UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

Thursday, February 13, 2003.

Met according to adjournment at one o'clock P.M. (Mr. Berry in the Chair).

Committee Ratifications and Changes.

The following communication was received from the President of the Senate:

OFFICE OF THE PRESIDENT
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1007

February 13, 2003.

Mr. Patrick F. Scanlan
Clerk of the Senate
State House
Boston, Massachusetts 02133

Dear Mr. Clerk:

I am writing to inform you that at the Democratic caucus held today, the Democratic Senators ratified the committee assignments that I have previously announced, with the following changes:

1) Senator Morrissey to replace Senator Wilkerson at Commerce and Labor.
2) Senator Creem to replace Senator Wilkerson as Vice-Chair of Human Services.
3) Senator Shannon to replace Senator Wilkerson as Vice-Chair of Local Affairs.

4) Senator Wilkerson added to Transportation Committee.
5) Senator McGee to Chair Children's Caucus (replacing the Senate President).

For your convenience, attached is a complete list of the final, ratified committee assignments.

Very truly yours,
ROBERT E. TRAVAGLINI,
Senate President.

Distinguished Guests.

There being no objection, the President introduced, seated in the rear of the Chamber, Julia Concannon, Erin Morrissey and Emily Sheehan, students from Rockland High School. The students are participating in the Job Shadow program and are the guests of Senator Morrissey.

Petitions.

Petitions (having been deposited in the Office of the Clerk of the Senate prior to five o'clock in the afternoon on Wednesday, December 4, 2002) were transmitted to the Secretary of State as follows:

(under Section 5 of Chapter 3 of the General Laws):—

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1942) (subject to Joint Rule 9) of Michael R. Knapik and Michael F. Kane for legislation to restrict the authority of the Holyoke Power and Electric Company and the Holyoke Water Power Company; and

(under Section 7 of Chapter 3 of the General Laws):—

By Mr. Antonioni, a petition (accompanied by bill, Senate, No. 1941) (subject to Joint Rule 9) of Robert A. Antonioni and Harold P. Naughton, Jr. for legislation to amend the charter of the Sterling Camp Meeting Association.

The following petitions (having been filed prior to five o'clock P.M. on Wednesday, December 4, 2002) were referred as follows:

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1940) of Michael R. Knapik and Daniel F. Keenan (by vote of the town) for legislation to authorize the town of Southwick to grant an easement to Carol K. Collins [Local approval received]; and

By Ms. Tucker, a petition (accompanied by bill, Senate, No. 1938) of Susan C. Tucker, James R. Miceli and Barry R. Finegold (by vote of the town) for legislation to authorize the town of Tewksbury and the Tewksbury Conservation Commission to convey certain easements to Tennessee Gas Pipeline Company in the town of Tewksbury [Local approval received];

Severally, under Senate Rule 20, to the committee on Local Affairs.
Severally sent to the House for concurrence.

Petitions were presented and referred, as follows:

By Mr. Brewer, a petition (subject to Joint Rule 12) of Stephen M. Brewer, Michael J. Rodrigues and Pamela P. Resor for legislation relative to the requirement of rain sensor devices for landscape sprinkler systems;

By Mr. Creedon, a petition (subject to Joint Rule 12) of William F. Galvin, Robert S. Creedon, Michael W. Morrissey and other members of the General Court for legislation relative to the extension of statute of limitations for certain public construction projects;

By Mr. Glodis, a petition (subject to Joint Rule 12) of Guy W. Glodis for legislation to repeal the pharmacy assessment user fee and to require a study concerning the need for a pharmacy user fee program; and

By Mr. Tarr, a petition (subject to Joint Rule 12) of Bruce E. Tarr, Steven A. Baddour, Joseph F. Wagner, Mark C. Montigny and other members of the General Court for legislation to extend the statute of limitations on actionable events arising from certain transportation projects in the Commonwealth;
Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Recess.

There being no objection, at one minute past one o'clock P.M. the Chair (Mr. Berry) declared a recess subject to the call of the Chair; and at a quarter past one o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

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

Resolutions (filed by Mr. Joyce) "honoring Thomas H. McDonnell for his exceptional service to the town of Canton";

Resolutions (filed by Mr. Joyce) "congratulating acting Stoughton Fire Chief Paul Roach, Jr. on the occasion of his retirement"; and

Resolutions (filed by Mr. Montigny) "commending Henry A. Turgeon, Jr."

Orders of the Day.

The Orders of the Day were considered, as follows:

Pursuant to an order previously adopted, the Senate Bill making appropriations for fiscal year 2003 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 1939),— was read a second time, ordered to a third reading and read a third time.

