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, November 13, 2003.

Met at three minutes past one o'clock P.M. (Mr. Rosenberg in the Chair).

The Chair (Mr. Rosenberg), members, guests and employees then recited the pledge of allegiance to the flag.

Reports of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill protecting the natural and historic resources of the Commonwealth (Senate, No. 1254),— ought to pass, with an amendment, in section 2, by striking out, in line 12, the words "section 8 of"; by striking out, in line 35, the words "purposes of Article 97" and inserting in place thereof the following words "natural resource purposes"; by inserting after the word "is", in line 41, the following word:— "for"; by inserting after the words "uses, or,", in line 41, the following word:— "for"; by striking out, in line 65, the word "or" and inserting in place thereof the following word:— "and"; and by striking out, in line 141, the word "affair" and inserting in place thereof the following word:— "affairs"; and

The House Bill authorizing the Division of Capital Asset Management and Maintenance to grant an easement in a certain parcel of land in the town of Grafton (House, No. 263),— ought to pass, with an amendment, in section 1, in the first sentence, by striking out the word "shall", and inserting in place thereof the following word:— "may"; in section 1, in the first sentence, by striking out the words "an easement" and inserting in place thereof the following words:— "a nonexclusive easement"; in section 1, in the first sentence, by inserting after the words "general public", the following word:— "currently"; in section 1, in the last sentence, by inserting after the word "easement", the following word:— "area"; in section 1, in the last sentence by inserting after the word "university" the following words:— "and the easement shall be subject to such reasonable conditions as the commissioner shall deem necessary to protect the value of the commonwealth's adjacent property"; and by striking out section 5. **Severally referred, under Senate Rule 26, to the committee on Steering and Policy.**

Resolutions.

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

Resolutions (filed by Mr. Joyce) "on the grand opening of the Canton Public Library";

Resolutions (filed by Mr. Joyce) "congratulating Joseph Adone Bonomi of Milton upon his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Joyce) "congratulating William Paul Melville of Milton upon his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Joyce) "congratulating Christopher Stephen Talutis of Milton upon his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Joyce) “congratulating Nicholas Vincent Sparagna of Milton upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. McGee and Mr. Barrios) “congratulating the Saugus American Little League All-Star Team on their outstanding performance in the fifty-seventh Little League World Series”;

Resolutions (filed by Messrs. O’Leary and Barrios, Ms. Chandler, Ms. Jacques, and Messrs. Joyce, Hedlund, Moore, and Nuciforo, Mrs. Sprague and Ms. Tucker) “recognizing Bill of Rights Day”; and

Resolutions (filed by Mr. Shannon) “on the one hundred and fiftieth anniversary of the First Baptist Church of Winchester.”

Communication.

The Clerk read the following communication:

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

November 12, 2003.

Mr. William F. Welch
Acting Clerk of the Massachusetts Senate
State House Room 335
Boston, MA 02133

Dear Mr. Clerk:

On November 5, 2003, I was unable to be present in the Senate Chamber for the Senate roll call votes on the following matters because of a scheduling conflict:

Each vote related to Senate Bill 2127, An Act to Promote Job Creation, Economic Stability and Competitiveness in the Massachusetts Economy.

The first matter was amendment #116 to Senate Bill 2127. Had I been present, I would have voted in the negative on the question of adoption of amendment #116 offered by Senator Lees.

The second matter was amendment #126 to Senate Bill 2127. Had I been present, I would have voted in the affirmative on the question of adoption of amendment #126 offered by Senator Tolman.

The third matter was reconsideration of the adoption of amendment #126 to Senate Bill 2127. Had I been present, I would have voted in the negative on the question of reconsidering the adoption of amendment #126 offered by Senator Tolman.

The fourth matter was amendment #39 to Senate Bill 2127. Had I been present, I would have voted in the negative on the question of adoption of the amendment offered by Senator Antonioni.

The final matter was amendment #38 to Senate Bill 2127. Had I been present, I would have voted in the affirmative on the question of adoption of the amendment offered by Senator Pacheco.

I would appreciate your assistance with the printing of this communication in the Senate Journal. Thank you in advance for your help with this request.

Sincerely,
ROBERT A. O’LEARY,
State Senator,
Cape and Islands District.

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

Petition.

On motion of Mrs. Sprague, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Ms. Chandler, (accompanied by bill, Senate, No. 2141) of Harriette L. Chandler, Andrea F. Nuciforo, Jr., Lewis G. Evangelidis, Michael R. Knapik and other members of the General Court for legislation to allow preliminary tax bills in certain circumstances,— **and the same was referred to the committee on Senate Ethics and Rules.**

Reports of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Joan M. Menard, Richard T. Moore, Andrea F. Nuciforo, Jr. and other members of the General Court for legislation to restore student transportation services.
Senate Rule 36 was suspended, on motion of Mr. Tisei, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Education, Arts and Humanities.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Frederick E. Berry, Mary E. Grant and Theodore C. Speliotis for legislation relative to adjustment or recovery of medical assistance.
Senate Rule 36 was suspended, on motion of Mr. Tisei, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.
Severally sent to the House for concurrence.

Recess.

At eight minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair, and at nineteen minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

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 fiscal year 2004 to provide for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4004), which on Friday, June 20, 2003, 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. 4005) 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 2810-2040 (State parks and recreation retained revenue) was considered, as follows:—

"2810-2040 The division of state parks and recreation may expend revenues collected up to a maximum of $2,703,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation; provided, that no funds from this item shall be expended for the costs of personnel, including seasonal employees; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division of state parks and recreation may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; provided further, that no expenditures made in advance of the receipts shall be permitted to exceed 75 per cent of the amount of revenues projected by the first quarterly statement required by section 1B; provided further, that the comptroller shall notify the budget director and the chairmen of the house and senate committees on ways and means at the time subsequent quarterly statements are published of the variance between actual and projected receipts in each such quarter and the implications of said variance for expenditures made from; and provided further, that the division of state parks and recreation may issue grants to public and non-public entities from this item 2,703,218".

[The Governor reduced this item to $2,553,218 and struck out the words: "The division of state parks and recreation may expend revenues collected up to a maximum of $2,703,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation", and inserted the words: "The division of state parks and recreation may expend revenues collected up to a maximum of $2,553,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation".]

After debate, the question on passing item 2810-2040 (contained in section 2) notwithstanding the reduction and disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at eighteen minutes before two o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 362]**:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
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.	Tarr, Bruce E.
Jacques, Cheryl 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— **35.**
Menard, Joan M.	

NAYS.

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

ABSENT OR NOT VOTING.

Creem, Cynthia Stone — **1.**

The yeas and nays having been completed at twelve minutes before two o'clock P.M., item 2810-2040 (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.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 1410-0400 (Veterans' benefits) was considered, as follows:—

"1410-0400 For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that said reimbursements shall be made pursuant to section 6 of chapter 115 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns; provided further, that pursuant to section 9 of said chapter 115, the department shall reimburse cities and towns for the cost of United States flags placed on the graves of veterans on Memorial day; provided further, that notwithstanding any general or special law to the contrary, the commissioner of veterans' services may continue a training program for veterans' agents and directors of veterans' services in cities and towns of the commonwealth; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under chapter 115 of the General Laws and alternative resources, including those which are partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income, and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the commissioner shall promulgate regulations for said training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid; provided further, that any person applying for veterans benefits to pay for services available to medical assistance under chapter 118E of the General Laws, shall also apply for medical assistance under chapter 118E to

minimize cost of the commonwealth and its municipalities; provided further, that veterans' agents shall complete applications authorized by the division of medical assistance under chapter 118E for any veteran, widow and dependent applying for medical assistance under chapter 115; provided further, that the veterans' agent shall file the application for the veteran or dependent for assistance under said chapter 118E; provided further, that the division of medical assistance shall act on all chapter 118E applications and advise the applicant and the veterans' agent of the applicant's eligibility for chapter 118E healthcare; provided further, that the veterans' agent shall advise the applicant of the right to assistance for medical benefits under chapter 115 pending approval of the application for assistance under chapter 118E by the division of medical assistance; provided further, that the commissioner may supplement healthcare pursuant to said chapter 118E, with healthcare coverage under said chapter 115, if he determines that supplemental coverage is necessary to afford the veteran or dependent sufficient relief and support; provided further, that payments to or on behalf of a veteran or dependent pursuant to chapter 115 shall not be considered income for the purposes of determining eligibility under chapter 118E; and provided further, that benefits awarded pursuant to section 6B of chapter 115 shall be considered countable income 8,034,959".

[The Governor struck out the words "; provided further, that notwithstanding any general or special law to the contrary, the commissioner of veterans' services may continue a training program for veterans' agents and directors of veterans' services in cities and towns of the commonwealth; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under chapter 115 of the General Laws and alternative resources, including those which are partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income, and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the commissioner shall promulgate regulations for said training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid".]

After debate, the question on passing item 1410-0400 (contained in section 2) notwithstanding the disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at eleven minutes before two o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 363]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L. .	Nuciforo, Andrea F., Jr
Creedon, Robert S., Jr.	O'Leary, Robert A.
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.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne— **38.**

ABSENT OR NOT VOTING.

Creem, Cynthia Stone **— 1.**

The yeas and nays having been completed at nine minutes before two o'clock P.M., item 1410-0400 (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.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the sale of certain conservation land in the town of North Reading (see printed in House, No. 4131, changed) (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 eight minutes before two o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 364]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L. .	Nuciforo, Andrea F., Jr
Creedon, Robert S., Jr.	O'Leary, Robert A.
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.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne— **38.**

ABSENT OR NOT VOTING.

Creem, Cynthia Stone **— 1.**

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

Emergency Preambles Adopted; Engrossed Bills Enacted.

An engrossed Bill establishing a sick leave bank for Christopher Boumil, an employee of the Department of Correction (see printed as Senate, No. 2051, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 7 to 0.
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House bill, printed in House, No. 4097), 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 12 to 0.
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House bill, printed in House, No. 4117), 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 12 to 0.
The bill was signed by the President and sent to the House for enactment.

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

Designating a portion of state highway routes 1A and 133 in the towns of Newbury, Rowley, Ipswich and Essex and the cities of Newburyport and Gloucester as a scenic byway (see Senate, No. 1898);

Authorizing the Commissioner of Capital Asset Management and Maintenance to grant an easement to the county of Nantucket (see Senate, No. 2082, amended); and

Relative to the historic business district of the town of Chatham (see House, No. 4197).

Report of a Committee.

Ms. Jacques 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 Senate Bill to authorize the Department of Environmental Management and the Division of Fisheries and Wildlife to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (Senate, No. 1229) (the committee on Ways and Means having recommended that the bill be amended in section 1, by striking out, in lines 1 to 3, inclusive, the words “division of fisheries and wildlife, within the department of fisheries, wildlife and environmental law enforcement, and/or” and inserting in place thereof the following words:— “department of fish and game and”; and by striking out, in line 28, the words “division of fisheries and wildlife and/or” and inserting in place thereof the following words:— “department of fish and game or”).

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing the Department of Conservation and Recreation and the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester”.
Sent to the House for concurrence.

PAPER FROM THE HOUSE.

The Senate Bill establishing a new business corporation act (Senate, No. 103, amended),— came from the House passed to be engrossed, in concurrence *with amendments* striking out section 3 (as printed) and inserting in place thereof the following section:

“SECTION 2. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as amended by section 204 of chapter 26 of the acts of 2003, and inserting in place thereof the following paragraphs:—

1. ‘Domestic corporations’, (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B, chapter 156D or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that said term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to section 2. A limited liability company having as its sole member a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; but any

limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. 'Foreign corporation', corporation, association, or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B, chapter 156D or section 19F to 19W, inclusive, of chapter 175, or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that said term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided, further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as a foreign S corporation."; and by striking out [at "B"] sections 22 and 23 (as printed) and inserting in place thereof the following three sections:

"SECTION 22. Chapter 156D of the General Laws, as established by this act, shall apply to domestic corporations having capital stock as were established before July 1, 2004 and which were, on June 30, 2004, subject to chapter 156B of the General Laws.

SECTION 23. Any reference contained in the General Laws to chapter 156B or to any section of chapter 156B which has been superseded and replaced by this act shall be considered to be a reference to chapter 156D.

