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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, January 15, 2004.

Met at twenty-one minutes past one o'clock P.M.

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

Reports.

The following reports were severally read and placed on file:

A report of the Joint Labor-Management Committee (under the provisions of Chapter 589 of the Acts of 1987) relative to dispute resolution (received Wednesday, January 7, 2004); and

A report of the Public Employee Retirement Administration Commission (under the provisions of Section 21(3)(f) of Chapter 32 of the General Laws) relative to the computation of the increase in the United States Consumer Price Index in the previous year set by the Commissioner of Social Security (received Friday, January 9, 2004).

Petitions.

Mr. Morrissey presented a petition (accompanied by bill, Senate, No. 2189) of Michael W. Morrissey and Robert J. Nyman for legislation relative to the charter of the town of Rockland [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Local Affairs and Regional Government. Sent to the House for concurrence.**

Petitions were presented and referred, as follows:

By Ms. Chandler, a petition (subject to Joint Rule 12) of Michael J. Donoghe, chairman, Worcester Regional Retirement Board, Harriette L. Chandler, James B. Eldridge, Robert A. Antonioni and other members of the General Court for legislation to grant retirement benefits to the widow and children of Martin McNamara;

By Mr. Hedlund (by request), a petition (subject to Joint Rule 12) of Gay Guptill for legislation to repeal restrictions on sidewalk counseling and demonstrating; and

By Mr. Morrissey, a petition (subject to Joint Rule 12) of Michael W. Morrissey, Robert S. Creedon, Jr., Mary S. Rogeness, Steven Myles Walsh and other members of the General Court for legislation to prohibit excessive fees on gift certificates and gift cards;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPERS FROM THE HOUSE.

A Bill establishing a sick leave bank for Mary M. Putney, an employee of the Trial Court (House, No. 4332,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill relative to a certain parcel of land in the town of Hinsdale (House, No. 4199,— on House, No. 4100),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

A Bill authorizing the town of Mendon to establish a capital expenditure fund (House, No. 192,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Resolutions.

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

Resolutions (filed by Mr. Creedon) “congratulating Albert Thomas Lynch, Jr. on the occasion of his retirement.”

Matter Taken Out of the Orders of the Day.

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

The House Bill relative to a change in land use in the town of Lakeville (House, No. 4112),— was read a second time.

Pending the question on ordering the bill to a third reading, Ms. Menard moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:

“SECTION 1. The town of Lakeville may use a certain parcel of municipal well site land for installing, operating and maintaining telecommunications facilities, so long as this use is consistent with the use of the parcel for water supply. The parcel is recorded in the Plymouth county registry of deeds, Book 3684, page 790.”

After debate, the amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee in Bills in the Third Reading to read as follows: “An Act authorizing a change in land use in the town of Lakeville.”.

Sent to the House for concurrence in the amendment.

PAPER FROM THE HOUSE.

Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill authorizing a ballot question in the town of Belmont relative to the granting of licenses for the sale of alcoholic beverages (see House, No. 3975) [for message, see House, No. 4350],— came from the House with endorsement that the House adopted the amendment as recommended by the committee on Bills in the Third Reading as follows:

In Section 2 by striking out the words “including a statement of their position”.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Hart and after remarks, the amendment was adopted, in concurrence. Sent to the House for re-enactment.

Report of a Committee.

Ms. Melconian, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill designating the Brockton District Courthouse as the George N. Covett Courthouse (House, No. 4156, changed). **There being no objection, the rules were suspended, on motion of Mr. Creedon, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Matters Taken Out of the Orders of the Day.

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

The House Bill relative to the off-street parking board in the city of Worcester (House, No. 4082),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The Senate Bill relative to the estate of homestead (Senate, No. 2104),— was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Rosenberg moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:

“SECTION 1. Notwithstanding section 5E of chapter 40 of the General Laws, the selectboard of the town of Gill may transfer a sum of money from the unemployment compensation fund to police officers wages for the purpose of supplementing that account in an effort to retain the current level of police protection.”

The amendment was adopted.

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

After debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at fourteen minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 — nays 5) [**Yeas and Nays No. 420**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Shannon, Charles E. —
1.

**The yeas and nays having been completed at twelve minutes before two o'clock P.M., the bill (Senate, No. 2104, amended) was passed to be engrossed.
Sent to the House for concurrence.**

The House Bill authorizing the town of Adams to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (printed as Senate, No. 2034),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing the town of Adams to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises.”.**

The House Bill providing for the annual observance of certain Civil War infantry regiments days (House, No. 1764),— **was read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the disposition by exchange of land held for preservation of natural scenic and open qualities (see Senate, No. 2086) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at nine minutes before two o'clock P.M., as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 421**]:

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.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 37.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

Shannon, Charles E. —
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.