Pending the main question on passing the bill to be engrossed, Mr. O'Leary moved to amend the bill by inserting after section 54 the following section:—

"SECTION 54A. Notwithstanding any general or special law, rule or regulation to the contrary, the division of medical assistance may, on a demonstration basis in the area defined and limited under the federally funded DOHHS HRSA CAP Grant 1-G92-OA 00005-02, provide benefits described in section 9C of chapter 118E of the General Laws to employees and employers who are described and limited under the terms of the program set forth in the demonstration, and may expend monies from any appropriation for benefits provided under said section 9C to also provide benefits specified in the demonstration without regard to the income limits set forth in said section 9C, provided that the Division shall seek to obtain a modification of its demonstration, as defined in subsection (1) of section 9A of chapter 118E of the General Laws, that would allow for federal reimbursement for some or all of the expenditures for providing the benefits specified in the demonstration. Sections 3-8, inclusive, of chapter 176J of the General Laws, and 211 CMR 66.00 shall not apply to health coverage provided by carriers pursuant to this section."
The amendment was *rejected.*

Mr. O'Leary and Ms. Creem moved to amend the bill by striking out section 48 and inserting in place thereof the following section:—

"SECTION 48. Notwithstanding any general or special law to the contrary, the state treasurer shall transfer $35,000,000 from the Commonwealth Stabilization Fund to the general fund."
After debate, the amendment was *rejected.*

Mr. Nuciforo moved to amend the bill by inserting after section 43 the following section:—

"SECTION 43A. Section 1 of chapter 55 of the acts of 1999 is hereby amended by inserting after the words 'June 30, 2003', the following words:— , except that appropriations made in section 2A, in item 0526-0111 for the Colonial Theatre in the city of Pittsfield shall not expire until June 30, 2005."
After remarks, the amendment was adopted.

Messrs. Tarr, Baddour, Montigny, Lees, Barrios, McGee, Joyce, Nuciforo, Magnani and Brewer, Ms. Chandler, Mrs. Sprague, Messrs. Hart, Tisei, Hedlund, Tolman and Moore, Ms. Jacques and Mr. Pacheco moved to amend the bill by inserting after section 41 the following section:—

“SECTION 41A. Chapter 260 of the General Laws is hereby amended by inserting after section 2E the following section:—

Section 2F. Notwithstanding any general or special law to the contrary, every action arising out of contracts for or for the planning, design or construction of the Central Artery/Third Harbor Tunnel Project, if the action is brought by the commonwealth or the United States, or by any of their agencies or authorities, or by any contractor or subcontractor of any of them, shall be brought not later than 10 years from the date that the cause of action arises or from the effective date of this section, whichever is later. This section shall apply regardless of when the action or claim accrued or was filed, and regardless of whether it may have lapsed or otherwise be barred by time under the law of the commonwealth.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before two o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 10]**:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Rosenberg, Stanley C. — 1.

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

Mr. Antonioni moved to amend the bill in section 59 by striking out the figure "1999" and inserting in place thereof the following figure:— 2003.
The amendment was *rejected.*

Mr. Moore moved to amend the bill by adding after section 54 the following section:—

"SECTION 54A. (a) There shall be a special commission to investigate and study methods of improving the accountability, economy and efficiency of the government of the commonwealth and the operation of its agencies, departments and instrumentalities to promote economy, efficiency, and improved service in the transaction of the public business in the various departments, agencies and instrumentalities in the executive, legislative and judicial branches of state government, and to make the operation of all state departments, agencies, and instrumentalities, and all expenditures of public funds, more directly responsive to the needs of the commonwealth, by any or all of the following means:

(1) By adopting methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions.

(2) By eliminating duplication and overlapping services, activities, and functions, and time-consuming or wasteful practices.

(3) By consolidating services, activities, and functions of a similar nature.

(4) By abolishing services, activities, and functions not necessary to the efficient conduct of state government.

(5) By the elimination of unnecessary state departments and agencies, the creation of necessary new state departments and agencies, the reorganization of existing state departments and agencies, and the transfer of functions and responsibilities among state departments and agencies.

(6) By defining or redefining duties and responsibilities of state officers.

(7) By revising present provisions for continuing or permanent appropriations of state funds or bond authorizations, for whatever purpose, by eliminating any such existing provisions and by adopting new provisions.

(8) By establishing means for performance measurement and methods of reporting such measurement.

(9) Reorganizing all aspects of state career public service including, but not limited to, methods of recruitment and retention of state employees; training and re-training of state employees; job classification, salaries and benefits of state employees; discipline and termination of state employees, clarifying the state responsibilities and functions that are best served by regular state employees and those best served by contract employees; and encouraging and facilitating opportunities for private sector and non-profit sector employees to work in state government for limited periods of time.

(10) By analyzing and evaluating all state contracts with private vendors for the purpose of confirming that all contracted approaches to the delivery of goods and services are accountable, economical, and efficient.

(11) To review state requirements for contracting for goods and services and for the retention of professional services to determine the most effective means of determining the most qualified vendor, including but not limited to, a review of the method by which state agencies, authorities, boards and commissions retain legal counsel, accounting, architectural and engineering services.

(b) The commission shall consist of the following members, each of whom shall serve at the pleasure of the appointing authority:

(1) Thirteen members, of whom 7 shall be appointed by the Governor, 3 by the president of the senate, and 3 by the speaker of the house. Not more than 7 of the members shall be registered voters in the same political party, and none shall hold public office in the executive or legislative branches of the state government. Leading Massachusetts residents in the fields of business and government management, accounting, labor relations, finance, and human relations including, but not limited to deans of schools of business, public administration or other scholars would be ideal candidates for these appointments.

(2) Five members of the senate one of whom shall be the chair of the senate committee on ways and means, one of whom shall be the senate chair of the committee on taxation, one of whom shall be the chair of the senate committee on post audit and legislative oversight, and 2 of whom shall be designated by the senate minority leader.