SECTION 24. This act shall take effect on July 1, 2004.".
The rules were suspended, on motion of Mr. Berry, and the House amendment was considered forthwith and adopted, in concurrence (as corrected by Senate BTR).

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to debt collection and loan servicing agencies (House, No. 13),— ought to pass.
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.

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate Bill for the protection of natural resources, authorizing the Department of Environmental Management and the Division of Fisheries and Wildlife to acquire conservation restrictions in and to lands of the town of Egremont (Senate, No. 1684),— was read a second time and, after remarks, was amended, as previously recommended by the committee on Ways and Means, in section 2, by striking out, in line 5, the words "; and book 1197, page 68".
The bill (Senate, No. 1684, amended), was then ordered to a third reading.

The House Bill authorizing the town of Braintree to lease certain property (House, No. 4098),— **was read a second time and ordered to a third reading.**

The House Bill to improve public health in the Commonwealth (House, No. 4256, printed as amended),— was read a second time.
Pending the main question on ordering the bill to a third reading, the bill was placed at the end of the calendar, on motion of Mr. Lees.

The Senate Resolutions (offered by Messrs. Tolman, Hart and Pacheco) "honoring International Human Rights Day",— was considered, the main question being on adoption of the resolutions.

The pending motion, previously moved by Mr. Lees, to lay the matter on the table,— was considered; and, after debate, it was *negatived.*

The recurring question on adoption of the resolutions was determined by a call of the yeas and nays, at twenty-two minutes before three o'clock P.M., on motion of Mr. Tolman, as follows, to wit (yeas 32 — nays 7) **[Yeas and Nays No. 365]**:

YEAS.

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

NAYS.

Baddour, Steven A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — **7.**
Lees, Brian P.	

The yeas and nays having been completed at fourteen minutes before three o'clock P.M., the resolutions were adopted.

Mr. Lees then moved that the Senate reconsider the vote by which the Senate had adopted the resolutions.

After remarks, Mr. Lees then moved that the text of the resolutions be printed in the Journal of the Senate and it was seconded by Mr. Tisei. The text of the resolutions is as follows:

"**Honoring International Human Rights Day."**

Whereas, On International Human Rights Day, December 10, 2003, tens of thousands of workers and allies will be mobilizing to restore workers' freedom to form unions, one of the basic freedoms guaranteed by the Universal Declaration of Human Rights, crafted in 1948 by Eleanor Roosevelt and ratified by four-fifths of the member countries of the United Nations; and

Whereas, Although it has been United States law since 1935 that all persons have the right to form unions, Federal laws are weak and poorly enforced; and

Whereas, Even though our laws guarantee America's workers the right to choose for themselves whether to have a union, employers across the nation routinely violate that right, harassing, intimidating, coercing and even firing workers for exercising, or attempting to exercise, this fundamental freedom; and

Whereas, When employers violate the right of workers to form a union, wages fall, race and gender pay gaps widen, workplace discrimination increases, and job safety standards disappear; and

Whereas, Most employer violations occur behind closed doors; and

Whereas, A worker's fundamental right to choose a union is a public issue that requires public policy solutions, including legislative change; now therefore be it

Resolved, That the Massachusetts Senate hereby supports the fundamental rights of workers to form and join unions, which is an inalienable economic, social, civil and political right of every human being set forth in the International Declaration of Human Rights and further pledges its support of the December 10, 2003 International Human Rights Day of action and the ongoing struggle for workers' rights; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to John Sweeney, President of the AFL-CIO, Robert J. Haynes, President of Massachusetts AFL-CIO and Kathleen A. Casavant, Treasurer of Massachusetts AFL-CIO."

After debate, the question on reconsideration was determined by a call of the yeas and nays, at one minute past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 9 — nays 30) **[Yeas and Nays No. 366]**:

YEAS.

Baddour, Steven A.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. **— 9.**
Lees, Brian P.	

NAYS.

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

The yeas and nays having been completed at four minutes past three o'clock P.M., the motion to reconsider was *negatived.*

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

PAPERS FROM THE HOUSE.

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 fiscal year 2004 to provide for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4004), which on Friday, June 20, 2003, 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. 4005) was read; and the Senate proceeded to reconsider an item which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 8000-0125 (sex offender registry program) was considered, as follows:—

“8000-0125 For the operation of the sex offender registry program, including but not limited to, the costs of maintaining a computerized registry system and the classification of persons subject to the registry 3,596,891”.

[The Governor reduced this item to $3,356,945.]

After debate, the question on passing item 8000-0125 (contained in section 2) notwithstanding the reduction of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at eleven minutes past three o’clock P.M., as follows, to wit (yeas 39 — nays 0) **[Yeas and Nays No. 367]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L. .	Nuciforo, Andrea F., Jr
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne— **39.**
Melconian, Linda J.	

NAYS — 0.

The yeas and nays having been completed at fourteen minutes past three o’clock P.M., item 8000-0125 (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.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Emergency Preamble Adopted.

An engrossed Bill relative to fiscal relief funds (see House, No. 4302), 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 9 to 0.
The bill was signed by the President and sent to the House for enactment.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, on House, No. 2022, in part, a Bill “making appropriations for fiscal year, two thousand four to provide for supplementing certain existing appropriations and for certain other activities and projects” (Senate, No. 2139),— was read.

There being no objection, 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, Mr. Havern moved to amend the bill by inserting after section 84 the following section:—

"SECTION 84A. The Massachusetts department of highways 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; and in the town of Lexington on the off ramp from Route 3 accessing Route 128 South and extending to the Grove Street Bridge.

The department shall expend $2.5 million out of existing accounts for these barriers."
The amendment was adopted.

Ms. Wilkerson and Mr. O'Leary moved to amend the bill by inserting after section 85 the following section:—

"SECTION 85A. (a) There shall be a special commission to address the significant racial, ethnic and linguistic disparities in access to health care and prevention services and quality care and the disparities in medical outcomes in the commonwealth. The disparities to be examined shall include, but not be limited to, breast, cervical, prostate and colorectal cancers, stroke and heart attack, diabetes, infant mortality, diabetes, asthma and other respiratory illnesses. The special commission shall also address diversity amongst health care professionals including, but not limited to, doctors, nurses and physician assistants.

(b) The commission shall consist of one member representing the secretary of health and human services, 1 member representing the commissioner of the department of public health, 1 member representing the commissioner of the department of medical assistance, 1 member representing the attorney general, 3 members of the house of representatives, 1 of whom shall be designated by the speaker of the house as co-chair of the commission, 3 members of the senate, 1 of whom shall be designated by the senate president as co-chair of the commission, 1 member representing Health Care For All, 1 member representing the American Cancer Society Massachusetts Division, 1 member representing the American Heart Association New England Division, 1 member representing the Multicultural AIDS Coalition, 1 member representing Massachusetts General Hospital, 1 member representing Brigham and Women's Hospital, 1 member representing the Massachusetts Hospital Association, 1 member representing the Massachusetts League of Community Health Centers, 1 member representing the Massachusetts Medical Society, 1 member representing the Latin American Health Institute, 1 member representing the Harvard School of Public Health, 1 member representing Boston Public Health Commission, 1 member representing the Springfield Health Department, 1 member representing the Program to Eliminate Health Disparities at the Harvard School of Public Health, 1 member representing Blue Cross/Blue Shield of Massachusetts, 1 member representing the Massachusetts Nurses Association, 1 member representing the Institute on Urban Health Research at Northeastern University, and 1 member representing the Massachusetts Association of Health Plans, and 3 members from communities disproportionately affected by health disparities, to be appointed by the commissioner of the department of public health.

(c) The commission shall convene on or before January 15, 2004 and shall file a report not later than March 15, 2005 with the senate clerk, house clerk and governor. The report shall include, but not be limited to, recommendations for designing, implementing and improving programs and services, and proposing appropriate statutory and regulatory changes to reduce disparities in access to health care services and quality care, and the disparities in medical outcomes in the commonwealth, and to address diversity amongst health care professionals including, but not limited to doctors, nurses and physician assistants."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes past three o'clock P.M., on motion of Ms. Wilkerson, as follows, to wit (yeas 39 — nays 0) **[Yeas and Nays No. 368]**:

YEAS.

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

Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne— **39.**
Melconian, Linda J.	

NAYS — 0.

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

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

"SECTION 39A. Said item 6033-9917 of said section 2B, as so amended, is hereby further amended by striking out the words "750,000 shall be expended for the extension of Tanzio road" and inserting in place thereof the following words:— "$870,000 shall be expended for the extension of Tanzio road".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 33 — nays 6) **[Yeas and Nays No. 369]**:

YEAS.

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

NAYS.

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

Mr. Havern in the Chair, the yeas and nays having been completed at twenty-nine minutes before four o'clock P.M., the amendment was adopted.

Ms. Wilkerson moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION ___. Notwithstanding any general or special law or regulation or rule to the contrary, pursuant to item 8000-0010 of section 2 of chapter 26 of the acts of 2003, the executive office of public safety and homeland security is hereby authorized to make a community policing grant of not less than $441,500 shall be provided to the Boston housing authority for the purpose of providing community policing services at family and elderly public housing developments in the city of Boston; provided, that said grant shall be expended only on community policing personnel; provided further, that said housing authority shall provide a 30% match of said grant, said match may take the form of personnel, equipment and other in-kind services."
The amendment was *rejected.*

Ms. Wilkerson moved to amend the bill by inserting after section 76 the following section:—

"SECTION 76A. Chapter 46 of the acts of 2003 is hereby amended by striking out section 136 and inserting in place thereof the following section:—

Section 136. The committee on state administration shall study and make recommendations for changes to the procurement thresholds as defined in chapter 30B of the General Laws and any other aspects of existing laws and regulations to assist municipalities. The committee shall file recommendations for changes, if any, with the house and senate clerks by March 31, 2004."

The amendment was adopted.

Mr. Brewer moved to amend the bill by inserting after section 5 the following 2 sections:—

"SECTION 5A. Said section 178E of said chapter 6, as so appearing, is hereby further amended by striking out, in line 23, the word 'after' and inserting in place thereof the following word:— before.

SECTION 5B. Subsection (a) of said section 178E of said chapter 6, as so appearing, is hereby amended by adding the following sentence:— No sex offender shall be released from custody unless such registration has been filled out, signed and mailed to the board."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before four o'clock P.M., on motion of Mr. Brewster, as follows, to wit (yeas 39 — nays 0) **[Yeas and Nays No. 370]**:

YEAS.

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

McGee, Thomas M.
Melconian, Linda J.
Wilkerson, Dianne—
39.

NAYS — 0.

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

Mr. Tarr moved to amend the bill by adding at the end thereof the following new section:—

"SECTION 87. Chapter 26 of the Acts of 2004 is hereby amended, in item 8000-0010, by adding at the end thereof, the following:— "; provided further, that in no case shall a city or town receive less funds than they received in Fiscal Year 2002; provided further, that should the amount contained in this item be insufficient to comply with this provision, all grants shall be reduced proportionally."
The amendment was *rejected.*

Mr. Tarr moved to amend the bill by adding at the end thereof the following new section:—

"SECTION 87. Chapter 26 of the Acts of 2004 is hereby amended, in item 8000-0010, by adding at the end thereof the following:— "; provided further, that the following communities shall receive not less than $40,000 from this item: The towns of Groveland, Hamilton, Ipswich, Middleton."
The amendment was *rejected.*

Mr. Shannon moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION XX. Section 650 of chapter 26 of the acts of 2003 is hereby amended by adding the following sentence:— Notwithstanding the foregoing, the inspection fee for residential elevators and wheelchair lifts that are determined to be medically necessary shall be $100 per inspection and the overtime elevator inspection fee shall be $100 per inspection."
The amendment was *rejected.*

Mr. Shannon moved to amend the bill in section 2 by inserting after item 0321-0100 the following:—

"0321-1510 For compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D 13,000,000".
The amendment was *rejected.*

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

"SECTION 72A. Chapter 26 of the Acts of 2003 is hereby amended by striking out section 621 and inserting in place thereof the following section:—

Section 621. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed $16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly owned or publicly operated providers. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance governmental transfer account and administered in accordance with the provisions of subsection (o) of section 18 of chapter 118G of the General Laws."
The amendment was *rejected.*

Mr. Knapik moved to amend the bill by inserting in section 2 the following item:—

Department of Education.