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:

Exempting the position of deputy police chief of the town of Chelmsford from the civil service law (see House, No. 3836);

Providing for a selectmen-town manager form of government in the town of Foxborough (see House, No. 4018, changed);

Relative to the municipal light board of the town of Marblehead (see House, No. 4107, changed);

Authorizing a ballot question in the town of Lexington relative to the granting of certain alcoholic beverage licenses (see House, No. 4172); and

Authorizing the town of Westwood to grant licenses for the sale of all alcoholic beverages and wines and malt beverages to be drunk on the premises (see House, No. 4361).

Message from the Governor — Disapproval and Reductions in

Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which on Wednesday, November 19, 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. 4365) 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 0330-0300 (Trial Court Central Administration) was considered as follows:

“0330-0300\$10,603,296”.

After debate, the question on passing item 0330-0300 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past two o'clock P.M., as follows, to wit (yeas 35 — nays 2) [**Yeas and Nays No. 422**]:

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.	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 —
	35.

Melconian, Linda J.

NAYS.

Hedlund, Robert L. Sprague, Jo Ann — **2.**

ABSENT OR NOT VOTING.

Shannon, Charles E. —

1.

Mr. Rosenberg in the Chair, the yeas and nays having been completed at seven minutes past two o'clock P.M., item 0330-0300 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Item 4513-1000 (Family Health Services) was considered as follows:

"4513-1000\$2,000,000".

After debate, the question on passing item 4513-1000 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past two o'clock P.M., as follows, to wit (yeas 33 — nays 4) [**Yeas and Nays No. 423**]:

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

NAYS.

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

ABSENT OR NOT VOTING.

Shannon, Charles E. —

1.

The yeas and nays having been completed at a quarter past two o'clock P.M., item 4513-1000 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Item 7007-1300 (Massachusetts International Trade Council) was considered as follows:

“7007-1300\$1,100,000”.

After debate, the question on passing item 7007-1300 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eighteen minutes past two o'clock P.M., as follows, to wit (yeas 32 — nays 5) [**Yeas and Nays No. 424**]:

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.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne— 32.

NAYS.

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

ABSENT OR NOT VOTING.

Shannon, Charles E. —
1.

The yeas and nays having been completed at a twenty-one minutes past two o'clock P.M., item 7007-1300 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Item 7100-0200 (University of Massachusetts) was considered as follows:

“7100-0200\$10,000,000”.

After remarks, the question on passing item 7100-0200 (contained in section 2), in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-two minutes past two o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 425**]:

YEAS.

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

36.

NAYS.

Sprague, Jo Ann — **1.**

ABSENT OR NOT VOTING.

Shannon, Charles E. — **1.**

The yeas and nays having been completed at a twenty-five minutes past two o'clock P.M., item 7100-0200 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 135 (MassHealth for Special Status Legal Immigrants) was considered as follows:

“SECTION 135. (a) On or before December 15, 2003, the secretary of the executive office 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 of the General Laws 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 such individual 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 that the individual is either age 65 or older or age 19 to 64 and disabled; provided, however, that enrollment of said non-citizens may be limited by the division of medical assistance so as not to exceed the amount made available; and provided further, that the division shall have determined that there is adequate funding to enroll 36,000 long term unemployed individuals under said section 682 and to also enroll said non-citizens under this section.

(b) The secretary shall notify those elderly and disabled non-citizens who have been denied or terminated from non-emergency MassHealth that they are eligible to apply for Prescription Advantage during the next given enrollment period.

(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 non-emergency MassHealth coverage to certain non-citizens pursuant to section 322 of said chapter 26.”.

After debate, the question on passing Section 135, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before three o’clock P.M., as follows, to wit (yeas 33 — nays 4) [**Yeas and Nays No. 426**]:

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

NAYS.

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

ABSENT OR NOT VOTING.

Shannon, Charles E. — **1.**

The yeas and nays having been completed at two minutes past three o’clock P.M., Section 135 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

A Bill relative to property tax classification in cities and towns (House, No. 4434, printed as amended,— on House, No. 1979)— was read.

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

Ms. Walsh, Ms. Creem, Mr. Joyce and Ms. Murray moved that the bill be amended by inserting after section 3 the following section:—

“SECTION 3A. Said chapter 59 is hereby further amended by inserting after section 5K the following section:—

Section 5L. (a) With respect to each parcel of real property classified as Class 3, commercial, or Class 4, industrial, in each city or town certified by the commissioner to be assessing all property at its full and fair cash valuation, if the board of selectmen of the city or town council, subject to the charter of the municipality, accepts this section, there shall be an exemption equal to not more than \$1,000,000 of assessed value of all Class 3, commercial, and Class 4, industrial, parcels within that city or town. This exemption shall be in addition to any exemptions allowable under section 5. In no instance shall the taxable valuation of such property after all applicable exemptions be reduced below a percentage not less than 70 per cent of its full and fair cash valuation, as specified in the vote to accept this section. Where, under section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for purposes of the preceding sentence shall be computed by dividing the said amount of tax by the commercial and industrial class tax rate of the city or town and multiplying the result by \$1,000. For purposes of this subsection, 'parcel' shall mean a unit of real property as defined by the assessors in accordance with the deed for the property and shall include a condominium unit.