(3) Five members of the house of representatives one of whom shall be the chair of the house committee on ways and means, one of whom shall be the house chair of the committee on taxation, one of whom shall be the chair of the house committee on post audit and legislative oversight, and 2 of whom shall be designated by the house minority leader.

(4) The governor, the president of the senate, and the speaker of the house, who shall jointly designate the chair or co-chairs of the commission, shall each serve on the commission, ex-officio.

(5) The auditor of the commonwealth and the inspector general of the commonwealth, ex-officio.

(c) The commission shall meet monthly and shall have the authority, subject to the approval of the secretary of administration and finance, to request staff support and research from state agencies to carry out its responsibilities. The commission may seek assistance from other organizations or individuals on a pro bono basis. The commission shall file annual reports with the clerk of the senate and the clerk of the house of representatives and shall make a final report not later than June 30, 2006. The commission may make interim reports as appropriate in order to address the serious fiscal

problems facing the commonwealth in the years ahead."
After remarks, the amendment was *rejected.*

Mr. Moore and Ms. Chandler moved to amend the bill by inserting after section 23 the following section:—

"SECTION 23A. The General Laws are hereby amended by inserting after chapter 64K the following chapter:—

CHAPTER 64L.

Section 1. This chapter shall be known and may be cited as the 'Simplified Sales and Use Tax Administration Act'.

Section 2. As used in this chapter the following words shall have the following meanings:

'Agreement', the Streamlined Sales and Use Tax Agreement.

'Certified automated system', software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

'Certified service provider', an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions.

'Person', an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

'Sales tax', the tax levied under chapter 64H.

'Seller', any person making sales, leases, or rentals of personal property or services.

'State', any state of the United States and the District of Columbia.

'Use tax', the tax levied under chapter 64I.

'Vendor', shall have the same meaning as in section one of chapter 64H.

Section 3. The commonwealth finds that a simplified sales and use tax system will reduce and over time eliminate the burden and cost for vendors to collect this state's sales and use tax. The commonwealth further finds that this state should participate in multi-state discussions to review or amend the terms of the agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and all types of commerce.

Section 4. For the purpose of reviewing or amending the agreement embodying the simplification requirements as contained in section 7, the commonwealth shall enter into multi-state discussions. For purposes of the discussions, the commonwealth shall be

represented by no more than 4 delegates, 2 of which shall be appointed by the governor, 1 of whom shall represent the department of revenue and 1 of whom shall represent the Retailers Association of Massachusetts, and 1 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the speaker of the house of representatives.

Section 5. The department of revenue shall enter into the Streamlined Sales and Use Tax Agreement with 1 or more states to simplify and modernize the administration of the sales and use tax in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the department of revenue may act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multi-state sellers. The department of revenue may take other actions reasonably required to implement this chapter or to otherwise substantially reduce the administrative burdens associated with sales and use tax compliance. Other actions authorized by this section shall include, but shall not be limited to, the adoption of rules and regulations and the joint procurement, with other member states of goods and services in furtherance of the cooperative agreement. The department of revenue or the department's designee may represent the commonwealth before the other states that are signatories to the agreement.

Section 6. The Agreement shall not, in whole or in part, invalidate or amend any laws of the commonwealth. Adoption of the Agreement by the commonwealth shall not amend or modify any other law. Implementation of any condition of the Agreement in the commonwealth, whether adopted before, at, or after membership of this state in the agreement, shall be by the action of the commonwealth.

Section 7. The department of revenue shall not enter into the Agreement unless the Agreement requires each state to abide by the following requirements:

(1) The Agreement shall set restrictions to limit over time the number of state rates.

(2) The Agreement shall establish uniform standards for the following:

(i) the sourcing of transactions to taxing jurisdictions;

(ii) the administration of exempt sales; and

(iii) sales and use tax returns and remittances.

(3) The Agreement shall provide a central electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(4) The Agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor determining whether the seller has nexus with a state for any tax.

(5) The Agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

(i) restricting variances between the state and local tax bases;

(ii) requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

(iii) restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.

(iv) providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(6) The Agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The Agreement shall allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed July 1, 2003.

(7) The Agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(8) The Agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(9) The Agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.

Section 8. The agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Section 9. The Agreement binds and inures only to the benefit of the commonwealth and the other member states. No person is an intended beneficiary of the Agreement.

Section 10. Any benefit to a person is established by the law of the commonwealth and the other member states and not by the terms of the Agreement. No law of the commonwealth, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the

Agreement. No person shall have any cause of action or defense under the Agreement or by virtue of the commonwealth's approval of the Agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the Agreement."
After remarks, the amendment was adopted.

Mr. Moore, Ms. Fargo, Mr. McGee, Ms. Chandler, Mr. O'Leary and Ms. Tucker moved to amend the bill by inserting after section 24 the following three sections:—

"SECTION 24A. Section 26 of chapter 118G of chapter 184 of the acts of 2002, is hereby repealed.