7035-0006 .....5,000,000".
The amendment was *rejected.*

Ms. Creem and Messrs. Moore and Joyce moved to amend the bill by inserting the following new sections:—

"SECTION ___. The General Laws are hereby amended by inserting after chapter 94E the following chapter:—

CHAPTER 94F.

Complementary Provisions Concerning

Tobacco Product Manufacturers.

Section 1. As used in this chapter, the following words shall have the following meanings:—

‘Brand family’, all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, ‘menthol,’ ‘lights,’ ‘kings,’ and ‘100s,’ and includes any use of a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

‘Cigarette’, the same meaning as in chapter 94E.

‘Commissioner’, the commissioner of revenue or the commissioner’s duly authorized representative.

‘Nonparticipating manufacturer’, any tobacco product manufacturer that is not a participating manufacturer.

‘Master settlement agreement’, the same meaning as in chapter 94E.

‘Participating manufacturer’, the same meaning as in the master settlement agreement.

‘Qualified escrow fund’, the same meaning as in chapter 94E.

‘Stamper’, any person authorized by the commissioner to affix the excise stamp on packages or other containers of cigarettes pursuant to chapter 64C.

‘Tobacco product manufacturer’, the same meaning as in chapter 94E.

‘Units sold’, the same meaning as in chapter 94E.

Section 2. (a) Every tobacco product manufacturer whose cigarettes are sold in the commonwealth, whether directly or through a wholesaler, retailer or similar intermediary or intermediaries, shall execute and deliver to the attorney general and to the commissioner, no later than April 30 each year and in a form and manner prescribed by the attorney general, a certification under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either: is a participating manufacturer; or is in full compliance with the escrow requirements of chapter 94E.

(1) A participating manufacturer shall include in its certification a complete list of all of its brand families. The participating manufacturer shall update such list 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the attorney general and the commissioner.

(2) A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families, with: (i) for each brand family, the number of units sold in the commonwealth during the preceding calendar year; (ii) a designation of all of the brand families that have been sold in the commonwealth at any time during the current calendar year; (iii) a designation of all of the brand families sold in the commonwealth during the preceding calendar year that no longer are being sold in the commonwealth as of the date of such certification; and (iv) the identification by name and address of any other manufacturer of such brand families in the preceding or current calendar year. The nonparticipating manufacturer shall update such list 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the attorney general and the commissioner.

(3) In the case of a nonparticipating manufacturer, such certification shall further certify:

(i) that such nonparticipating manufacturer is registered to do business in the commonwealth or has appointed an agent for service of process and provided notice thereof as required by section 3;

(ii) that such nonparticipating manufacturer maintains a qualified escrow fund established under and governed by a qualified escrow agreement that has been reviewed and approved by the attorney general;

(iii) that such nonparticipating manufacturer is in full compliance with chapter 94E and this chapter, and any regulations promulgated pursuant thereto; and

(iv) the name, address and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund; the account number of such qualified escrow fund and the subaccount number for the

commonwealth; the amount such nonparticipating manufacturer placed in such fund for units sold in the commonwealth during the preceding calendar year; the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm them; and the dates and amounts of all withdrawals or transfers of funds made at any time from such qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer ever made escrow payments pursuant to chapter 94E or this chapter and any regulations promulgated pursuant thereto.

(4) A tobacco product manufacturer may not include a brand family in its certification unless (i) in the case of a participating manufacturer, said participating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement; and (ii) in the case of a nonparticipating manufacturer, said nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of chapter 94E. Nothing in this section shall be construed as limiting or otherwise affecting the commonwealth's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of chapter 94E.

(5) The tobacco product manufacturer shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of 5 years, unless otherwise required by law to maintain them for a greater period of time.

(b) In consultation with the attorney general, the commissioner shall develop a public directory listing all tobacco product manufacturers that have provided certifications conforming to the requirements of subsection (a) of section 2 and all brand families that are listed in such certifications in the directory, subject to the following:

(1) The commissioner shall not include in the directory the name or brand families of a nonparticipating manufacturer that fails to provide the required certification or whose certification the attorney general determines is not complete and accurate and otherwise in compliance with subsection (a) of section 2, unless such violation has been cured to the satisfaction of the attorney general.

(2) The commissioner shall not include in the directory the name or brand families of a nonparticipating manufacturer if the attorney general determines that: (i) all escrow payments required pursuant to chapter 94E for any period for any brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the attorney general; or (ii) all outstanding final judgments, including interest thereon, for violations of chapter 94E or this chapter have not been fully satisfied for such brand family and such manufacturer.

(3) The commissioner shall take reasonable steps to update the directory as necessary in order to keep the directory in conformity with the requirements of this chapter.

(4) Every stamper shall provide to the commissioner, and update as necessary, an electronic mail address for the purpose of receiving any notices as may be made pursuant to this chapter.

(c) It shall be unlawful for any person: (1) to affix an excise stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or (2) to sell, offer or possess for sale in the commonwealth, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

Section 3. (a) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the commonwealth as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint and continually engage without interruption the services of an agent in the Commonwealth to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of chapter 94E and this chapter, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of such agent to and to the satisfaction of the attorney general.

(b) In the event that the nonparticipating manufacturer terminates the authority of an agent, the nonparticipating manufacturer shall provide notice to the attorney general 30 calendar days prior to the termination and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than 5 calendar days prior to the termination of the existing agent appointment. In the event that an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of said termination within 5 calendar days and shall include proof to the satisfaction of the attorney general of the appointment of a new agent.

(c) Any nonparticipating manufacturer whose products are sold in the commonwealth, without appointing or designating an agent as herein required, shall be deemed to have appointed the secretary of state as such agent and may be proceeded against in courts of the commonwealth by service of process upon the secretary of state; however, the appointment of the secretary of state as such agent shall not satisfy the condition precedent under subsection (a) of section 2 to having the brand families of the nonparticipating manufacturer listed in the directory.

Section 4. (a) Not later than 20 days after the end of each calendar quarter, and more frequently if so directed by the commissioner, each stamper shall submit such information as the commissioner requires to facilitate compliance with this chapter. The stamper shall maintain, and make available to the commissioner and the attorney general, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the commissioner, for a period of 5 years.

(b) The commissioner is authorized to disclose to the attorney general any information received under this chapter and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this chapter and chapter 94E. The commissioner and the attorney general may share with each other information received under this chapter and chapter 94E, and may share such information with other federal, state or local agencies for purposes of enforcement of this chapter, chapter 94E and the corresponding laws of other states.

(c) The attorney general may require at any time, from the nonparticipating manufacturer or from the financial institution at which the nonparticipating manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 94E, information and documents relating to such fund, including proof of the amount of money in such fund being held on behalf of the commonwealth and the dates and amounts of deposits and withdrawals.

(d) In addition to such other information as may be required, the commissioner and the attorney general may require a stamper or tobacco product manufacturer to submit information including, but not limited to, samples of the packaging and labeling of each brand family, as may be necessary to enable the commissioner and the attorney general to determine whether a stamper or a tobacco product manufacturer is in compliance with this chapter and chapter 94E.

(e) To promote compliance with the provisions of this chapter and chapter 94E, the commissioner may promulgate regulations requiring a tobacco product manufacturer subject to the requirements of paragraph (2) of subsection (a) of section (2) to make the required escrow deposit in quarterly installments. The commissioner and the attorney general may require production of information sufficient to enable the commissioner and the attorney general to determine the adequacy of the amount of the installment deposit.

Section 5. (a) It shall be unlawful for a person to: (i) sell or distribute cigarettes in violation of said subsection (c) of section 2; or (ii) acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the commonwealth in violation of said subsection (c). A violation of this section shall be punished by a fine of not more than $1,000 or by imprisonment in the house of corrections for not more than 1 year, or both.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamper has violated subsection (c) of section 2 or any regulation adopted pursuant to subsection (c) of Section 6, the commissioner may revoke or suspend the stamping authority of the stamper in the manner provided by chapter 62C or chapter 64C. Each stamp affixed and each offer to sell cigarettes in violation of said subsection (c) of said section 2 shall constitute a separate violation. The commissioner may also impose a civil penalty in an amount not to exceed the greater of 500 per cent of the retail value of the cigarettes sold or $5,000 for each violation.

(c) Any cigarettes that have been sold, offered for sale or possessed for sale in the commonwealth in violation of subsection (c) of section 2 shall be deemed contraband, and such cigarettes shall be subject to seizure and forfeiture, and all such cigarettes so seized and forfeited shall be destroyed and not resold.

(d) The attorney general, on behalf of the commissioner, may seek an injunction to restrain a threatened or actual violation of this chapter and to compel compliance with its terms.

(e) If a court determines that a person has violated this chapter, the court shall order any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to commonwealth.

(f) In any civil action brought to enforce this chapter or chapter 94E, the commonwealth shall be entitled to recover the costs of investigation and the costs of the action, including reasonable attorney fees and expert witness fees.

(g) A person who violates subsection (c) of section 2 engages in an unfair and deceptive trade practice in violation of chapter 93A.

(h) Unless otherwise expressly provided, the remedies and penalties provided by this chapter are cumulative to each other and to remedies or penalties otherwise available.

Section 6. (a) A determination of the commissioner to not list or to remove from the directory a brand family or tobacco product manufacturer shall be subject to review in the manner prescribed by section 4 of chapter 249.

(b) The commissioner shall not grant or renew stamping authority to any person unless such person has certified to the commissioner in writing that such person is familiar with this chapter and will comply with its terms.

(c) The commissioner and the attorney general may promulgate regulations necessary to effectuate the purposes of this chapter.

(d) This chapter is not intended to and shall not be deemed to amend chapter 94E of the general laws. If a court of competent jurisdiction finds that provisions of this chapter conflict with provisions of chapter 94E and cannot be harmonized, then such provisions of chapter 94E shall control and such provisions of this chapter shall not apply. If any part of this chapter would cause chapter 94E to no longer constitute a 'qualifying statute,' as that term is defined in the Master Settlement Agreement, then that part of this chapter shall not apply.

SECTION ___. For the year 2003, if the effective date of this act is later than March 16, 2003: the first report of stampers required by subsection (a) of section 4 of chapter 94F of the General Laws shall be due 30 days after such effective date; the certifications by a tobacco product manufacturer described in subsection (a) of section 2 of said chapter 94F shall be due 45 days after such effective date; and the directory described in subsection (b) of said section 2 shall be published or made available within 90 days after such effective date.

SECTION ___. Subclause (ii) of clause (2) of subsection (b) of section 2 of chapter 94E, as appearing in the 2000 Official Edition, is hereby amended by striking out the text in its entirety and inserting in place thereof the following:—

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a Participating Manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

SECTION ___. If Section 1 of this act, or any portion of the amendment to subclause (ii) of clause (2) of subsection (b) of section 2 of chapter 94E made by Section 1 of this act, is held by a court of competent jurisdiction to be unconstitutional, then such subclause (ii) shall be deemed to be repealed in its entirety. If clause (2) of subsection (b) of section 2 of chapter 94E shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then Section 1 of this act shall be deemed repealed, and subclause (ii) of clause (2) of subsection (b) of section 2 of chapter 94E shall be restored as if no such amendments had been made. Neither any holding of unconstitutionality nor the repeal of subclause (ii) of clause (2) of subsection (b) of section 2 of chapter 94E shall affect, impair or invalidate any other portion of chapter 94E, or the application of such section to any other person or circumstance, and such remaining portions of chapter 94E shall at all times continue in full force and effect.