(b) The value of exemptions granted under this section shall be borne by the combined value of class 3 commercial property and class 4 industrial property.

(c) In cities and towns that accept this section, a taxpayer aggrieved by the failure to receive this exemption may apply for the exemption to the assessors, in writing, on a form approved by the commissioner, within 3 months after the date on which the bill or notice of assessment was sent.

(d) A timely application filed under this section shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59."

The amendment was adopted.

Ms. Creem moved that the bill be further amended, in section 7, by striking out clause (iv) and inserting in place thereof the following 3 clauses:—

"(iv) in fiscal year 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 183 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (v) in fiscal year 2008, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (vi) in fiscal year 2009 and thereafter, in any city or town in which the percentage of the total tax levy imposed on any class of real or personal property exceeded 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town in any of fiscal years 2004, 2005, 2006 or 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 170 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town."; and by striking out sections 1 and 9.

After remarks, the amendment was adopted.

Mr. Pacheco, Ms. Murray, and Messrs. Nuciforo, Rosenberg and Brewer moved that the bill be further amended by striking out sections 2, 3, 4, 5 and 6 and by inserting after section 8 the following section:—

"SECTION 8A. The joint committee on natural resources and agriculture shall study and make recommendations for the reclassification for property tax purposes of agricultural and horticultural land, and for legislation, if any, carrying out those recommendations. The committee shall hold at least one public hearing to take testimony concerning reclassification. The committee shall file a report of its findings and recommendations with the house and senate clerks and the house and senate committees on ways and means not later than April 30, 2004."

The amendment was adopted.

The bill (House, No. 4434, printed as amended) was then ordered to a third reading and read a third time and was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

Message from the Governor — Disapproval and Reductions in

Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain sections, and reductions in certain sections contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which on Wednesday, November 19, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4366) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 60 (Massachusetts Tourism Fund) was considered as follows:

“SECTION 60. (a) The Massachusetts International Trade Council shall establish the Massachusetts International Tourism Fund, which shall be the fund in which private and in-kind international travel, and tourism donations shall be accepted and recorded. The fund shall be administered by the Massachusetts International Trade Council with monthly lists of deposits, expenses and in-kind services submitted to the house and senate committees on ways and means, the house and senate clerk, the office of the state auditor, and the executive office of administration and finance by the third Wednesday in January.

(b) The Massachusetts International Trade Council, in consultation with the advisory board established by this section, shall award a contract to a nonprofit organization to provide international marketing and tourism promotion services on behalf of the commonwealth. The nonprofit organization shall be selected through a competitive procurement process, which process shall include without limitation a written request for proposals. Expenditures for the contract shall not exceed \$2,000,000 and shall be funded from the Economic Stimulus Trust Fund established herein. The nonprofit organization shall match the amount of the contract with a binding pledge of funds or in-kind contributions equal to the amount of the contract award from nongovernmental sources to be expended for the purposes established in this section.

(c) Any in-kind contributions pledged by a nonprofit organization under this section shall be considered to have the value determined by the Massachusetts international trade council. The nonprofit organization shall not expend more than 20 per cent of the contract funds for the cost of administrative services. The organization shall, as a condition of receiving the grant, submit, by every third Wednesday in January for the duration of the contract, a total operating budget which shall identify each source and use of operating funds, and an operating plan which shall demonstrate how the grant promotes tourism. The office shall reserve the right to withhold the grants if the conditions outlined in this section are not met. Not more than 2 per cent of the amount shall be expended by the Massachusetts international trade council for administrative costs incurred by the council in connection with the administration of the contract.

(d) The International Trade Council shall establish an advisory board to advise it on the scope of services to be provided under the contract with the nonprofit organization and to provide ongoing guidance assistance to the International Trade Council regarding the management and oversight of the contract; provided, however, that the advisory board shall consist of not more than 17 members, as follows: the president of the senate or his designee; the speaker of the house or his designee; the chairman of the senate committee on ways and means or his designee; the chairman of the house committee on ways and means or his designee; 1 member to be appointed by the minority leader of the senate; 1 member to be appointed by the minority leader of the house; provided, however, that those members shall be broadly representative of the tourism industries in the commonwealth; 1 member to be appointed by the Massachusetts office of travel and tourism; 1 member to be appointed by the Greater Boston Convention and Visitors Bureau; 1 member to be appointed by the Greater Springfield Convention and Visitors Bureau; 1 member to be appointed by the Massachusetts Restaurant Association; 2 members to be appointed by the Berkshire Visitors Bureau, 1 of whom shall be from a Berkshire area hotel; 2 members to be appointed by the Cape Cod Chamber of Commerce, 1 of whom shall be from a Cape Cod area hotel; 1 member to be appointed by the Bristol County Convention and Visitors Bureau; 1 member to be appointed by the Massachusetts Cultural Council; and 1 member to be appointed by the Massachusetts Lodging Association; provided further, that the members of the advisory board shall serve without compensation and at the pleasure of their appointing authorities; provided further, that the advisory board shall seek additional funding from private funding sources; and provided further, that notwithstanding any general or special law to the contrary, advisory board members shall not be deemed state employees for the purposes of chapter 268A of the General Laws as a result of their service on the advisory board.”.