SECTION 24B. Chapter 184 of the acts of 2002, is hereby amended by striking out section 98 and inserting in place thereof the following section:—

Section 98. Section 25 of said chapter 118E, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

Notwithstanding the first paragraph of this section, the division may require medicaid recipients to pay enrollment fees, premiums, deductibles, coinsurance, copayments or similar cost-sharing charges as participants in managed care plans implemented by the division, so long as any waivers of Title XIX provisions regarding recipient cost-sharing are obtained from the secretary in conjunction with any other federal approvals and waivers necessary to implement these managed care plans. In the absence of managed care plans, the division shall require, to the extent permitted by federal law, that recipients, if eligible for such benefits, be liable for a copayment of $2 for a [name brand] pharmaceutical product, and a copayment of 50 cents for a generic pharmaceutical product, including over-the-counter drugs, and to require the copayment of $3 for the use of emergency room services in acute care hospitals for the treatment of nonemergency conditions. The division may also require, to the extent permitted by federal law, that recipients be liable for a copayment of $1 for all other covered services.

SECTION 24C. There shall be a study of, but not limited to, the effectiveness and finances of the pharmacy user fee program; the long term need for the fee; effect of the user fee of non-medicaid consumers; use of the funds; the additional costs, if any, incurred by pharmacies in collecting the fee, and the feasibility of returning funds already collected. The division of health care finance and policy shall conduct the study, in conjunction with the division of medical assistance. The division of health care finance and policy shall consult with the pharmacy industry, and others, on the impact, and collection, of the pharmacy fee. The findings of said study shall be filed with the house and senate ways and means committees and the chairs of the joint committee on health care on or before May 15, 2003."
After remarks, Mr. Moore requested a call of the yeas and nays.
An insufficient number of members joining with him, the yeas and nays were not ordered.
After further remarks, the amendment was *rejected*.

Mr. Moore and Ms. Chandler moved to amend the bill by inserting after section 2 the following section:—

“SECTION 2A. Section 18 of Chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following clauses:—

Eighth. Motor vehicles or trailers, used in the conduct of a business and owned by a business entity, shall be assessed in the city or town in which the principal place of business in the commonwealth of the business entity is located unless: (i) the registrar has provided the assessor pursuant to chapter 60A with calendar year information about the motor vehicles or trailers, including the make, model, year, vehicle identification number, weight, valuation, and the name and address of the person or business entity that owns or leases the motor vehicles or trailers and the owner has shown proof of payment of the automobile excise tax or (ii) said motor vehicles or trailers are exempt from the excise imposed by chapter 60A.

Eighth A. For purposes of this clause the following words shall have the following meanings:—

‘Business entity’, as used in this clause shall include a business corporation as defined in chapter 156, a professional corporation organized under chapter 156A, a subchapter S corporation as defined in section 1361 of the Internal Revenue Code, a limited liability corporation, a limited liability partnership, a partnership, voluntary association or sole proprietorship conducting business in the commonwealth.

‘Motor vehicles or trailers’, as used in the clause shall be applicable to motor vehicles or trailers which have not been assessed and taxed subject to chapters 60A and 63.

‘Fair cash value’, the motor vehicle or trailer’s list price for motor vehicles or trailers of the same make, type, model, and year of manufacture, or in the case of motor vehicles or trailers which are part of a larger fleet of substantially similar motor vehicles or trailers, the average fair cash value of the motor vehicles or trailers in the fleet.

‘Fairly apportioned’, allocated so as to reflect only the amount of time during which the motor vehicle or trailer was physically located in a city or town, according to records kept by the business entity in the regular course of its business.

The assessed value of such motor vehicles and trailers shall be their fair cash value fairly apportioned."; by inserting after section 3 the following two sections:—

"SECTION 3A. Section 2A of chapter 60A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 27 and 28, the words ‘as the case may be.’ and inserting in place thereof the following words:— as the case may be; provided further, that such notice of nonpayment may be transmitted to the registrar whether or not the commissioner or local tax collector has issued any warrant to another officer to collect the excise.

Said chapter 60A is hereby amended by inserting after section 6, as so appearing, the following section:—

Section 6½. In any instance where a motor vehicle or trailer is the subject of a lease agreement for a period of 30 days or more, the excise locally assessable under this chapter, shall be laid and collected at the address of the lessee of the motor vehicle or trailer. If the lessee is an individual, the address will be the domicile of the individual. If the lessee is a business entity, as defined in clause eighth A of section 18 of chapter 59, the address will be its principal place of business in the commonwealth."; by inserting after section 23 the following section:—

"SECTION 23A. Chapter 64H of the General Laws is hereby amended by inserting after section 25B, as appearing in the 2000 Official Edition, the following three sections:—

25C. The owner of any motor vehicle or trailer that is sold through a private sale shall notify the registrar of motor vehicles on any form prescribed by the registrar under this section of the private sale of the motor vehicle or trailer within 3 days of the transfer. The original owner shall provide the name and address of the buyer, a description of the make, model and vehicle identification number of the motor vehicle or trailer.

25D. The owner of any motorboat that is sold through a private sale shall notify the director of the division of motorboats on any form prescribed by the director under this section of the private sale of the motorboat within 3 days of the transfer. The original owner shall provide the name and address of the buyer, a description of the make, model and any state or federal identification number of the motorboat.

