Building Code and the Americans with Disabilities Act,”.

The amendment was adopted.

Ms. Fargo moved that the bill be amended in said section 2A, in line item 6033-0417, by inserting after the words “Nashawtuc Road in the town of Concord” the following:— “provided further that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford as defined by HMMH Report Number 298280, and, provided further that funds shall be expended for the construction of sound barriers in the town of Bedford as follows: designated Area 1, Ledge wood/Lido Lane as defined by HMMH Report Number 298280.”

The amendment was adopted.

Ms. Murray moved that the bill be amended in section 2A, in item 6033-0417, by striking out the figure “\$384,573,949” and inserting in place thereof the following figure:— “\$389,373,949”; and

By striking out section 4 and inserting in place thereof the following section:—

“SECTION 4. To meet a portion of the expenditures necessary in carrying out section 2A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of \$389,373,949, to be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan Act of 2004, and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2029. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 2O of said chapter 29. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2004 and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2029. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.”

The amendment was adopted.

The Special Committee and Ways and Means amendment, as amended, was then adopted. [For text of Senate amendments, see Senate, No. 2470, printed as amended.]

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

After remarks, the question on passing the bill, as amended, to be engrossed was determined by a call of the yeas and nays, at thirteen minutes past twelve o'clock midnight, on motion of Mr. Baddour, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 717**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O’Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.

Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	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.

ANSWERED “PRESENT”.

Joyce, Brian A. — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter past twelve o'clock midnight, the bill (House, No. 4771, amended) was passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

PAPER FROM THE HOUSE.

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Holden (House, No. 4987,— on House, No. 4829),— was read.

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

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to repeat offenders (House, No. 4843) ought to pass, with an amendment, by adding the following 2 sections:—

“SECTION 15. The fifth paragraph of section 24D of said chapter 90, as so appearing, is hereby amended by inserting after the words ‘public safety,’ in line 55, the following words:— ‘or, in the case of programs outside of the commonwealth, authorized for use by the department of public health in consultation with the registrar and the secretary of public safety,’.

SECTION 16. Chapter 90 of the General Laws is hereby amended by inserting after section 24P, as appearing in the 2002 Official Edition, the following section:—

Section 24Q. (a) Whoever, 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, operates a motor vehicle with a percentage by weight, of alcohol in his blood of eight one hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue, in violation of section 24, section 24G or section 24L, while a child under the age of 14 is in the vehicle, shall be punished by imprisonment in the house of correction by not less than 180 days nor more than 2½ years and a fine of not less than \$1,000 nor more than \$10,000. No sentence imposed under this section shall be reduced to less than 60 days, nor suspended, nor shall any such person sentenced hereunder be eligible for probation, parole or furlough or receive any deduction from his sentence for good conduct until such person has served 60 days of such sentence, unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter 432 of the acts of 1993. The commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution,

grant to an offender committed under this section a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction. In accordance with section 8A of chapter 279, such sentence shall begin from and after the expiration of the sentence for violation of said sections 24, 24G or 24L.

(b) A disposition under section 24D shall not be available to whoever violates this section.

The rules were suspended, on motion of Ms. Murray, and the bill was read a second time.

Pending the main question on ordering the bill to a third reading, and pending the question on adoption of the amendment as recommended by the committee on Ways and Means, Messrs. Brewer, Creedon and McGee moved to amend the pending Ways and Means amendment to the bill (House, No. 4843) by striking out section 16 and inserting in place thereof the following section:—

“SECTION 16. Chapter 90 of the General Laws is hereby amended by inserting after section 24P, as appearing in the 2002 Official Edition, the following section:—

Section 24Q. (a) Whoever, 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, operates a motor vehicle with a percentage by weight, of alcohol in his blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue, in violation of section 24, section 24G or 24L, while a child under the age of 14 is in the vehicle, shall be punished by imprisonment in the house of correction for not more than 6 months and a fine of not more than \$10,000.

(b) In accordance with section 8A of chapter 279, such sentence shall begin from and after the expiration of the sentence for violation of said sections 24, 24G or 24L.

(c) The registrar may extend, for an additional 2 months, any suspension or revocation of a license or right to operate imposed for violation of said sections 24, 24G or 24L, on any person that violates this section.”

The further amendment was adopted.

The pending amendment, previously recommended by the committee on Ways and Means, as amended (Brewer, et al),— was then considered; and it was adopted.

The bill was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Engrossed Bills — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Middleton to grant certain easements (see House, No. 4196, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at five minutes before twelve o'clock midnight, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 713**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapiak, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at three minutes before twelve o'clock midnight the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Havern) and laid before the Governor on Friday, July 23, 2004 for his approbation.

An engrossed Bill authorizing the town of Yarmouth to make certain conveyances of wellfield land (see House, No. 4706, changed and amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, — was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at two minutes before twelve o'clock midnight, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 714**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.

Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twelve o'clock midnight the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Havern) and laid before the Governor on Friday, July 23, 2004 for his approbation.