After debate, the question on passing Section 60, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes before four o'clock P.M., as follows, to wit (yeas 33 — nays 4) [**Yeas and Nays No. 427**]:

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

NAYS.

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

ABSENT OR NOT VOTING.

Shannon, Charles E. — **1.**

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

Section 64 (Mass Technology Transfer Center Funding) was considered as follows:

“SECTION 64. Notwithstanding any general or special law to the contrary, 10 days after the effective date of this act, the comptroller shall transfer \$2,400,000 from the Economic Stimulus Trust Fund to the Massachusetts Technology Transfer Center at the University of Massachusetts established in section 45 of chapter 75 of the General Laws. Of that amount not less than \$500,000 shall be made available as a one-time grant to the center for economic analysis and assessment within the McCormack Graduate School of Policy Studies' Center for State and Local Policy.”.

After debate, the question on passing Section 64, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes before four o'clock P.M., as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 428**]:

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
Joyce, Brian A.	Tolman, Steven A.

Magnani, David P. Tucker, Susan C.
McGee, Thomas M. Walsh, Marian
Melconian, Linda J. Wilkerson, Dianne —
32.

NAYS.

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

The yeas and nays having been completed at eight minutes before four o'clock P.M., Section 64 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

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

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 Ken Moulton for legislation to enhance the effects of regulations and laws aimed at the protection of the public health and safety in regards to toxic mold.

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

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 Ken Moulton for legislation relative to personal care attendants.

Senate Rule 36 was suspended, on motion of Mr. Rosenberg, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Human Services and Elderly Affairs.

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 Ken Moulton for legislation relative to tort reform.

Senate Rule 36 was suspended, on motion of Mr. Rosenberg, 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.

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 Kenneth Moulton for legislation to authorize the Commonwealth of Massachusetts to provide financial reimbursement for personal injuries due to acts and omissions of state employees.

Senate Rule 36 was suspended, on motion of Mr. Rosenberg, 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.

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 Kenneth Moulton for legislation to authorize the town of Barnstable to provide financial reimbursement for personal injuries due to acts and omissions of town employees and officials.

Senate Rule 36 was suspended, on motion of Mr. Rosenberg, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Local Affairs and Regional Government.

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 Robert L. Hedlund for legislation relative to antique auto registration fees.

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

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 Robert L. Hedlund for legislation to establish a sick leave bank for Carole M. Lee, an employee of the Department of Social Services.

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

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 Robert L. Hedlund for legislation relative to the transfer of sick, personal or vacation time to State Trooper Mary T. McCauley of the Middlesex District Attorney's Office.

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

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 Ken Moulton for legislation relative to public records.

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

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 Ken Moulton for legislation to provide for enforcement of local and state building, fire, health, safety, electrical and building construction laws and standards and for disclosure.

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

Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4435) of Marie J. Parente relative to motor vehicle homicide caused by sleep deprivation;

Under suspension of Joint Rule 12, to the committee on Criminal Justice.

Petition (accompanied by bill, House, No. 4436) of Matthew C. Patrick, Jeffrey Davis Perry, Therese Murray, Susan Williams Gifford and Eric Turkington (by vote of the town) for legislation to provide reimbursement by the Commonwealth to the town of Bourne for certain school expenses; and

Petition (accompanied by bill, House, No. 4437) of Susan W. Pope and other members of the House relative to extending the time within which cities and towns are required to repay funds borrowed for certain school building construction projects;

Severally, under suspension of Joint Rule 12, to the committee on Education, Arts and Humanities.

Petition (accompanied by bill, House, No. 4438) of Angelo M. Scaccia relative to fines imposed for illegally parked motor vehicles in the cities and towns of the Commonwealth;

Under suspension of Joint Rule 12, to the committee on Local Affairs and Regional Government.

Petition (accompanied by bill, House, No. 4439) of David M. Torrissi and other members of the General Court relative to regulating the use of recording devices in motor vehicles;

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

Petition (accompanied by bill, House, No. 4440) of Scott P. Brown and Cheryl A. Jacques that the Department of Correction be authorized to establish a sick leave bank for Joanne M. Sollecito, an employee of said department; and

Petition (accompanied by bill, House, No. 4441) of Matthew C. Patrick and Jeffrey Davis Perry (by vote of the town) relative to the appointment of retired police officers to the police department of the town of Mashpee;

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

Petition (accompanied by bill, House, No. 4442) of John A. Michitson for legislation to authorize teleconference meetings of governmental bodies;

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

Petition (accompanied by bill, House, No. 4443) of Christine E. Canavan and other members of the House relative to video recording devices in vehicles transporting mentally retarded persons;

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

Order Adopted.