25E. The owner of any aircraft that is sold through a private sale shall notify the aeronautics commission on any form prescribed by the commissioner under this section of the private sale of the aircraft within 3 days of the transfer. The original owner shall provide the name and address of the buyer, a description of the make, model and any state or federal identification number or federal certificate of the aircraft."; by inserting after section 23 the following six sections:—

"SECTION 23A. Section 2 of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the third sentence the following sentence:— For any motor vehicle or trailer that is leased for more than 30 days, the application shall also identify the name and address of the lessee. If the lessee is an individual, the address shall be the said individual’s principal residence. If the lessee is a business entity, as defined in clause eighth A of section 18 of chapter 59, the address shall be the lessee’s principal place of business in the commonwealth.

SECTION 23B. Section 3 of said chapter 90, as so appearing, is hereby amended by striking out the words, in lines 11 to 15, inclusive, ‘on more than thirty days in the aggregate in any one year or, in any case where the owner thereof acquires a regular place of abode or business or employment within the commonwealth, beyond a period of thirty days after acquisition thereof,’.

SECTION 23C. The first paragraph of said section 3 of said chapter 90, as so appearing, is hereby further amended by adding the following sentence:— The owner or operator of such a motor vehicle or trailer must, while operating such a motor vehicle or trailer, have on his person in an easily accessible place, proof of a policy providing such insurance or a certificate of an insurance company stating that such a policy has been issued and is currently in effect.

SECTION 23D. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 120, the word ‘three’, and inserting in place thereof the word:— ‘two’.

SECTION 23E. Section 34H of said chapter 90 is hereby amended by inserting after the fifth paragraph the following paragraph:—

The registrar, upon receipt of evidence in a form satisfactory to the registrar, that a non-resident has operated a motor vehicle or trailer upon the roads of the commonwealth without the compulsory motor vehicle liability insurance required by section 3 with respect to such motor vehicle or trailer, shall revoke the non-resident driving privileges of such person. The uninsured motor vehicle or trailer may be impounded and stored by a duly authorized police officer, who shall take possession of the registration plates. The owner or non-resident driver must submit evidence satisfactory to the registrar that the motor vehicle or trailer is registered and insured pursuant to section 3 before the registration plates are returned and the motor vehicle or trailer may be lawfully propelled upon the roads of the commonwealth, and the non-resident driving privileges reinstated.

SECTION 23F. Section 2 of chapter 90C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word ‘ninety.’, in line 22, the following sentence:— In any case where a question is raised whether the motor vehicle or trailer is properly insured under section 34 of chapter 90, the time for the issuance of a citation shall remain open until such time as the validity of any certificate of insurance is verified."; and by inserting after section 54 the following two sections:—

SECTION 54A. Notwithstanding any general or special law to the contrary, any person, or business entity as defined in clause eighth A of section 18 of chapter 59, who willfully makes and subscribes any return, form, statement or other document, prescribed by the commissioner pursuant to section 105 of chapter 60 of the General Laws or section 3 of chapter 62C of the General Laws, under the penalties of perjury, to obtain any benefit, exemption, deduction, entitlement, right, license, or privilege by claiming principal residence in the commonwealth, and who improperly registers a motor vehicle or trailer in another state or misrepresents the place of garaging in another city or town, shall be punished by a fine of not less than $200 nor more than $1000 for each offense. For purposes of this section, each taxable year that a motor vehicle or trailer is improperly registered shall be considered a separate offense, provided, however, that the maximum number of years that are subject to the penalties under this section shall be no more than 3 taxable years. The fines imposed pursuant to this section shall be divided as follows: 75 per cent of the fines shall be paid over to the treasury of the city or town in whose jurisdiction the motor vehicle is customarily garaged; and 25 per cent of said fines shall

be paid over to the treasurer of the commonwealth to be deposited in the highway fund to offset costs associated with the implementation of the provisions of this act; provided further, that the Massachusetts Collectors and Treasurers Association in conjunction with the treasurer of the commonwealth, shall report quarterly to the house and senate committees on ways and means the total amount of fines imposed and collected pursuant to this section. Inconsistency in a person's stated residency on any forms, returns, statements or other documents with stated residency on forms required for the proper registration of a person's motor vehicle shall be prima facie evidence of a willful intent to evade compliance with all applicable motor vehicle registration laws of the commonwealth.

SECTION 54B. In order to encourage the proper registration of motor vehicles and trailers in the commonwealth and the payment of taxes and fees owed under chapters 60A, 64H, 64I, and chapter 90 of the General Laws to the commonwealth and its municipalities on a voluntary basis, the registrar of motor vehicles and the commissioner of revenue shall establish a 3 month period during which all penalties for the non-payment of the taxes and fees imposed by said chapters 60A, 64H, 64I and 90 shall be waived if any owner voluntarily registers a motor vehicle or trailer that was unregistered, uninsured, or improperly registered in another state or another city or town. The 3 month period shall commence on or before January 1, 2002. The waiver shall also apply to unpaid taxes, interest or fees that would have been assessed on a properly registered motor vehicle or trailer. Other terms and conditions may be determined by the registrar and the commissioner of revenue."
After debate the amendment was *rejected*.