SECTION ___. The definition of "Units sold" in section 1 of chapter 94E, as appearing in the 2000 Official Edition, is hereby amended by striking out the text in its entirety and inserting in place thereof the following:—

'Units sold', the number of individual cigarettes sold in the commonwealth by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the commonwealth on packs bearing the excise tax stamp of the commonwealth, or 'roll-your own', so- called, tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year."
The amendment was *rejected.*

Mr. Joyce moved to amend the bill in section 2 by inserting after item 5930-1000 the following item:—

"7000-9403 For the Newsline program .....40,000".
The amendment was *rejected.*

Mr. Joyce moved to amend the bill in section 61, by inserting after the word "Policy", the words:— ", and provided further, that University of Massachusetts of Boston shall waive the fees for not less than 50 students over the age of 60 in the Manning Certificate Program."
The amendment was *rejected.*

Ms. Jacques and Mr. Magnani moved to amend the bill by adding, at the end thereof, the following section:—

"SECTION ___. Section 2 of chapter 26 of the acts of 2003 is hereby amended in item 0330-0300 is hereby amended by adding at the end thereof the following:— and provided that not less than $198,687 shall be expended for the district court of Natick."
The amendment was *rejected.*

Mr. Montigny moved to amend the bill by inserting after section 69 the following section:—

"SECTION 69A. Section 595 of said chapter 26 is hereby amended by striking out the date 'November 1, 2003' and inserting in place thereof the following date:— July 1, 2004."
After remarks, the amendment was adopted.

Ms. Resor moved to amend the bill by inserting after section 86, the following new section:—

"SECTION ___. Section 2 of chapter 25 of the acts of 2003 is hereby amended in item 7061-0012 by striking the figure "122,100,262" and inserting in place thereof the following:— 129,564,647."
The amendment was *rejected.*

Ms. Resor and Mr. Magnani moved to amend the bill in section 55 by adding the following words:— "Section 2 of chapter 26 of the acts of 2003 is hereby amended in item 4000-0100 by adding the following words:— and provided further that not less than $50,000 shall be expended for the MetroWest Boys and Girls Club."
The amendment was *rejected.*

Mr. Barrios moved to amend the bill in section 55 by inserting after the phrase "Saugus YMCA and YWCA;" the following:— "provided further, that not less than $50,000 shall be expended for the Cambridge Family YMCA;".
The amendment was *rejected.*

Ms. Chandler and Messrs. Knapik, Nuciforo, Antonioni and Brewer moved to amend the bill by inserting after section 84 the following section:—

"SECTION 84A. (a) Notwithstanding section 23D of chapter 59, or any other general or special law to the contrary, any town with semi-annual tax payments that (1) is a member of a regional school district that does not have an approved budget as of November 30, 2003, as provided in section 16B of chapter 71, and (2) has not had its fiscal year 2004 tax rate approved, as provided in section 23 of chapter 59, may issue a notice of preliminary tax and require payment of such preliminary tax. No such notice of preliminary tax may issue unless first approved by the commissioner of revenue. Section 23D of chapter 59 regarding procedures for issuing, mailing and collecting any notice of preliminary tax in cities and towns with semi-annual tax payments shall be applicable to such notice, including the payment of interest.

(b) Notwithstanding section 57C of chapter 59, or any other general or special law to the contrary, any town with quarterly tax payments that (1) is a member of a regional school district that does not have an approved budget as of November 30, 2003, as provided in section 16B of chapter 71, and (2) has not had its fiscal year 2004 tax rate approved, as provided in section 23 of chapter 59, may issue an additional notice of preliminary tax and require payment of a third quarter preliminary tax installment. No such additional notice of preliminary tax may issue unless first approved by the commissioner of revenue. Sections 57C of chapter 59 regarding procedures for issuing, mailing and collecting any additional notice of preliminary tax requiring a third quarter preliminary tax installment in cities and towns with quarterly tax payments shall be applicable to such notice, including the payment of interest. "; and by adding the following section:—

"SECTION 87. Section 84A shall apply to a town that accepts that section by vote of its board of selectmen."
After remarks, the amendment was adopted.

Messrs. McGee and Magnani, Ms. Tucker and Mr. Havern moved to amend the bill in section 2 by adding at the end thereof the following new item:—

"4400-1000 . . . and provided further, that not more than $250,000 shall be expended on a food stamp outreach program 117,806,865".
The amendment was *rejected.*

Ms. Chandler and Mr. Glodis moved to amend the bill by inserting after section 82 the following section:—

"SECTION 82A. Notwithstanding any general or special law to the contrary, the chief justice of the juvenile court shall continue to maintain and operate a juvenile court in the city of Worcester, at Worcester Memorial Auditorium."
After remarks, the amendment was adopted.

Mr. Creedon moved to amend the bill by adding the following new line item:—

"7061-9504 For the purpose of establishing the 2003-2004 Emergency Mold Remediation and Repair Fund within the Department of Education; provided further, that $12,000,000 shall be appropriated from the Commonwealth Stabilization Fund. The Fund shall be established for the purpose of making one-time grants to school districts for the cost of cleanup, remediation, and evaluation of school buildings and repair or replacement of school property or equipment damaged by mold contamination for which the unusual humidity and heat during the summer of 2003 was a major contributing factor. To be eligible for funding, school districts must provide documentation to the Department of Education of mold contamination in one or more buildings during the period of July 15, 2003 through September 15, 2003, and documentation of any of the following expenses related to mold contamination for which the district is seeking grant money:

1. custodial or other employee overtime for activities directly related to cleaning, repairing, or remediation of mold contamination;

2. repair or remediation of the underlying source of the mold contamination, where identified;

3. replacement or repair of damaged school property or equipment;

4. professional services for the investigation or evaluation of the mold contamination, for cleanup and remediation; or for repairs related to the mold contamination.

Documentation provided to the Department of Education as part of an application for grants from the Fund shall be deemed to be public records. Applications for grants from the Fund must be for expenditures attributable solely to a school district's response to mold contamination occurring during the period of July 15, 2003 through September 15, 2003 12,000,000".
After remarks, the amendment was *rejected.*

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

"SECTION 3A. Section 178D of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following 2 paragraphs:—

Notwithstanding sections 178C to 178P, inclusive, or any other general or special law to the contrary and in addition to any responsibility otherwise imposed upon the board, the board shall make the sex offender information contained in the sex offender registry, set forth in clauses (i) to (viii), inclusive, available for inspection by the general public in the form of a comprehensive database published on the internet, which shall be known as the 'sex offender internet database'; provided, however, that no registration data relating to a sex offender who is designated as a level 1 or level 2 designation by the board under section 178K shall be published in the sex offender internet database but may be disseminated by the board as otherwise permitted by said sections 178C to 178P, inclusive; and provided further, that the board shall keep confidential and shall not publish in the sex offender internet database any information relating to requests for registration data under sections 178I, and 178J:

(i) the name of the sex offender;
(ii) the offender's home address;
(iii) the offender's work address;
(iv) the offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication;
(v) the sex offender's age, sex, race, height, weight, eye and hair color;
(vi) a photograph of the sex offender, if available;
(vii) whether the sex offender has been designated a sexually violent predator; and
(viii) whether the offender is in compliance with the registration obligations of said sections 178C to 178P, inclusive.

All information provided to the general public through the sex offender internet database shall include a warning regarding the criminal penalties for the use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275. The sex offender internet database shall be updated regularly, based on information available to the board, and shall be open to searches by the public at any time without charge or subscription. The board shall promulgate rules and regulations to implement, update and maintain the sex offender internet database, to ensure the accuracy, integrity and security of information contained therein, to ensure the prompt and complete removal of registration data for persons whose duty to register has terminated or expired under section 178G, 178L or 178M or under any other law to protect against the inaccurate, improper or inadvertent publication of registration data on the internet."; and by inserting after section 6 the following section:—

"SECTION 6A. Said section 178E of said chapter 6, as so appearing, is hereby further amended by inserting after the word 'sections', in line 194, the following figure:— 178D".; and by inserting after section 7 the following 3 sections:—

"SECTION 7A. Section 178F½ of said chapter 6, as so appearing, is hereby amended by inserting after the word 'offender', in line 54, the following words:— , except as otherwise provided in sections 178C to 178P, inclusive.

SECTION 7B. Section 178K of said chapter 6, as so appearing, is hereby amended by inserting after the word 'sections', in line 161, the following figure:— 178D,.

SECTION 7C. Section 178O of said chapter 6, as so appearing, is hereby amended by inserting after the word 'any', in line 2, the words:— publication on the internet under section 178D or other".

Pending the adoption of the amendment (Lees), Messrs. McGee, Brewer and Barrios moved to amend the amendment by striking out section 87A and inserting the following section:—

"SECTION 87A. Sections 5A, 6A, 7A, 7B and 7C of this act shall not apply until the sex offender registry board certifies to the joint committee on public safety and the house and senate committees on ways and means that it has classified all registered sex

offenders who are awaiting classification, pursuant to section 178K of chapter 6 of the General Laws, on the effective date of this act."

The further amendment was considered; and it was adopted.

The pending amendment (Lees), as amended (McGee, Brewer and Barrios) was then considered; and it was adopted.

Mr. Lees moved to amend the bill by inserting in section 2 the following:—

"*Division of Insurance.*

7006-0020 .....1,100,000".

The amendment was *rejected.*

Mr. Lees moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION ___. Section 27A of chapter 10 of the General Laws, as appearing in the 2002 Official Edition, is hereby repealed."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 2 — nays 37) **[Yeas and Nays No. 371]**:

YEAS.

Tisei, Richard R.	Tucker, Susan C. **— 2.**

NAYS.

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

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

Mr. Lees moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION ___. Section 2 of chapter 26 of the acts of 2003 is hereby amended in line item 4513-1000 by inserting after the words 'gay and lesbian youth' the following words:— provided further, that not less than $50,000 of the amount herein appropriated shall be expended for statewide suicide and violence prevention and outreach to gay and lesbian youth."

After debate, the amendment was *rejected.*

Mr. Lees moved to amend the bill by inserting at the end thereof the following new sections:—

"SECTION ___. Section 31 of chapter 208 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence of the seventh paragraph beginning in line 33 and inserting in place thereof the following:— There shall be a presumption in favor of shared physical custody unless clear and convincing evidence is shown otherwise.

SECTION ___. Section 31 of chapter 208 is further amended by striking out the tenth paragraph beginning in line 47 in its entirety and inserting in place thereof the following:— At the time of the trial on the merits, there shall be a rebuttable presumption in favor of shared legal and physical custody."
The amendment was *rejected.*

Mr. Lees moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION ___. The second paragraph of section 18 of chapter 773 of the acts of 1960, as most recently amended by section 15 of chapter 319 of the acts of 1998, is hereby further amended by inserting after the words 'foregoing, for' the following words:— certain projects at the Amherst campus designated by the president of the university and the chancellor of the Amherst campus pursuant to a 2 year pilot program for projects initiated in the 2004 and 2005 calendar years, and".
The amendment was adopted.

Mr. Lees moved to amend the bill by adding at the end thereof the following new sections:—

"SECTION ___. Clause (9) of section 129B of chapter 140 of the General Laws, as most recently amended by section 428 of chapter 26 of the Acts of 2003, is hereby further amended by striking out clause (9) and inserting in place thereof the following:—

(9) A firearm identification card shall be valid, unless revoked or suspended, for a period of not more than four years from the date of issue. Any card issued on February 29 shall expire on March 1. The executive director of the criminal history systems board shall send by first class mail to the holder of each such firearm identification card, a notice of the expiration of such card not less than 90 days prior to such expiration, and shall enclose therein a form for the renewal of such card. The executive director of the criminal history systems board shall include in his notice all pertinent information relative to the penalties that may be imposed in the event that such firearm identification card is not renewed within the 90 days prior to expiration. The fee for such application shall be $25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain one-half of such fee and the remaining portion shall be deposited into the Firearms Record Keeping Fund established under section 2SS of chapter 29. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit such portion of the firearm identification card application fee into the Firearms Record Keeping Fund quarterly, not later than January 1, April 1, July 1 and October 1 of each year. Any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to such application fee. This section shall take effect on July 1, 2004.

SECTION ___. Subsection (i) of section 131 of chapter 140 of the General Laws, as most recently amended by section 429 of chapter 26 of the Acts of 2003, is hereby further amended by striking out the first paragraph of subsection (i) and inserting in place thereof the following:—

(i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not more than four years from the date of issue and shall expire on the anniversary of the licensee's date of birth occurring not less than three years but not more than four years from the date of issue. Any renewal thereof shall expire on the anniversary of the licensee's date of birth occurring not less than three years but not more than four years from the effective date of such license. Any license issued to an applicant born on February 29 shall expire on March 1. The fee for such application shall be $25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial; provided, however, that the licensing authority shall retain one-half of such fee and the remaining portion shall be deposited into the Firearms Record Keeping Fund established under section 2SS of chapter 29. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit such portion of the license application fee into the Firearms Record Keeping Fund quarterly, not later than January 1, April 1, July 1 and October 1 of each year. This section shall take effect on July 1, 2004.