On motion of Mr. Rosenberg,—

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

PAPERS FROM THE HOUSE.

Message from the Governor — Disapproval and Reductions in

Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain sections, and reductions in certain sections contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which on Wednesday, November 19, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4366) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 70 (John Adams Innovation Institute Funding) was considered as follows:

“SECTION 70. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws, the amount of \$15,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, for the creation and operation of the John Adams Innovation Institute under said Massachusetts Technology Park Corporation, established pursuant to section 6A of chapter 40J. Said amount shall be deposited in a separate fund, administered by said corporation, which shall be expended exclusively for the uses established in said section 6A. Commencing on April 1, 2004, the executive director of said corporation shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor on the following: (i) a detailed description of purposes and amounts of administrative costs charged to the fund, (ii) the annual budget of the John Adams Innovation Enterprise, (iii) a quarterly statement of cash inflows and outflows detailing the sources and uses of funds, (iv) a description of the organizations receiving funds from this fund, the purposes to which the funding will be used by said organizations, (v) the associated amounts received by each organization, (vi) the amounts of non-state funding leveraged as a result of the funding, a potential projection of the number and nature of employment opportunities that may be created in the commonwealth as a result of the various forms of assistance disbursed from said fund, and (vii) an analysis of the purposes and geographical location of projects funded through the John Adams Innovation Enterprise.”.

[The Governor reduced the section by striking out the first sentence and inserting in place thereof the following sentence: “Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws, the amount of \$7,500,000 from the Economic Stimulus Trust Fund, established pursuant to this act, for the creation and operation of the John Adams Innovation Institute under said Massachusetts Technology Park Corporation, established pursuant to section 6A of chapter 40J.”]

After debate, the question on passing Section 70, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seventeen minutes past five o'clock P.M., as follows, to wit (yeas 30 — nays 7) **[Yeas and Nays No. 429]**:

YEAS.

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

McGee, Thomas M. Wilkerson, Dianne —
30.

NAYS.

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

O’Leary, Robert A.

ABSENT OR NOT VOTING.

Panagiotakos, Steven C.
— 1.

The yeas and nays having been completed at twenty-three minutes past five o’clock P.M., Section 70 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 71 (Emerging Technology Fund Funding) was considered as follows:

“SECTION 71. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, the amount of \$25,000,000 from the Economic Stimulus Trust Fund, established pursuant this act, to the Emerging Technology Fund, established pursuant to section 27 of chapter 23G of the General Laws. Commencing on April 1, 2004, the executive director of the Massachusetts Development Finance Agency, established pursuant to section 2 of said chapter 23G, shall file a report on a quarterly basis with the house and senate committees on ways and means, the house and senate committees on science and technology and the joint committee on commerce and labor on the following: the number and amounts of qualified investments made to further the goals of the fund, the number of loans and guarantees approved by said agency from said fund for facilities or specialized equipment for technology-based companies, a description of any financial and technical assistance that has been provided to such technology based companies as a result of the utilization of revenues within said fund, administrative costs charged to the fund, return on investment in qualified investments, return on investments in funds not required for immediate disbursement, a forecast of future payments based on current binding obligations, and an analysis of the purposes and geographical location of qualified investments; provided, that not less than \$250,000 shall be transferred to the Small Business Association of New England for the layoff aversion through management assistance program for consultant and technical assistance to manufacturing companies in Massachusetts to prevent business closure and employee displacement. Any such expenditure of the layoff aversion through management program as provided for in accordance with this section shall leverage at least \$1 for each dollar granted pursuant to this section. Commencing on January 1, 2004, the president of the small business association of New England shall file a report on a quarterly basis with the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor on the number of employees and manufacturing based companies that have received financial assistance through this section, a detailed description of the services provided to manufacturing companies in Massachusetts through the layoff aversion through management program, and a detailed account of the expenditures of the layoff aversion program, including administrative costs.”.

[The Governor reduced the section by striking out the first sentence and inserting in place thereof the following sentence: “Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, the amount of \$12,500,000 from the from the Economic Stimulus Trust Fund, established pursuant this act, to the Emerging Technology Fund, established pursuant to section 27 of chapter 23G of the General Laws.”; and by striking out the following: “; provided, that not less than \$250,000 shall be transferred to the Small Business Association of New England for the layoff aversion through management assistance program for consultant and technical assistance to manufacturing companies in Massachusetts to prevent business closure and employee displacement.”]

After debate, the question on passing Section 71, in concurrence, the objections of His Excellency Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes past five o’clock P.M., as follows, to wit (yeas 31 — nays 6) **[Yeas and Nays No. 430]:**

YEAS.

Antonioni, Robert A. Creem, Cynthia Stone
Baddour, Steven A. Fargo, Susan C.
Barrios, Jarrett T. Glodis, Guy W.
Berry, Frederick E. Hart, John A., Jr.