Mr. Moore, Ms. Fargo and Mr. McGee moved to amend the bill by inserting after section 2 the following section:—

"SECTION 2A. Section 72 of chapter 44 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law to the contrary, all money received in the form of municipal medicaid reimbursement from the federal government shall be used exclusively for school nursing and enhanced school health services and school-based health centers previously funded under the school health, enhanced school health and school-based health centers programs within the department of public health in items 4590-0250 and 4590-0300 of section 2 of chapter 184 of the acts of 2002."
After remarks, the amendment was *rejected*.

Messrs. Moore and McGee moved to amend the bill by inserting after section 24 the following section:—

"SECTION 24A. Chapter 118E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following section:—

Section 53. The Division shall include within its covered services for adults the federally optional services of dentures, prosthetics, orthotics and eyeglasses, which were included

in its state plan in effect on January 1, 2002."
After remarks, the amendment was *rejected*.

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

"SECTION 54A. There shall be an advisory group to make recommendations to register of deeds about County Registry Technological Funds. The group shall be chaired by the state secretary or his designee, and shall include the registers of each county or their designees and 1 representative appointed by each of the Massachusetts Conveyancers Association, Massachusetts Association of Realtors, and the Greater Boston Real Estate Board, and in addition 1 representative from the title insurance industry and 1 representative from the title examiners industry, both of whom shall be appointed by the state secretary. The advisory group shall create a plan within 90 days of the effective date of this act with specific recommendations for the use of funds in the County Registry Technological Funds established by section 42 of chapter 36 of the General Laws. This plan shall be distributed to all registers upon its completion. This plan shall be used to inform the decisions of each register with respect to expenditure of funds under said section 42."
Mr. Berry in the Chair, after remarks, the amendment was adopted.

Mr. Baddour moved to amend the bill by inserting after section 43 the following section:—

"SECTION 43A. Section 2 of chapter 313 of the acts of 1998 is hereby amended by inserting after the words 'Terminal A,' in the first sentence, the following words:— and renovations of the central parking garage".
After remarks the amendment was adopted.

Mr. Moore, Ms. Fargo, Mr. McGee and Ms. Chandler moved to amend the bill by inserting after section 54 the following section:—

"SECTION 54A. There shall be a study of the effectiveness, fairness and economic impact of the pharmacy user fee program; the long term need for the fee; the effect of the user fee on non-Medicaid consumers and pharmacies; use of the funds; the additional costs, if any, incurred by pharmacies in collecting the fee, and the feasibility of returning funds already collected. The study shall focus on the impact of the fee on independent pharmacies and the short and long term economic consequences the fee may have on independent pharmacies operating in the commonwealth and the impact of the fee on infusion pharmacies and long-term care pharmacies and the overall impact on all types of pharmacies. The department of revenue shall conduct the study, in conjunction with the board of registration of pharmacy and the division of health care finance and policy. The department of revenue shall consult with the chain pharmacies, the independent pharmacies, health care consumers and others as needed, on the impact, and collection, of the pharmacy fee. The findings of this study shall be filed with the house and senate ways and means committees and the chairs of the joint committee on health care on or before June 1, 2003."

Ms. Fargo moved to amend the amendment (Moore) by striking out the wording and inserting in place thereof the following wording:— amend the bill by inserting after section 54 the following section:—

"SECTION 54A. The department of revenue, in conjunction with the board of registration in pharmacy, the department of public health, the division of medical assistance and the division of health care finance and policy shall conduct a study of the effectiveness, fairness and economic impact of the pharmacy and nursing home user fee programs; the long term need for the fees; the effect of the user fee on nonmedicaid consumers, nursing homes and pharmacies; the use of the funds; the additional costs, if any, incurred by pharmacies and nursing homes in collecting the fee, and the feasibility of returning funds already collected. The study shall focus on the impact of the pharmacy fee on independent pharmacies, the short and long-term economic consequences the fee may have on independent pharmacies operating in the Commonwealth and the impact of the fee on infusion pharmacies and long-term care pharmacies and the overall impact on all types of pharmacies. The study shall focus on the long and short-term economic consequences on nursing homes with different payer mixes, the effect on the number of recipients of medicaid-funded long-term care, the long term need for the fee, the effect of the fee on the nonmedicaid facilities and the additional costs incurred by residents of nursing homes as a result of the fee assessed on nursing homes. The department of revenue shall consult with the chain pharmacies, the independent pharmacies, the Massachusetts Extended Care Federation, a continuing care retirement community, a residential care facility, a member of the Massachusetts Life Care residents Association, health care consumers and others, as needed, on the impact and collection of the pharmacy and nursing home fees. The findings of this study shall be filed with the house and senate ways and means committees and the chairs of the joint committee on health care on or before June 1, 2003."
After remarks, the amendment (Fargo) was considered; and it was *rejected*.
The pending amendment (Moore) was then considered; and it was *rejected*.