SECTION ___. Section 131A of chapter 140 of the General Laws, as most recently amended by section 430 of chapter 26 of the Acts of 2003, is hereby further amended by striking out the second paragraph and inserting in place thereof the following:—

The fee for such permits shall be $25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial; provided, however, that the licensing authority shall retain one-half of such fee and the remaining portion shall be deposited in the Firearms Record Keeping Fund established under section 2SS of chapter 29. This section shall take effect on July 1, 2004.

SECTION ___. Section 2LLL of chapter 29 of the General Laws, as most recently amended by section 162 of chapter 26 of the Acts of 2003, is hereby further amended in the third sentence by striking out the numbers '129B, 131, 131A,'. This section shall take effect on July 1, 2004."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 18 — nays 20) **[Yeas and Nays No. 372]**:

YEAS.

Baddour, Steven A.	Morrissey, Michael W.
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E.
Melconian, Linda J.	Tisei, Richard R.
Moore, Richard T.	Tucker, Susan C. — 18.

NAYS.

Antonioni, Robert A.	McGee, Thomas M.
Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Creem, Cynthia Stone	Murray, Therese
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Shannon, Charles E.
Jacques, Cheryl A.	Tolman, Steven A.
Joyce, Brian A.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 20.

ABSENT OR NOT VOTING.

Glodis, Guy W. — 1.

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

Mr. Lees moved to amend the bill in section 55 by striking out the amount "$150,000" and replacing it with the following new amount:— "$300,000".
The amendment was *rejected.*

Mr. Joyce moved to amend the bill in section 2 by inserting in item 2440-1900 the following:— "Provided further, that $80,000 be expended for Pine Tree Brook in the town of Milton to implement Phase III of a project for clearing and dredging."
The amendment was *rejected.*

Mr. Joyce moved to amend the bill in section 2, in item 1599-4500, after the words "ways and means;" the following:— ", and joint committee on election laws,".
The amendment was *rejected.*

Mr. Pacheco moved to amend the bill by inserting after section 84 the following section:—

"SECTION 84A. To remedy violations of Title II of the Americans with Disabilities Act and Article CXIV of he Amendments to the Constitution at the Taunton court facilities that have been reported by the Massachusetts office on disability or are currently the subject of a civil action in federal court in the district of Massachusetts, and in an effort to immediately ensure full access to the Taunton superior court, Taunton district court, Taunton probate court or Taunton family court, notwithstanding any general or special law to the contrary and for a term of no longer than 5 years, the executive office of administration and finance, the division of capital asset management and maintenance and the administrative office of the trial court shall use the Cohannet school located at 120 Cohannet street in the city of Taunton in the county of Bristol as a temporary court facility. If the Cohannet school is not available for such use for any reason, the executive office of administration and finance, the division of capital asset

management and maintenance and the administrative office of the trial court shall utilize only an existing publicly owned structure located within a driving distance of 1/3 mile to the existing Taunton court facilities to fulfill the above-stated goals. Before the expiration of the 5 year term, but no later than November 30, 2008, this temporary court facility shall be replaced by courthouse construction authorized by chapter 277 of the acts of 1995, chapter 368 of the acts of 1996, and chapter 189 of the acts of 1998."
After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill by inserting at the end thereof the following new section:—

"SECTION ___. Section 16G of chapter 6A of the General Laws, as amended by chapter 26 of the Acts of 2003, is hereby further amended by inserting at the end of paragraph (h) the following new sentence:— Notwithstanding the foregoing provisions or any other general or special law to the contrary, the secretary may appoint an individual to serve simultaneously as director of the department of labor and the department of workforce development. If the secretary appoints an individual to so serve simultaneously, the individual shall only be compensated for service in one office.

Paragraph (b) of Section 2 of chapter 23 of the General Laws, as amended by chapter 26 of the Acts of 2003, is hereby amended by striking the third sentence.

Paragraph (b) of Section 2 of chapter 23H of the General Laws, as amended by chapter 26 of the Acts of 2003, is hereby amended by striking the third sentence."
The President in the Chair, after debate, the amendment was *rejected.*

Ms. Creem, Mr. Joyce and Ms. Chandler moved that the bill be amended in section 2 by inserting after item 1410-0400 the following item:—

"*Division of Medical Assistance.*

4000-0600 .....900,000";

and that the bill be further amended at the end thereof by adding the following section:—

"SECTION 1. Chapter 26 of the Acts of 2003 is hereby amended in section 2, in item 4000-0600, by adding at the end thereof the following:— and provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the division of health care finance and policy, is directed to approve a special innovative program, and the division of health care finance and policy, in recognition of the unique special innovative program status granted by the division of medical assistance, shall for any nursing home that provides kosher food to its residents, establish up to a $5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food."
The amendment was *rejected.*

Messrs. Nuciforo, Brewer and Knapik moved to amend the bill in section 2 by inserting after item 7007-1300 the following item:—

"7035-0006 .....5,000,000."
After remarks, the amendment was *rejected.*

Messrs. Nuciforo and O'Leary moved to amend the bill by inserting after section 86 the following section:—

"SECTION 87. Notwithstanding any general or special law to the contrary, the Division of Health Care Finance and Policy, in administering the Uncompensated Care Trust Fund, shall pay to Berkshire Medical Center and Cape Cod Hospital a fixed percentage of its projected free care costs for hospital fiscal year 2004; provided that the fixed percentage shall not be less than 85 percent of free care costs as defined in section 1 of chapter 118G of the General Laws."
The amendment was *rejected.*

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

"SECTION ___. Section 9A of chapter 8 of the General Laws, as amended by section 3 of chapter 55 of the Acts of 2003, is hereby further amended by adding the following sentence:— No fee or charge shall be levied upon non-profit advocacy groups petitioning, informing or engaging elected or appointed officials of the Commonwealth for meetings, receptions or exhibits held in the state house during business hours."
The amendment was *rejected.*

Messrs. Magnani and Nuciforo, Ms. Resor and Messrs. Moore, Brewer and Joyce moved to amend the bill in section 2 by inserting after item 7007-1300 the following item:—

"School Building Assistance Program.

7052-0005 .....3,141,371."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty minutes past five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 35 — nays 2) **[Yeas and Nays No. 373]**:

YEAS.

Antonioni, Robert A.	Knapik, Michael R.
Baddour, Steven A.	Lees, Brian P.
Berry, Frederick E.	Magnani, David P.
Brewer, Stephen M.	McGee, Thomas M.
Chandler, Harriette L.	Melconian, Linda J.
Creedon, Robert S., Jr.	Menard, Joan M.
Creem, Cynthia Stone	Montigny, Mark C.
Fargo, Susan C.	Moore, Richard T.
Havern, Robert A.	Morrissey, Michael W.
Hedlund, Robert L.	Murray, Therese
Jacques, Cheryl A.	Nuciforo, Andrea F., Jr.
Joyce, Brian A.	O'Leary, Robert A.
Pacheco, Marc R.	Tarr, Bruce E.
Panagiotakos, Steven C.	Tisei, Richard R.
Resor, Pamela	Tolman, Steven A.
Rosenberg, Stanley C.	Tucker, Susan C.
Shannon, Charles E.	Walsh, Marian **— 35.**
Sprague, Jo Ann	

NAYS.

Barrios, Jarrett T.	Wilkerson, Dianne **— 2.**

ABSENT OR NOT VOTING.

Glodis, Guy W.	Hart, John A., Jr.**— 2.**

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

Mr. Magnani moved to amend the bill in section 85 by adding in the first sentence, after the words "in coordination with the executive office of health and human services" the words:— "and the information technology division,"; and in said section 85 in the second sentence after the words "1) a review by the executive office of health and human services" the following words:— "acting in coordination with the information technology division".
The amendment was *rejected.*

Mr. Magnani, Ms. Resor, Ms. Jacques and Mr. Joyce moved to amend the bill by adding at the end thereof the following new sections:—

"SECTION ___. The first paragraph of section 9 of chapter 161A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the sixth sentence and inserting in place thereof the following 2 sentences:— A city or town that is also a member of a regional transit authority or that at anytime joins a regional transit authority shall have a portion of the amount assessed for the operation of the regional transit authority credited against its share of the assessment made under this section. The community's assessment shall be reduced by deducting any amount not required to cover the annual costs which are incurred by the authority for the proportional level of services operated in the community by the authority as determined by the advisory board to the authority. For purposes of this section 'annual costs' are those costs which are funded by the assessments made under this section. The amount credited shall not exceed the total amount of the assessment."

And to further amend the bill at the end thereof by adding the following new section:—

"SECTION ___. Section 3 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Any city or town, or group or combination of cities or towns, other than a city or town included in the Massachusetts Bay Transportation Authority and in which the Massachusetts Bay Transportation Authority operates fixed route bus service may, upon compliance with the provisions of this section, by a majority vote of the city council or majority vote of the town meeting or majority vote of any other legislative body, respectively, be made into a body politic and corporate and a political subdivision of the commonwealth under the name of the municipality within the new authority having the greatest population, or under any other appropriate regional name agreed to by a majority of the member municipalities, and followed by the words 'Transit Authority'."

And by adding at the end thereof the following new section:—

"SECTION ___. Section 3 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

Any city or town, or group or combination of cities or towns, other than a city or town included in the Massachusetts Bay Transportation Authority and in which the Massachusetts Bay Transportation Authority operates fixed route bus service or in an authority established pursuant to section fourteen may, by a majority vote of the city council or of the town meeting or majority vote of any other legislative body, respectively, and subject to the approval of the advisory board to a regional transit authority, join an authority which is not separated from the city or town or group or combination of cities and towns by more than 1 other municipality.

The amendment was *rejected.*

Mr. Magnani moved to amend the bill by adding the following words in section 58 at the end thereof:— "provided further, that not less than $104,123 shall be expended for the school age parenting project at Framingham high school."

The amendment was *rejected.*

Mr. Magnani, Ms. Resor, Mr. Moore and Ms. Chandler moved to amend the bill by adding at the end thereof the following new sections:—

"SECTION ___. Chapter 10 of the General Laws is hereby amended by inserting after section 63 the following section:—

Section 63A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Metropolitan Highway System Toll Mitigation Fund for the purpose of maintaining the Massachusetts Turnpike Authority toll discount program as established by the authority's board of directors on June 28, 2002.

Notwithstanding any general or special law or contract to the contrary, a portion of any sums owed to the commonwealth and recovered pursuant to section 83 of chapter 4 of the Acts of 2003 shall be deposited in the fund. The portion to be credited to the fund pursuant to this section shall be the amount required to fully fund the toll discount program until such time as tolls shall be no longer collected."

And Mr. Magnani moved to further amend the bill at the end thereof by adding the following new section:—

"SECTION ___. Section 83 of Chapter 4 of the acts of 2003 is hereby amended by striking out subsection (c)."

The amendment was *rejected.*

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

"SECTION 65. Subsection (c) of Chapter 30 of the General Laws is hereby struck and replaced with the following:—

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, to 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 section 31 of chapter 29 shall not be required in instances of such an assignment by the Governor's Chief Legal Counsel."

The amendment was *rejected.*

Messrs. Morrissey and Barrios moved to amend the bill, in section 9, by inserting after the words "The New England Patriots Charitable Foundation, Inc.", the following words:— "Mini Fenway Park, Inc."

The amendment was adopted.