Brewer, Stephen M.	Havern, Robert A.
Chandler, Harriette L.	Joyce, Brian A.
Creedon, Robert S., Jr.	Magnani, David P.
McGee, Thomas M.	Resor, Pamela
	Rosenberg, Stanley C.
Melconian, Linda J.	
Menard, Joan M.	Shannon, Charles E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne —
	31.
Pacheco, Marc R.	

NAYS.

Hedlund, Robert L.	O’Leary, Robert A.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E. — 6.

ABSENT OR NOT VOTING.

Panagiotakos, Steven C.
— **1.**

The yeas and nays having been completed at twenty-eight minutes before six o’clock P.M., Section 71 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 73 (Massachusetts Mathematics, Science, Technology and Engineering Grant Fund) was considered as follows:

“SECTION 73. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, established pursuant to this act, the amount of \$2,500,000 from the Economic Stimulus Trust Fund, established pursuant to this act for the creation and operation of said fund in accordance with this act. Commencing on April 1, 2004, chancellor of higher education shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor and the joint committee on education, arts and humanities on the following: (i) a list of grant recipients, (ii) the associated grant amounts, (iii) the amounts of nonstate funding leveraged as a result of the grants, (iv) the purposes of the grants, (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds, (vi) a forecast of future payments based on current binding obligations, and (vii) a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.”.

[The Governor reduced the section by striking out the first sentence and inserting in place thereof the following sentence: “Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, established pursuant to this act, the amount of \$1,250,000 from the Economic Stimulus Trust Fund, established pursuant to this act for the creation and operation of said fund in accordance with this act.”; and by striking out, in said item the figures “2,500,000” and inserting in place thereof the figures “1,250,000”].

After debate, the question on passing Section 73, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-seven minutes before six o’clock P.M., as follows, to wit (yeas 32 — nays 5) **[Yeas and Nays No. 431]**:

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Glodis, Guy W.

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

32.

NAYS.

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

ABSENT OR NOT VOTING.

Panagiotakos, Steven C.
— **1.**

The yeas and nays having been completed at twenty-five minutes before six o'clock P.M., Section 73 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 74 (Massachusetts Research Center Matching Funds) was considered as follows:

“SECTION 74. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, \$20,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, to the Massachusetts Research Center Matching Fund, established pursuant to section 4F of chapter 40J of the General Laws for the creation and operation of the fund under the Massachusetts Technology Park Corporation. Commencing on April 1, 2004, the executive director of the corporation shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor the following: a list of grant recipients, the associated grant amounts, the amounts of non-state funding leveraged as a result of the grants, the purposes of the grants, a quarterly statement of cash inflows and outflows detailing the sources and uses of funds, a forecast of future payments based on current binding obligations, and a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.”.

[The Governor reduced the section by striking out the first sentence and inserting in place thereof the following sentence: “Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, \$10,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, to the Massachusetts Research Center Matching Fund, established pursuant to section 4F of chapter 40J of the General Laws for the creation and operation of the fund under the Massachusetts Technology Park Corporation.”; and by striking out, in said item the figures “20,000,000” and inserting in place thereof the figures “10,000,000”].

After debate, the question on passing Section 74, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-four minutes before six o'clock P.M., as follows, to wit (yeas 31 — nays 6) **[Yeas and Nays No. 432]:**

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Glodis, Guy W.
Berry, Frederick E.	Hart, John A., Jr.

Brewer, Stephen M.	Havern, Robert A.
Chandler, Harriette L.	Joyce, Brian A.
Creedon, Robert S., Jr.	Magnani, David P.
McGee, Thomas M.	Pacheco, Marc R.
Melconian, Linda J.	Resor, Pamela
Menard, Joan M.	Rosenberg, Stanley C.
Montigny, Mark C.	Shannon, Charles E.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne —
O’Leary, Robert A.	31.

NAYS.

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

ABSENT OR NOT VOTING.

Panagiotakos, Steven C.
— **1.**

The yeas and nays having been completed at twenty-one minutes before six o’clock P.M., Section 74 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

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

A message from His Excellency the Governor, returning, with his disapproval of certain sections, and reductions in certain sections contained in the engrossed Bill relative to fiscal relief funds (see House, No. 4302), which on Thursday, November 13, 2003, had been laid before the Governor for his approbation,— came from the House, in part, section 4 having been passed by the House notwithstanding the disapproval of the Governor.

The message (House, No. 4342) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 4 (Nashoba Associated Boards of Health) was considered as follows:

“SECTION 4. Subsection (a) of section 616 of said chapter 26 is hereby amended by striking out clause (v) and inserting in place thereof the following clause:—

(v) shall have received his pay advices via the commonwealth’s human resources compensation management system or the University of Massachusetts’s human resource management information system or paid by the Nashoba Associated Boards of Health or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws.”.

[The Governor disapproved said section.]

After debate, the question on passing Section 4, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-one minutes before six o’clock P.M., as follows, to wit (yeas 31 — nays 6) [**Yeas and Nays No. 433**]:

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Glodis, Guy W.

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

NAYS.