Mr. Barrios moved to amend the bill by inserting after section 38 the following section:—

"SECTION 38A. Chapter 164 of the General Laws is hereby amended by inserting after section 69Q the following section:—

Section 69Q½. Notwithstanding any general or special law to the contrary, any private entity determined by the secretary of public safety to be engaged in the transport or storage of liquefied natural gas within the boundaries and waterways of the commonwealth shall be responsible for not less than 75 per cent of the costs associated with safeguarding public safety in the surrounding communities. Not more than 25 percent of these costs shall be borne by the community or government entity responsible for public safety details. Funds shall be deposited into an expendable trust and all expenditures from said trust shall not be subject to fringe and indirect costs. All reimbursement shall be distributed at the discretion of the secretary of public safety."; and by adding the following section:—

"SECTION 61. Section 69Q½ of chapter 164 of the General Laws, inserted by section 38A of this act, shall apply to all costs incurred on or after July 1, 2002."
After debate, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 57, by striking out, in line 3, the figure "2002" and inserting in place thereof the following figure:— "2003"; and by striking out section 59 and inserting in place thereof the following section:—

"SECTION 59. Section 9 and 11 shall be effective for tax years ending on or after December 31, 2003."
After debate, the amendment was *rejected*, by a vote of 5 to 7.

Mr. Morrissey moved to amend the bill in section 39, by adding the following sentence:— "Before presuming property abandoned pursuant to this section, the state treasurer shall determine that the insurance company holding the unclaimed proceeds from its demutualization or related reorganization has made all reasonable, good faith efforts to locate, contact and inform the policyholder or other apparent owner of the existence of that property."
After remarks, the amendment was adopted.

Messrs. Magnani, Joyce, Creedon, McGee and Montigny, Ms. Fargo, Messrs. Barrios, Shannon, Havern, Nuciforo, Brewer, Tisei and Antonioni, Ms. Chandler and Mr. Glodis moved to amend the bill by inserting after section 54 the following section:—

"SECTION 54A. Notwithstanding any general or special law to the contrary, a school facilities capital construction or major reconstruction project which has received final municipal approval by a favorable vote by the legislative body of the municipality, subject to its charter, on or before February 25, 2003 and which otherwise meets all department of education criteria shall be placed on the priority waiting list for reimbursement pursuant to section 10 of chapter 70B of the General Laws at the rate for which it would have been eligible on January 31, 2003."
After remarks, the amendment was adopted.

Ms. Chandler and Messrs. Berry and Glodis moved to amend the bill by inserting after section 43 the following 2 sections:—

"SECTION 43A. Paragraph (b) of section 8 of chapter 708 of the acts of 1966, as most recently amended by section 14 of chapter 239 of the acts of 1998, is hereby further amended by striking out the sixth sentence and inserting in place thereof the following sentence:— The aggregate principal amount of notes and bonds of the MHFA issued to make mortgage loans pursuant to section 5 and to make or purchase loans pursuant to section 5A and outstanding at any one time shall not exceed the sum of $4,900,000,000 of which $150,000,000 shall be used only to make mortgage loans pursuant to said section 5 in cities and towns which have been found to have a rate of unemployment at least 6 percent in the issue of 'Area Trends in Employment and Unemployment' published by the United States Department of Labor for the October preceding the making of any such loan.

SECTION 43B. Said paragraph (b) of said section 8 of said chapter 708 is hereby further amended by striking out the last sentence."
After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill by striking out section 47 and inserting in place thereof the following section:—

"SECTION 47. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, the comptroller shall transfer the balance, as of January 1, 2003, of the account established in clause (b) of section 5C of chapter 29 of the General Laws to the General Fund. Any funds encumbered or transferred after January 1, 2003 shall not be unencumbered nor shall any transfer be reversed. Nothing in this section shall affect any underlying capital authorizations and the ability to subsequently finance these authorizations through bond proceeds."
After debate, the amendment was *rejected*.

Ms. Murray moved to amend the bill in section 7, by inserting after the word "evidence", in lines 7 and 10, the following words:— "as determined by the commissioner"; by inserting after section 12, the following section:—

"SECTION 12A. Said chapter 63, as so appearing, is hereby further amended by striking out section 32D and inserting in place thereof the following section:—

Section 32D. (a) Any domestic business corporation or foreign corporation subject to an excise under sections 32 or 39 which is an S corporation or a qualified subchapter S subsidiary, as defined under section 1361 of the Code, as amended and in effect for the taxable year, shall determine the net income measure of the excise as follows:

(i) The net income shall be determined by taking into account subchapter S of said Code. Income or loss shall be determined as if it were realized or incurred directly by an owner subject to taxation under chapters 62 or 63, as applicable. In the case of an S corporation, income shall be included in the net income measure under this subsection to the extent that such income is taxed to said S corporation for federal income tax purposes. In the case of a qualified subchapter S subsidiary, income shall be included in the net income measure under this subsection to the extent that such income would have been taxed to the subchapter S subsidiary for federal income tax purposes had it been treated as a separate corporation; and

(ii) Any such domestic business corporation or foreign corporation which is an S corporation or a qualified subchapter S subsidiary and which has total receipts for the taxable year of $6,000,000 or more shall also include in the net income measure of the excise imposed under section 32 or 39 an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by one of the following rates, in lieu of the rate provided in said section 32 or 39:

(1) if total receipts for the taxable year are at least $6,000,000 but less than $9,000,000, 2.63 per cent; and

(2) if total receipts for the taxable year are $9,000,000 or more, 3.95 per cent.