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

“SECTION ___. Section 17J of chapter 180 is hereby amended by adding after the first sentence of the first paragraph the following words:— Deductions in an amount determined by the employee and in compliance with applicable law may also be made for any committee on political education designated by the employee pursuant to this section. The approval of the comptroller shall not be required for such deductions. All deductions pursuant to this section shall be made without charge to any person or entity.”
The amendment was *rejected.*

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

“SECTION ___. Section 29A of Chapter 217 of the General Laws is hereby amended by striking the last sentence and inserting in place thereof the following:— A deputy assistant register shall receive as additional compensation, subject to appropriation, an amount equal to 15 per cent of the annual salary of the Dukes county register of probate.”
The amendment was *rejected.*

Mr. O’Leary moved to amend the bill in section 2 by inserting after item 7002-0800 the following item:—

“*Department of Housing and Community Development.*

7004-2027
For community economic development; provided, that grants may be awarded to not-for-profit community-based organizations; provided further, that on or before February 1, 2004, the department shall file with the house and senate committees on ways and means a report demonstrating the distribution of funds from this item among rural, suburban, and urban community-based organizations; provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees 1,017,730”.
The amendment was *rejected.*

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

“SECTION ___. Section 29B of Chapter 217 of the General Laws is hereby amended by striking the last two sentences and inserting in place thereof the following:— The register of probate may designate 1 employee as deputy assistant register with the same powers as assistant register and may revoke any such designation at will. A deputy assistant register shall receive as additional compensation, subject to appropriation, an amount equal to 15 per cent of the annual salary of the Nantucket county register of probate.”
The amendment was *rejected.*

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

“SECTION ___. Item 4000-0300 in section 2 of Chapter 26 of the Acts of 2003 is hereby amended by inserting after the words ‘General Laws’ the following:— Provided that the same standards and regulations for personal care attendants in effect on February 1, 2002 shall be retained in fiscal year 2004 unless an agreement to any changes is reached between the Division of Medical Assistance, designees of the Governor’s Advisory Commission on Disability Policy, the Massachusetts Office on Disability and the Statewide Independent Living Council.”
The amendment was *rejected.*

Messrs. Hedlund and O’Leary moved to amend the bill by inserting at the end of thereof the following new section:—

“SECTION ___. Section 1. Section 6 of chapter 46 of the acts of 1997 is hereby repealed.

Section 2. Notwithstanding section 89(i) 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 public school districts previously subject to the provisions of section 6 of chapter 46 of the acts of 1997 in order to provide for the continued education of students enrolled in charter schools as of October 1, 2003.”.
The amendment was *rejected.*

Mr. Baddour moved to amend the bill by inserting after section 76 the following section:—

“SECTION 76A. Section 8 of chapter 55 of the acts of 2003 is hereby amended by striking out the date ‘July 1, 2002’ and inserting in place thereof the following date:— July 1, 2003.”
After remarks, the amendment was adopted.

Mr. Havern moved to amend the bill in section 2 by inserting after item 0321-0100 the following item:—

“0321-2206 For the social law library to operate the electronic law database project 294,000”.
The amendment was *rejected.*

Ms. Resor moved to amend the bill in section 2 by inserting the following new item:—

"2300-XXXX For the operation of a natural and endangered species program 250,000".
The amendment was *rejected.*

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

"SECTION 9A. Section 25A of chapter 111 of the General Laws is hereby amended by adding the following paragraph:—

The department of public health may establish an Amyotrophic Lateral Sclerosis registry, by areas and regions of the state, with specific data to be obtained from urban, low and median income communities, and minority communities of the commonwealth."
The amendment was adopted.

Mr. Tarr moved to amend the bill by adding, at the end thereof, the following new section:—

"SECTION 87. Section 663 of Chapter 26 of the Acts of 2003 is hereby amended by adding, after the word 'hospitals' in line three, the following:— Provided that of this amount, not less than $400,000 be expended for the provision of emergency surgery on a 24 hour, 7 day per week basis by the Northeast Hospital Corporation at the Addison Gilbert Hospital in the city of Gloucester."
The amendment was *rejected.*

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

"SECTION ___. Section 116, subsection (a)(1) of Chapter 36 of the Acts of 2003 is hereby amended in the second paragraph by striking the word 'and' and inserting the word:— or."
The amendment was *rejected.*

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

"SECTION 37A. Item 8700-7997 of section 2 of chapter 289 of the acts of 1998 is hereby amended by striking out the words 'For improvements to the Newburyport Armory' and inserting in place thereof the following words:— For improvements in the city of Newburyport.

SECTION 37B. Said item 8700-7997 of said section 2 of said chapter 289 is hereby further amended by striking out the words 'on the Newburyport Armory site'."
After remarks, the amendment was adopted.

Mr. Magnani moved to amend the bill by adding at the end thereof the following new section:—

"SECTION ___. Notwithstanding any general or special law to the contrary, the State Secretary of the Commonwealth and the State Auditor shall immediately undertake an independent study of: (1) the value of the lease interests of Massachusetts Turnpike Authority service area plazas; (2) the value of the fee interest of the Massachusetts Turnpike Authority service area plazas; (3) the amount of outstanding notes and bonds issued by the Massachusetts Turnpike Authority relating to the turnpike; (4) the identification and value of all other sources of non-toll revenue relating to the turnpike; (5) the costs related to the transfer of the turnpike from the Authority free of tolls to the Highway Department by one or more agreements; (6) the costs for the Highway Department to operate and maintain the turnpike free of tolls; and (7) the effect of traffic patterns if turnpike tolls are removed. The Massachusetts Turnpike Authority and the Highway Department shall provide the State Secretary of the Commonwealth and the State Auditor with all information deemed necessary by the State Secretary of the Commonwealth and the State Auditor for the completion of said study. The State Secretary of the Commonwealth and the State Auditor shall report to the Governor and the Joint Committee of Transportation of The General Court the results of said study, together with his recommendation and proposed legislation necessary to implement said recommendations into effect, not later than January 31, 2004."
The amendment was *rejected.*

Ms. Murray moved to amend the bill by adding at the end thereof the following sections:—

"SECTION 38A. Subsection (c) of section 10 of chapter 152 of the acts of 1997, as appearing in section 439 of chapter 26 of the acts of 2003, is hereby further amended by striking out the last sentence.

SECTION 68A. Section 593 of chapter 26 of the acts of 2003 is hereby amended by striking out subsection (a) and inserting in place thereof the following paragraph:—

(a) Notwithstanding paragraph (j) of subdivision (2A) of section 23 of chapter 32 of the General Laws, or any other general or special law to the contrary, effective April 1, 2004, all real and personal property located at, is a part of or used in connection with the Hynes Convention Center, formerly known as the John B. Hynes Veterans Memorial Auditorium, in this section referred

to as the ‘Hynes Auditorium’ including, without limitation, all real property and improvements transferred to the Massachusetts Convention Center Authority, in this section referred to as the ‘authority’ pursuant to section 38A of chapter 190 of the acts of 1982 and all real and personal property located at, is a part of or used in connection with the Boston Common Parking Garage, in this section referred to as the ‘parking garage’ including, without limitation, all real property and improvements transferred to the authority pursuant to section 38F of said chapter 190 and all real and personal property taken by eminent domain or otherwise acquired through conveyance from time to time by the authority in the immediate vicinity of the Hynes Auditorium and the parking garage, are hereby transferred from the authority to the pension reserves investment management board, in this section referred to as the ‘PRIM board’ to be held in the Commonwealth’s Pension Liability Fund in the Pension Reserves Investment Trust Fund, in this section referred to as the ‘PRIT Fund’ in satisfaction of the appropriation required by section 22C of chapter 32 of the General Laws. The remaining value of the properties in excess of that amount shall be used to decrease the unfunded pension liability of the PRIT Fund. Upon determination of the fair market value of the properties pursuant to subsection (e), the PRIM board shall notify the chairs of the house and senate committees on ways and means of the fair market value of the properties. The authority shall execute, acknowledge and deliver such confirmatory deeds or other instruments as may be reasonably required by the PRIM board, but such execution, acknowledgement and delivery shall not be a condition of the transfer, subject to the condition described below.

Title to the transferred properties shall be in the name of the PRIM board or in the name of such entity or entities as the PRIM board may cause to be established for such purpose. The PRIM board, prior to April 1, 2004, shall file with the secretary of administration and finance and the chairs of the house and senate committees on ways and means a written notice stating whether the PRIM board’s investigations have identified an event, condition or circumstance that could affect the public health, safety, welfare or the environment at or from the properties including, without limitation, alleged release or threat of release of oil or hazardous material, as such terms are defined in the section 2 of chapter 21E of the General Laws, and whether and to what extent such event, condition or circumstance would have an adverse impact on the PRIT Fund.

SECTION 68B. Clause (i) of subsection (c) of said section 593 of said chapter 26 is hereby amended by adding the following:— ; provided, however, that: (1) the authority shall provide for the operating costs from the Convention Center Fund or from any other moneys available to it for such purpose; (2) the authority shall maintain, preserve and keep the facility in good repair, working order and condition and shall, from time to time, make, or cause to be made, all necessary and proper repairs, replacements and renewals so that the facility may be restored to satisfactory condition; and (3) the PRIM board shall have no liability, absent its express assumption of such liability, in respect to contracts entered into by the authority the transfer of title to the facility to the PRIM board, including, without limitation, contracts for the use of the facility.

SECTION 68C. Said section 593 of said chapter 26 is hereby further amended by adding the following subsection:—

(f) Notwithstanding any general or special law to the contrary, from July 1, 2003 to the date of transfer of the parking garage to the PRIM board, the Convention Center Authority and the secretary of administration and finance shall deposit in the PRIT Fund any of the revenues of the parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and costs of debt service on bonds issued to finance the restoration of the parking garage. After said transfer, the debt service cost of bonds issued to finance the restoration of the parking garage shall be borne solely by the commonwealth and shall not be reimbursed by the PRIM board from parking garage revenues.”; and by inserting after section 84 the following section:—

“SECTION 84A. Notwithstanding any general or special law to the contrary, $1,500,000 shall be made available, in each year for fiscal year 2004 and 2005, from any of the resources available to the department of workforce development for a grant program to be administered by the department for the purpose of awarding a grant to companies that newly locate their corporate headquarters and principal executive offices within the commonwealth by December 31, 2005, to be used by the companies for workforce training and development purposes. Under the program, a company shall be eligible to receive a grant only on the condition that the department receives a written statement from the president or chief executive officer of the company, signed under the pains and penalties of perjury, that the company will locate its corporate headquarters and principal executive offices within the commonwealth by December 31, 2005. The department shall issue further criteria for the award of the grant including, but not limited to, criteria related to the number of workers to be employed and trained by the company within the commonwealth and the length of time by which the company will retain its corporate headquarters and principal executive offices within the commonwealth. The director of workforce development shall have sole discretion to award and distribute grants under the program.”; and by striking out section 77 and inserting in place thereof the following section:—

“SECTION 77. Notwithstanding any general or special law or rule or regulation to the contrary, the executive office of health and human services, in conjunction with the office of elders services, department of public health, division of medical assistance and division of health care finance and policy shall convene a task force, which shall develop a critical nursing facility capital access plan for the purpose of ensuring necessary physical plan maintenance as an integral part of quality nursing home care. The task force shall also include representatives from the nursing home industry, including from the Massachusetts Extended Care Federation and the Massachusetts Aging Services Coalition. In developing its plan, the task force shall identify and compile pertinent information, including, but not limited to the following:

(1) the age of each nursing facility, specifying the date of initial licensure approved by the department of public health;

(2) the adequacy of the current Medicaid nursing facility capital reimbursement method to ensure that necessary physical plant maintenance is executed to ensure that residents receive treatment in facilities that meet the licensure requirements of the department of public health, and examine the capital reimbursment method's effect on nursing facility replacement and renovation projects which have received department of public health determination of need approval;

(3) the number of nursing facility replacement and renovation projects which have received department of public health determination of need approval since 1995;

(4) the total capital expenditure approved by the department for each nursing facility replacement and renovation project in each year and in each city or town;

(5) whether each approved project constitutes total replacement or renovation;

(6) construction status of each approved project as of December 1, 2003; and

(7) the supply and demand projections of nursing facility utilization by geographic region, with particular attention given to urban areas.

The task force shall submit its plan to the legislature by April 1, 2004. The plan shall include recommendations for regulatory and statutory changes needed in order to implement the plan."; and by inserting the following sections:—

"SECTION 14A. The third paragraph of section 18A of chapter 138 of the General Laws is hereby amended by inserting after the figure '$5,000', as inserted by section 414 of chapter 26 of the acts of 2003, the following words:— , provided, however, that for any licensee who represents more than 1 principal, the license fee shall be $500 for each principal more than 1; and provided further, that there shall be a cap on the fees paid to represent multiple principals of $6,500.