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

ABSENT OR NOT VOTING.

Panagiotakos, Steven C.
— **1.**

The yeas and nays having been completed at eighteen minutes before six o’clock P.M., Section 4 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Communication.

There being no objection, the Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1063

January 15, 2004.

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

Dear Mr. Clerk:

Due to a home emergency, I was absent from the Senate Chambers for part of today’s formal session and missed the following roll call votes:

- the engrossment of Senate 2104, An Act Relative to the Unemployment Compensation Fund in the Town of Gill;
- the enactment of Senate 2086, An Act Authorizing the Disposition By Exchange of Land Held for Preservation of Natural Scenic and Open Qualities;
- the override of the Governor’s veto of line item 0330-0300 of the FY04 supplemental budget, relative to the central administration of the trial courts;
- the override of the Governor’s veto of line item 4513-1000 of the FY04 supplemental budget, relative to Comprehensive Family Health Services;
- the override of the Governor’s veto of line item 7007-1300 of the FY04 supplemental budget, relative to the Massachusetts International Trade Council;
- the override of the Governor’s veto of line item 7100-0200 of the FY04 supplemental budget, relative to University of

Massachusetts operations;

- the override of the Governor's veto of Section 135 of the FY04 supplemental budget, relative to restoring MassHealth coverage for special status legal immigrants; and
- the override of the Governor's veto of Section 60 of the Economic Stimulus Bill, relative to the Massachusetts International Tourism Fund.

Had I been present, I would have voted in the affirmative on the above-referenced matters. I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for Thursday, January 15th, 2004. Thank you for your assistance in this matter.

Sincerely,
CHARLES E. SHANNON,
State Senator.

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

At a quarter before six o'clock P.M., the President in the Chair, declared a recess; subject to the call of the Chair, and at eight minutes before seven o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

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

Recess.

At seven minutes before seven o'clock P.M., the President declared a recess for the purposes of attending the Joint Session of the Two Houses.

IN JOINT SESSION.

Pursuant to assignment, at eight minutes past seven o'clock, the two branches met in

Joint Session

In the Chamber of the House of Representatives, for the purpose of receiving such communication as His Excellency Mitt Romney, Governor of the Commonwealth, may be pleased to make relative to the concerns of the Commonwealth; and were called to order by the Honorable Robert E. Travaglini, president of the Senate.

Order Adopted.

On motion of Mr. Berry,—

Ordered, That a committee be appointed to consist of members of the Senate and the House of Representatives to wait upon the Governor and inform him that the two branches are now in Convention for the purpose of receiving such communication as he may be pleased to make to them, relating to the concerns of the Commonwealth.

Senators Murray, Walsh, Wilkerson and Tisei were appointed on the part of the Senate; and Representatives DiMasi of Boston, Harkin of Needham, Fennell of Lynn, Hargraves of Groton, Brown of Wrentham, Reinstein of Revere, Spiliotis of Peabody, Flynn of Bridgewater, Knuttilla of Gardner, St. Fleur of Boston, Petrolati of Ludlow and Kane of Holyoke.

Subsequently, Mr. Flynn of Bridgewater, for the committee, reported that His Excellency the Governor, Mitt Romney, would immediately attend upon the convention.

Shortly thereafter, His Excellency the Governor, Mitt Romney, Her Honor Kerry Healey, Lieutenant-Governor, William F. Galvin, Secretary of the Commonwealth, Thomas F. Reilly, Attorney General of the Commonwealth, Timothy P. Cahill, Treasurer and Receiver-General of the Commonwealth, A. Joseph DeNucci, Auditor of the Commonwealth and Major General George W. Keefe, The Adjutant General entered the Chamber under the escort of the Sergeant-at-Arms.

The President introduced the Color Guard from the 25th Marine Regiment of the Fourth Marine Corps Division headquartered in Worcester.

The Pledge of Allegiance was led by Brian and Alma Hart of Bedford, whose son, John, died in the Iraqi conflict.

The National Anthem was performed by Jillian Russell of Worcester. Her father is stationed in Iraq with the Massachusetts National Guard 110th Maintenance Company.

Invocation.

The Speaker, having taken the Chair, then introduced His Eminence, Archbishop Sean O' Malley who gave the following Invocation:

Let us pray:

Almighty and eternal God, Creator and Preserver of us all, from the earliest days of our Commonwealth to this moment, we citizens of Massachusetts have sought the favor of Your mercy and protection.

As we gather together tonight in this historic chamber, we raise our hearts and minds in prayer as we acknowledge Your goodness, appeal to Your providence and implore Your direction.

Assist Governor Romney with Your spirit of counsel and fortitude as he addresses us this night and in all that he does as chief executive of Massachusetts. May his administration be conducted in righteousness and be eminently responsive to Your people whom he governs.

We beseech Your abundant blessings upon Lieutenant-Governor Healey, our legislators in both the Senate and the House of Representatives, our Constitutional Officers, the members of our Judiciary and all the men and women who are entrusted to guard our political welfare.