Engrossed Bills.

The following engrossed bills (both of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Havern) and laid before the Governor on Friday, July 23, 2004, for his approbation, to wit:

Relative to electric transmissions (see House, No. 4432, amended); and

To determine the financial feasibility of establishing the Massachusetts Health Care Trust (see House, No. 4953, amended).

An engrossed Bill relative to community based juvenile justice programs (see House, No. 4924, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the Acting President (Mr. Havern) and again laid before the Governor on Friday, July 23, 2004 for his approbation.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed, by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 1599-1971 (Hired and Leased Equipment) was considered as follows:

“1599-1971 For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice control; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor, payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the Commonwealth are in conformance: with M.G.L. c. 85, sec. 7A and how many are not; and provided further, that no funds shall be expended or allocated from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein 35,000,000”.

[The Governor disapproved certain wording as follows; “; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts, paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either: the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not; and provided further, that no funds shall be expended or allocated from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein”].

The question on passing item 1599-1971, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past twelve o'clock midnight, as follows, to wit (yeas 31 — nays 7) [**Yeas and Nays No. 715**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.

Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 31.
Melconian, Linda J.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at five minutes past twelve o'clock midnight, item 1599-1971 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bill.

An engrossed Bill relative to court advisement (see House, No. 4135, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Havern) and laid before the Governor on Friday, July 23, 2004 for his approbation.

Message from the Governor — Disapproval and Reductions in General Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 286 (Lancaster Election Information II) was considered as follows:

“SECTION 286. The board of selectmen of the town of Lancaster shall cause to be posted in one or more locations in the town, and/or on the town’s official website, and/or publishing in a newspaper in general circulation in the town, as may be determined by bylaw, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by bylaw, cause to be printed and sent, in the manner provided in section 194, arguments for and against each question submitted solely to the voters of said town pursuant to any General Law, including but not limited to, section 21C of chapter 59 of the General Laws. The principal proponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument, and the principal opponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument. No argument shall contain more than 250 words. Said board of selectmen shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least 14 days before the date by which the written arguments must be received. For the purposes of this Act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of, such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this Act, said town counsel shall prepare such argument. All arguments filed with or prepared by the board of selectmen pursuant to this Act, and the summary prepared pursuant to section 194, shall be open to public inspection at the office of the town clerk of said town.”

[The Governor disapproved this item.]

The question on passing section 286, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past twelve o’clock midnight, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 716**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.

Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nine minutes past twelve o'clock midnight, section 286 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

PAPER FROM THE HOUSE.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to appropriations for fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4922) as relates to section 321 of the General Appropriation Bill [for message, see Attachment W of House, No. 4901],— came from the House with the endorsement that the House had *rejected* the amendment (as approved by the committee on Bills in the Third Reading) and had adopted a further amendment striking out all after the enacting clause and inserting in place thereof the following:—

“SECTOIN 1. Notwithstanding any general or special law to the contrary, the executive office of elder affairs, in collaboration with the executive office of health and human services, shall by December 1, 2004 apply for an expansion of the section 2176 home and community based waiver. This application shall seek to expand the income eligibility of the section 2176 waiver to up to 300 per cent of the federal benefit rate under the supplemental security program provided this expansion can be limited to the waiver population. This expansion shall seek to maximize federal financial participation for expenditures authorized in item 9110-1500. Benefits under the section 2176 waiver shall be available to individuals up to the maximum income level provided in the approved waiver amendment. The executive office of elder affairs shall prioritize eligible individuals currently receiving benefits through the enhanced community options program into placements made available through the expanded waiver, as allowed by law and regulation, and shall offer members under the waiver a choice of receiving benefits in their home, community based setting or nursing home, whichever is the least restrictive once said waiver is granted and implemented. The executive office of elder affairs shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance by March 1, 2005 on the status of the waiver application. The report shall detail at a minimum, the progress of the waiver application, and if the waiver is obtained, the number of individuals remaining in the enhanced community options program, and the amount of federal financial participation received or anticipated to be received as a result of approval of the waiver. Said expansion shall be at no net cost to the state.

SECTION 2. This act shall take effect as of July 1, 2004.”

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The Senate then *rejected* the amendment recommended by His Excellency the Governor.

The House amendment was the considered and it was adopted, in concurrence.

Sent to the House for re-enactment.

Committee Discharged.

Ms. Murray, for the committee on Ways and Means, reported, asking to be discharged from further consideration of the House Bill authorizing water sub-metering in residential tenancies (House, No. 5001),— and recommending that the same be referred to the committee on Steering and Policy.

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

Subsequently, Mr. Magnani, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill authorizing water sub-metering in residential tenancies (House, No. 5001).

There being no objection, the rules were suspended, on motion of Ms. Murray,— and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing water submetering in residential tenancies.”

Order Adopted.

On motion of Mr. McGee,—

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

On motion of Mr. McGee, at twenty-seven minutes before one o'clock A.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.