SECTION 71A. Section 617 of chapter 26 of the acts of 2003 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

In developing the program, the secretary shall form groups consisting of an association that represents a majority of the hospitals in the state, individual hospitals, including but not limited to, the 5 disproportionate share hospitals providing the greatest amount of free care, community health centers, health maintenance organizations, consumer and patient advocates, employer organizations, relevant policy experts, and shall examine: (1) the definitions of critical access services, free care, emergency medical condition and emergency services as defined in this act and use the free care audits produced by an independent auditor to determine which services are currently being covered by the pool and what services should be covered by the pool as part of the new program; and (2) the impact of Medicaid rates paid to disproportionate share hospitals and its relationship to said hospitals' demand for payments from the uncompensated care pool."
The amendment was adopted.

Ms. Murray moved to amend the bill in section 2 by striking out item 1599-1421 and inserting in place thereof the following item:—

"1599-4121
For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various collective bargaining agreements negotiated between the board of trustees of the University of Massachusetts and: the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA; the Professional Staff Union, Local 509, Service Employees International Union, AFL-CIO/CLC; the University Staff Association/Massachusetts Teachers Association/NEA; the International Brotherhood of Police Officers, Local 432, Units A and B; the International Brotherhood of Teamsters, Local 25 (2 units); the University of Massachusetts and the International Brotherhood of Police Officers, Local 399; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 507; the National Association of Government Employees, Local 245; the American Federation of Teachers, Local 1895, AFL-CIO, Faculty Federation; the American Federation of Teachers, Local 1895, AFL-CIO, Educational Services; International Association of Police Officers, Local 399; the Massachusetts Society of Professors/Lowell; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 1776; the Graduate Employee Organization, Local 2322, UAW; the Service Employees' International Union, Local 509, Unit B; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Clerical-Technical Unit; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Professional/Mid-Management Unit; the National Association of Government Employees; the Graduate Employee Organization, Local 1596, UAW; and the Graduate Employee Organization Boston, Local 1596, UAW; provided, that said payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided that the salary of each employee covered by the terms of the collective bargaining agreements listed in this item shall be increased by an amount of money which shall cause said employee to be paid, effective on January 1, 2004, the salary specified in the relevant agreement which would have been in effect as of January 1, 2004 in accordance with the agreement; provided, further, that employees covered by the terms of the

collective bargaining agreements listed in this item shall, subject to appropriation in fiscal year 2005 and thereafter, continue to be paid salaries specified in this item until the parties to said collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided, further, that the president of the University of Massachusetts shall expend these funds for such salary adjustments and other economic items in accordance with the provisions herein and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the University based upon a schedule submitted by the president of the University of Massachusetts; provided, further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding the provisions of chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the provisions of any collective bargaining agreement to the contrary; provided further, that notwithstanding chapter 150E of the General Laws or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to fiscal year 2004, as otherwise provided in such collective bargaining agreements 25,960,284";

and by inserting after item 4590-0301 the following item:—

"4599-4122
For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various collective bargaining agreements negotiated between the board of higher education and: the Association of Professional Administrators; and the American Federation of State, County and Municipal Employees, Council 93, Local 1067, AFL-CIO; provided, that said payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided that the salary of each employee covered by the terms of the collective bargaining agreements listed in this item shall be increased by an amount of money which shall cause said employee to be paid, effective on January 1, 2004, the salary specified in the relevant agreement which would have been in effect as of January 1, 2004 in accordance with the agreement; provided, further, that employees covered by the terms of the collective bargaining agreements listed in this item shall, subject to appropriation in fiscal year 2005 and thereafter, continue to be paid salaries specified in this item until the parties to said collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided, further, that the chancellor of the board of higher education is authorized and directed to expend these funds for such salary adjustments and other economic items in accordance with the provisions herein and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the board of higher education based upon a scheduled submitted by the chancellor of the board of higher education; provided, further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the provisions of any collective bargaining agreement to the contrary; provided further, that notwithstanding the provisions of chapter 150E of the General Laws or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to fiscal year 2004, as otherwise provided in such collective bargaining agreements 8,216,572".
The amendment was adopted.

Messrs. Lees, Knapik, Tarr, Nuciforo and O'Leary moved to amend the bill by inserting after section 84 the following 2 sections:—

"SECTION 84A. Notwithstanding any general or special law to the contrary, during fiscal year 2004 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed $590,000,000 for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law, and the Medicaid state plan. The funds shall be expended only for payment obligations arising during fiscal year 2004. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered

ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for expenditure shall be funded in part through intergovernmental transfers to the commonwealth or municipal or other nonfederal public funds. The Boston Public Health Commission and the Cambridge Public Health Commission shall transfer to the medical assistance intergovernmental transfer account an amount not less than 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with those commissions; provided, however, that an amount equal to not more than 5 per cent of the gross amounts of supplemental payments made by the division of medical assistance shall be transferred from medical assistance intergovernmental transfer account to the Essential Community Provider Fund, established by section 84B.

SECTION 84B. There is hereby established the Essential Community Provider Expendable Trust Fund, which shall be administered by the secretary of health and human services. Expenditures from the fund shall be subject to appropriation. The purpose of the fund shall be to provide financial support to community health centers, community health center-based managed care organizations and other essential community providers that serve populations in need of community-based care, clinical support, care coordination services, pharmacy management services or other special needs for continuing community care including, but not limited to, those populations who are chronically ill, elderly or disabled. The secretary of health and human services shall develop regulations governing the necessity and recommended uses of the fund in partnership with the Massachusetts League of Community Health Centers, the Massachusetts Hospital Association and representatives of other community-based providers. Notwithstanding any general or special law to the contrary, the secretary shall make available from the fund $3,000,000 in a 1-time grant for a community health center located in Suffolk county that participates in the MassHealth program, operates a 24-hour urgent care facility and a 340B outpatient pharmacy program; $4,000,000 in a 1-time grant for a hospital in Hampden county with a significant inpatient mental health and methadone program that participates in the MassHealth program; $790,000 in a 1-time grant for a sole community hospital under the Medicare program located in Barnstable county; $790,000 in a 1-time grant for a sole community hospital under the Medicare program located in central and southern Berkshire county; $4,000,000 in a 1-time grant for a disproportionate share financially distressed community hospital located in Suffolk county with a locked inpatient adolescent psychiatric unit that participates in the MassHealth program; and $950,000 in a 1-time grant for a disproportionate share acute care hospital located in the Southeastern Massachusetts division of the medical assistance psychiatric service area that operates inpatient psychiatric units. The secretary shall file a report not later than January 1, 2004 with the speaker of the house of representatives, the president of the senate and the house and senate committees on ways and means delineating any initiatives or proposals recommended to be funded, the amount recommended to be expended on each initiative, the names of each entity recommended to receive funds pursuant to this section and the extent to which the expenditures are eligible for federal reimbursement. Any federal reimbursements received by the commonwealth for expenditures made from the Fund shall be deposited into the Fund."

Pending the amendment previously moved by Mr. Lees, et al, Mr. Tarr moved to further amend the technical amendment by adding after the word "units", in line 27 of the second section thereof, the following:— "$400,000 for the provision of emergency surgery at a community hospital located on Cape Ann.".
The further amendment (Tarr) was considered; and it was *rejected.*

The pending amendment, previously moved by Mr. Lees, et al, was then considered; and it was adopted.

Mr. Havern moved that the bill be amended in section 67 by striking out in the second sentence the words, "The state secretary in his discretion may waive this annual filing fee for good cause" and by inserting in place thereof the following words:— The state secretary shall waive this annual filing fee".
The amendment was *rejected.*

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

"SECTION ___. The Department of Telecommunications and Energy is authorized and directed to perform a study concerning the effects of electric deregulation in Massachusetts on rate reductions to all classes of customers, including but not limited to quality of service, including staffing levels, and improvements to the transmission and distribution system. The study shall include the Department's recommendations on action to be taken with respect to the end of Standard Offer Service in February 2005. The Department shall file the report with the House and Senate Clerks, Committees on Ways and Means and the Joint Committees on Government Regulations and Energy before April 1, 2004."
The amendment was *rejected.*

Ms. Tucker and Ms. Resor moved to amend the bill by adding at the end thereof the following new section:—

"SECTION ___. Section 62A of chapter 143 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the words, 'The owner or person in control of a building in which an elevator is operated shall pay fees to be determined annually by the secretary of administration under the provisions of section three B of chapter seven for inspection and safety tests by an inspector assigned by the commissioner; provided, however, that said fees shall be set at a rate sufficient to meet the cost of the department of public safety for providing said inspections and safety tests;', in lines 1 to 7, and inserting in place thereof the following:— The owner or person in control of a building in which an elevator is operated shall pay an annual

fee of $400 for inspection and safety tests by an inspector assigned by the commissioner; provided however the fee for inspections of elevators, handicap lifts and dumbwaiters in houses of worship, restaurants, private homes, medical facilities, nursing homes, public schools and municipal buildings shall not exceed $100.

SECTION 2. Section 650 of chapter 26 of the Acts of 2003 is hereby repealed."
The amendment was *rejected.*

Ms Fargo moved to amend the bill by inserting after section 86 the following new section:—

"SECTION 86A. Notwithstanding any general or special law, administrative bulletin or code of Massachusetts regulation to the contrary, the department of highways may construct sound barriers at designated Area Number 21, Waterford Place in Chelmsford, designated Area Number 17, Smith Street/Chelmsford Arms in Chelmsford, and designated Area Number 1, Ledgewood/Lido Lane in Bedford, as defined by HMMH Report Number 298280 as prepared for said department."
After remarks, the amendment was adopted.

Mr. Brewer moved to amend the bill by striking out section 14 and inserting in place thereof the following sections:—

"SECTION 14. Section 121 of chapter 140 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of 'ammunition' and inserting in place thereof the following definition:—

'Ammunition', cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun, and tear gas cartridges. The term 'ammunition' shall also mean any device or instrument which contains or emits over 260 grams of a liquid, gas, powder or any other substance designed to incapacitate.

SECTION 14A. Section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the word 'incapacitate', in line 142, the following words:— containing more than 260 grams of liquid, gas or powder.

SECTION 14B. Said section 129B of said chapter 140, as so appearing, is hereby further amended by inserting after the word 'incapacitate', in line 154, the following words:— containing more than 260 grams of liquid, gas or powder.

SECTION 14C. Said section 129B of said chapter 140, as so appearing, is hereby further amended by inserting after the word 'incapacitate', in line 188, the words:— containing more than 260 grams of liquid, gas or powder.

SECTION 14D. Section 131 of said chapter 140, as so appearing, is hereby amended by inserting after the word 'incapacitate', in line 96, the following words:— containing more than 260 grams of liquid, gas or powder.

SECTION 14E. Section 131P of said chapter 140, as so appearing, is hereby amended by inserting after the word 'incapacitate', in line 16, the following words:— containing more than 260 grams of liquid, gas or powder.

SECTION 14F. Chapter 269 of the General Laws, as appearing in the 2003 Official Edition, is hereby amended by inserting after section 10A the following sections:—

Section 10B. Any person who makes a sale or delivery of chemical mace, pepper spray or other similarly propelled liquid, gas or powder containing over 260 grams of a liquid, gas, powder or any other substance designed to incapacitate to any person under the age of eighteen shall be punished by a fine of not more than two thousand dollars or by imprisonment for not more than six months, or both. This section shall not prohibit the employment of any person over the age of eighteen from handling or selling such products and shall not prohibit a business from employing a person under the age of eighteen who does not directly handle or sell such products.

Section 10B½. Any person under the age of eighteen who possesses, purchases or attempts to purchase chemical mace, pepper spray or other similarly propelled liquid, gas or powder containing over 260 grams of a liquid, gas, powder or any other substance designed to incapacitate, or makes arrangements with any person to purchase or procure such products, or who willfully misrepresents his age, or alters, defaces or falsifies his identification offered as proof of age, with the intent of purchasing such products shall be punished by a fine of not more than five hundred dollars.