May all our public officials be enabled by Your powerful protection to discharge their duties with honesty and ability. Provide them with breadth of vision and firmness of purpose. Guide their deliberations and grant them the wisdom to make responsible and compassionate decisions. Help them to be ever mindful of the solemn compact which unites us as citizens of this Commonwealth. Inspire them to always act justly in the best interests of those whom they serve and to advance the common good.

We likewise commend to Your unbounded mercy all the people of Massachusetts, especially the poor and the vulnerable among us, that we may all be blessed in the knowledge and sanctified in the observance of Your holy law. Help us to be responsible citizens who heed Your call to love our neighbor and welcome the stranger. May we be respectful of one another and strive to live together in liberty and peace.

We pray to You, Who are Lord and God, forever and ever.

Amen.

The President, having returned to the Chair, then introduced Lieutenant-Governor Kerry Healy, who then introduced Ms. Jennifer Hushaw.

Ms. Hushaw, a senior at Winchendon High School, then recited the Edgar A. Guest poem "*It Couldn't Be Done.*"

The Lieutenant-Governor then introduced the Madrigal Singers of Holyoke High School who performed "*God Bless America.*"

The President then introduced His Excellency the Governor, Mitt Romney, who thereupon addressed the Convention relative to the concerns of the Commonwealth (Senate, No. 2).

The Speaker, having taken the Chair, then introduced Reverend Jeffrey L. Brown, pastor of the Union Baptist Church of Cambridge, who gave the following Benediction:

Forty years ago, this year, the Rev. Dr. Martin Luther King, Jr. received the Nobel Peace Prize. He accepted that award on your behalf. He accepted it, on behalf of our community, on behalf of this great state, on behalf of this nation. On this occasion, held on the anniversary of his birth, We should pause and heed the words of his Nobel Acceptance speech as a fitting benediction, and hear his words afresh for the work before us.

(can we bow our heads, and hold hands together)

"I accept this award today with an abiding faith in America and an audacious faith in the future of mankind. I refuse to accept despair as the final response to the ambiguities of history. I refuse to accept the idea that the "isness" of man's present nature makes him morally incapable of reaching up for the eternal "oughtness" that forever confronts him. I refuse to accept the idea that man is mere flotsom and jetsom in the river of life unable to influence the unfolding events which surround him. I refuse to accept the view that mankind is so tragically bound to the starless midnight of racism and war that the bright daybreak of peace and brotherhood can never become a reality.

"I believe that what self-centered men have torn down men other-centered can build up. I still believe that one day mankind will bow before the altars of God and be crowned triumphant over war and bloodshed, and nonviolent redemptive good will proclaimed the rule of the land. "And the lion and the lamb shall lie down together and every man shall sit under his own vine and fig tree and none shall be afraid." I still believe that We Shall overcome!

"This faith can give us courage to face the uncertainties of the future. It will give our tired feet new strength as we continue our forward stride toward the city of freedom. When our days become dreary with low-hovering clouds and our nights become darker than a thousand midnights, we will know that we are living in the creative turmoil of a genuine civilization struggling to be born."

Help us O God, as we struggle together in this creative turmoil, giving birth to genuine community, help us to resist drinking the dark cauldron that threatens to destroy our dreams of dignity and freedom of spirit for all. Bless our children, both here and abroad, and protect them, as they face their hour of valiancy. We today celebrate our collective faith in our common wealth. And also the redemptive hope that we can yet learn to live together and break bread together. Grant us courage to be the trustees of that hope.

And let every heart say Amen.

The Speaker then introduced the Una Voce Chorus of the Massachusetts Art Academy who performed "*Aina-Dat Good News*", as the closing song.

The President in the Chair, His Excellency the Governor, Mitt Romney, Her Honor Kerry Healey, the Lieutenant Governor, and the Constitutional Officers then withdrew from the Chamber under the escort of the Sergeant-at-Arms.

At ten minutes past eight o'clock P.M., on motion of Mr. Berry, the Convention was dissolved.

The President in the Chair, the Senate returned from the Joint Session at a quarter before nine o'clock P.M.

PAPERS FROM THE HOUSE.

The House bill relative to property tax classification in cities and towns (House, No. 4424, amended),— came from the House with the endorsement that the House had concurred in the Senate amendments, with a further amendment striking out section 3A (inserted by amendment by the Senate) and inserting in place thereof the following section:

"SECTION 3A. The joint committee on taxation shall study and make recommendations for targeted property tax relief to businesses disproportionately impacted by dual tax rates in communities. The committee shall hold at least one public hearing to take testimony concerning such relief. The committee shall file a report of its findings and recommendations with the house and senate clerks not later than April 30, 2004."

There being no objection, the rules were suspended, and the further House amendment was considered and after remarks, was adopted, in concurrence by a vote of 9 to 6.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill relative to property tax classification in cities and towns (see House, No. 4434, printed as amended, 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.

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; by a standing vote of 3 to 1, and it was signed by the President.

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