SECTION 14G. Chapter 269 of the General Laws, as appearing in the 2003 Official Edition, is hereby amended by inserting after the first paragraph:—

Whoever except in the lawful defense of life or property, willfully discharges chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, with the intent to accost or annoy another person shall be punished by a fine of not more than five hundred dollars."
After remarks, the amendment was *rejected.*

Mr. O'Leary moved to amend the bill by inserting after section 18 the following 2 sections:—

“SECTION 18A. Section 105A of chapter 164 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 21, the words ‘one thousand dollars’ and inserting in place thereof the following figure:— $50,000.

SECTION 18B. Said section 105A of said chapter 164, as so appearing, is hereby further amended by striking out, in line 23, the words ‘two hundred thousand dollars’ and inserting in place thereof the following figure:— $1,000,000.”
The amendment was adopted.

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

“SECTION ___. Item 1108-5200 of section 2 of Chapter 26 of the Acts of 2003 is hereby amended by adding after the words ‘such premiums and rates;’, in line 42, the following:— provided, notwithstanding the provisions of this item or any general or special law to the contrary, the authority’s share of such premiums for employees of the Massachusetts Bay Transportation Authority, or any bargaining unit working without a contract, shall remain in force and effect until the effective date of any subsequent agreement.”
The amendment was *rejected.*

Messrs. Tarr, Tisei, Knapik, Hedlund, Moore, O’Leary, McGee, Joyce and Antonioni moved to amend the bill by inserting after section 85 the following section:—

“SECTION 85A. Notwithstanding any general or special law to the contrary, and taking into account as much as possible all data available as of January 15, 2004, the commissioner of education shall estimate the rate of reimbursement that will be paid pursuant to section 5A of chapter 71B of the General Laws in fiscal year 2004. The commissioner shall report the findings to the joint committee on education, arts, and humanities and to the house and senate committees on ways and means not later than January 31, 2004.”
The amendment was adopted.

Messrs. Creedon, Morrissey and Shannon, Ms. Creem and Mr. Joyce moved to amend the bill by inserting after section 12 the following section:—

“SECTION 12A. Section 9E of chapter 118E of the General Laws is hereby repealed.”
The amendment was adopted.

Messrs. Creedom, Morrissey and Shannon, Ms. Creem and Messrs. Joyce and McGee moved to amend the bill by striking out sections 19 and 20; and inserting after section 67 the following section:—

“SECTION 67A. Sections 329 and 330 of chapter 26 of the acts of 2003 are hereby repealed.”
The amendment was adopted.

Mr. Lees moved to amend the bill by inserting at the end thereof the following new sections:—

“SECTION ___. Section 178C of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of ‘Agency’ and inserting in place thereof, the following definition:—

‘Agency,’ the department of correction, any county correctional facility, the department of youth services, the department of social services, the parole board, the department of probation, the department of mental retardation, the department of mental health when the department of mental health is acting for persons who have been classified pursuant to the provisions of section fifteen, sixteen, seventeen or eighteen of chapter one hundred and twenty-three at any time during the term of hospitalization, the department of the trial court, including the district court department, the superior court department and the juvenile court department, or any other agency, department, board, commission or entity within the executive or judicial branch, excluding the committee for public counsel services, which has or had custody of, supervision or responsibility for a sex offender as defined in accordance with this chapter, including an individual participating in a program of any such agency, whether such program is conducted under a contract with a private entity or otherwise. Each agency shall be responsible for the identification of such individuals within its custody, supervision or responsibility. Notwithstanding any general or special law to the contrary, each such agency shall be certified to receive criminal offender record information maintained by the criminal history systems board for the purpose of identifying such individuals.

SECTION ___. Said section 178C of chapter 6 is further amended by inserting in the definition of ‘Sex offense’ a semicolon after the words ‘section 6 of chapter 274.’

Said section 178C of chapter 6 is further amended by inserting in the definition of ‘Sex offense involving a child’ a semicolon after the words ‘section 6 of chapter 274.’

Said section 178C of chapter 6 is further amended by inserting in the definition of ‘Sexually violent offense’ a semicolon after the words ‘section 6 of chapter 274.’

SECTION ___. Section 178E (a) of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking, in line 23, the word ‘after’ and replacing it with the following words:— prior to.

Said section 178E of chapter 6 is further amended by inserting in clause (e) after the last sentence the following sentence:— The court shall notify the board of all determinations made pursuant to this paragraph.

Said section 178E of chapter 6 is further amended by inserting in clause (f) after the last sentence the following sentence:— The court shall notify the board of all determinations made pursuant to this paragraph.

SECTION ___. Section 178H of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking clause (a) and inserting in place thereof the following clause:—

(a) A sex offender required to register pursuant to this chapter who knowingly: (i) fails to register; (ii) refuses to sign an acknowledgement of his duty to register as required by section one hundred seventy-eight E subsections (a), (b) and (c) of this chapter; (iii) fails to verify registration information; (iv) fails to provide notice of a change of address; or (v) who knowingly provides false information shall be punished in accordance with this section.

SECTION ___. Said section 178H of chapter 6 is further amended by inserting in clause (b) after the last sentence the following sentence:— Copies of records created by the board which are certified and attested to by the chairman of said board or his designee shall be admissible as evidence in any court of the commonwealth to prove facts contained therein.

SECTION ___. Section 178J of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words ‘disseminated to assist in’ in the last sentence of the last paragraph of subsection (a) the following words:— or defend against.

SECTION ___. Section 178K of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting in subsection (2)(a) after the words ‘Federal Bureau of Investigation’ in the last sentence the following words:— and any other government agency responsible for the public’s health and safety.

Section 178K of chapter 6 is further amended by inserting after the last sentence in subsection (2)(a) the following sentence:— The victim may be notified by the board of its registration and final classification determination regarding a level 1 offender.

SECTION ___. Section 178K of chapter 6 is further amended by inserting after the last sentence in subsection (2)(b) the following sentence:— The victim may be notified by the board of its registration and final classification determination regarding a level 2 offender.

SECTION ___. Section 178K of chapter 6 is further amended by inserting in the penultimate paragraph of subsection (2)(c) after the words ‘with 178I and 178J’ the following sentence:— The victim may be notified by the board of its registration and final classification determination regarding a level 3 offender.

SECTION ___. Section 178K of chapter 6 is further amended by inserting in subsection (3) after the second sentence the following sentence:— Any statutory, regulatory, or other privilege or claim of confidentiality including, but not limited to, those set forth in sections 129A, 135, 135A, 135B and 172 of chapter 112, section 60A of chapter 119, section 20B of chapter 233, section 100A and 100B of chapter 276, relating to confidential communications or information shall not prohibit an agency from providing such files and data to the sex offender registry board pursuant to the provisions of this section.

SECTION ___. Section 178M of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking the words ‘of such sex offender’s petition for review’ in the second sentence and inserting the following words:— of the filing of all dispositive of motions, pleadings and memoranda filed on behalf of all the parties.

Section 178M of chapter 6 is further amended by striking the last sentence and inserting the following sentence:— The court shall impound all records from such proceedings, but the filing of an action under this section shall not stay the effect of the board’s final classification or registration requirements.

SECTION___. Section 12 of chapter 123A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after subsection (e) the following subsection:—

(f) The district attorney or the attorney general shall provide written notice to the sex offender registry board of all petitions filed pursuant to this section.”

At a quarter past six o’clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and, at twenty minutes before seven o’clock the Senate reassembled, the President in the Chair.

The pending amendment, previously moved by Mr. Lees, et al, was further considered; and after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-one minutes before seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 13 — nays 20) **[Yeas and Nays No. 374]**:

YEAS.

Baddour, Steven A.	O'Leary, Robert A.
Chandler, Harriette L.	Resor, Pamela
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
Montigny, Mark C.	Tucker, Susan C. **— 13.**
Moore, Richard T.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Shannon, Charles E.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Walsh, Marian **— 20.**

ABSENT OR NOT VOTING.

Barrios, Jarrett T.	Jacques, Cheryl A.
Glodis, Guy W.	Melconian, Linda J.
Hart, John A., Jr.	Wilkerson, Dianne **— 6.**

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

Mr. Joyce moved to amend the bill by inserting after section 8 the following section:—

"SECTION 8A. Section 13 of chapter 58 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the words 'and the Mount Greylock State Reservation,' and inserting in place thereof the following words:— , Mount Greylock State Reservation and the Blue Hills Reservation."
The amendment was adopted.

Messrs. Montigny, McGee, Moore and Barrios, Ms. Creem, Messrs. Shannon and Magnani, Ms. Wilkerson and Mr. Joyce moved to amend the bill by inserting after section 84 the following section:—

"SECTION 84A. (a) On or before December 15, 2003, the Secretary of health and human services shall report to the house and senate committees on ways and means on projected enrollment and expenditures under section 682 of chapter 26 of the acts of 2003. If the secretary reports that expenditures will be less than $160,000,000 then, on January 1, 2004, notwithstanding subsection (3) of section 16D of chapter 118E or any other general or special law to the contrary, a person who is not a citizen of the United States but who is either a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or is otherwise permanently residing in the United States under color of law shall be eligible to receive benefits under the MassHealth Essential program if that person meets the categorical and financial eligibility requirements for the program of preventive and primary care for chronically unemployed persons established pursuant to said section 682 of said chapter 26; provided and if that person is age 65 or older or age 19 to 64 and disabled. Enrollment of these noncitizens may be limited by the division of medical assistance so as not to exceed the amount made available if the division determines that there is adequate funding to enroll 36,000 long-term unemployed individuals under said section 682 and also to enroll noncitizens under this section.

(b) The secretary shall send application forms for Prescription Advantage to those elderly and disabled noncitizens who have been denied or terminated from nonemergency MassHealth and are not enrolled under this section.

(c) On January 1, 2004, the secretary shall report to the house and senate committees on ways and means on additional costs to the uncompensated care pool and to emergency MassHealth due to the elimination of nonemergency MassHealth coverage to certain noncitizens pursuant to subsections (3) to (6), inclusive, of said section 16D of said chapter 118E."
The amendment was adopted.

Mr. Barrios moved to amend the bill in section 14, in the proposed clause 9(B), by adding the following sentence:— A firearm identification card issued under this clause shall display, in clear and conspicuous language, that the card shall be valid only for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate."
The amendment was adopted.

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

The question on passing the bill to be engrossed was then determined by a call of the yeas and nays at one minute past seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 34 — nays 0) **[Yeas and Nays No. 375]**:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Barrios, Jarrett T.	Jacques, Cheryl A.
Glodis, Guy W.	Wilkerson, Dianne **— 5.**
Hart, John A., Jr.	

The yeas and nays having been completed at four minutes past seven o'clock P.M., the bill was passed to be engrossed. [For text of Senate amendments, see Senate, No. 2140, printed as amended].
Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

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 President and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Christopher Boumil, an employee of the Department of Correction (see printed as Senate, No. 2051, amended);

Authorizing the city of Methuen to pay certain moral obligations (see House, No. 2133);

Relative to the terms of certain bonds to be issued by the Commonwealth (see House Bill printed in House, No. 4097); and

Relative to the terms of certain bonds to be issued by the Commonwealth (see House Bill printed in House, No. 4117).

An engrossed Bill relative to fiscal relief funds (see House, No. 4302) (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 Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered, as follows:

The House Bill relative to the duties of the clerk and assistant clerks of the Supreme Judicial Court for Suffolk County (House, No. 4211),— was read a second time.

Mr. Creedon moved to amend the bill by striking out, in lines 7 and 8, the word “exclusively”; by striking out, in line 11, the words “exclusive care, custody and control” and inserting in place thereof the words:— “care and custody”; and by striking out, in lines 29 and 30, the word “exclusive”.
The amendments were adopted.
The bill, as amended, was then ordered to a third reading, read a third time and was passed to be engrossed, in concurrence, with the amendments.
Sent to the House for concurrence in the amendments.

The House Bill authorizing the certification of David E. Jones to a civil service list for police officer notwithstanding the maximum age requirement (House, No. 3918),— **was read a third time and passed to be engrossed, in concurrence.**

Order Adopted.

On motion of Mr. Lees,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at one o’clock P.M. in full formal session.

Without further action on the matters in the Orders of the Day, on motion of the same Senator, at seven minutes past seven o’clock P.M., the Senate adjourned to meet on the following Monday at one o’clock P.M.