For purposes of this subsection, net income determined to be taxable in accordance with this chapter shall be determined without taking into account subchapter S of said Code, and shall not include income that is taxed to the S corporation or qualified subchapter S subsidiary at the entity level under paragraph (i) of subsection (a). The term 'total receipts' shall mean gross receipts or sales, less returns and allowances, and shall include dividends, interest, royalties, capital gain net income, rental income and all other income. The cost of goods sold or the cost of operations shall not be deductible in determining such total receipts. The commissioner shall, by regulation, apply such limits on an aggregate basis to S corporations engaged in a unitary business with majority direct or indirect ownership by common stockholders. Such aggregating shall also include any other type of entity, including any qualified subchapter S subsidiary, so engaged and so owned which the commissioner finds was established for the purpose of avoiding the foregoing limits.

(b) For purposes of this subsection, in determining the net income of any qualified subchapter S subsidiary, its gross income shall be determined by computing its gross income as defined under the Code as if it had been taxed as a separate corporation for federal income tax purposes.”; by inserting after section 42 the following 7 sections:—

“Section 42A. Section 39 of chapter 262 of the General Laws, as appearing in the 2000 official edition, is hereby amended by striking out, in lines 11 and 12, the words ‘twenty dollars’ and inserting in place thereof the following words:— $50 per sheet.

Section 42B. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 38, the words ‘forty dollars’ and inserting in place thereof the following figure:— $100.

Section 42C. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 39, the words ‘forty dollars’ and inserting in place thereof the following figure:— $50.

Section 42D. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 40, the words ‘twenty dollars’ and inserting in place thereof the following figure:— $50.

Section 42E. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 41, the words ‘three dollars’ and inserting in place thereof the following figure:— $5.

Section 42F. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 42, the words ‘thirty dollars’ and inserting in place thereof the following figure:— $150.

Section 42G. Said section 39 of said chapter 262, as so appearing, is hereby further amended by striking out, in lines 55 and 59, the words ‘thirty dollars’ and inserting in

place thereof, in each instance, the following figure:— $50.”; by striking out section 43 and inserting in place thereof the following section:—

“SECTION 43. Section 39 of said chapter 262 is further amended by adding the following 2 paragraphs:—

The fee for filing and declaration of homestead shall be $30.

The fee for the filing and registration of a declaration of trust shall be $200.”; by striking out section 50 and inserting in place thereof the following section:—

“SECTION 50. By the enactment of sections 8, 12 to 17, inclusive, and 20 to 23, inclusive, the general court clarifies its original intention that the taxpayer is required to possess for a transaction both (1) a valid, good-faith business purpose, other than tax avoidance; and (2) economic substance apart from the asserted tax benefit, in order to claim a deduction, exemption or other tax benefit.”; by striking out section 57 and inserting in place thereof the following section:—

“SECTION 57. Sections 8, 12 to 17, inclusive, and 20 to 23, inclusive, shall take effect on January 1, 2002 and shall also apply to all matters, regardless of tax year, pending on or after that date.”; and by inserting after section 59 the following new section:—

“SECTION 59A. Section 12A shall apply to tax years beginning on or after March 1, 2003.”
After remarks, the amendment was adopted.

Mr. Hedlund moved to amend the bill by striking out section 59 and inserting in place thereof the following section:—

“SECTION 59. Sections 9 and 11 shall be effective for tax years ending on or after January 1, 2003.”
The amendment was *rejected*.

Mr. Morrissey moved to amend the bill in section 12, in line 89, by striking out the words “when either” and inserting in place thereof the word “if”; by striking out, in line 91, the word “or”; and by inserting after the figure “42”, in line 94, the following words:— “; or (3) the interest expenses and costs and the intangible expenses and costs are directly or indirectly paid, accrued or incurred to a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States.”
After remarks, the amendment was adopted.

Mr. McGee and Ms. Fargo moved to amend the bill by inserting after section 54 the following section:—

“SECTION 54A. Notwithstanding any general or special law or rule or regulation to the contrary, any member participating in a Medicare HMO plan during fiscal year 2003, whose access to that plan was terminated in that fiscal year due to the withdrawal in any service area by a Medicare HMO provider, or if that plan was terminated in that fiscal

year by a member's physician or health care facility in their respective service area, shall be eligible for enrollment in the prescription advantage program established under section 39 of chapter 19A of the General Laws."
The amendment was *rejected*.

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

"SECTION 54A. Notwithstanding any general or special law to the contrary, not less than $3,004,333 shall be expended from item 4590-0300 of section 2 of chapter 184 of the Acts of 2002 for a school health service program, including school health centers."
After remarks, the amendment was *rejected*.

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

"SECTION 54A. Notwithstanding any general or special law to the contrary, $7,680,000 shall be expended for the school health services program, including school health services, partially funded in item 4590-0300 of section 2 of chapter 184 of the Acts of 2002."
The amendment was *rejected*.

Messrs. Magnani, McGee, Lees, Tisei, Tarr, Knapik, Hedlund and Mrs. Sprague moved to amend the bill by inserting after section 54 the following section:—

"SECTION 54A. (A) Notwithstanding section 9C of chapter 29 of the General Laws, of the funds appropriated in item 4130-1000 of section 2 of chapter 184 of the acts of 2002, $13,121,630 shall be expended for statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns."; and by inserting after section 44 the following section:—

"SECTION 44A. Item 4130-1000 of said section 2 of said chapter 184 is hereby amended by adding the following words:—

General Fund 84.75%
Transitional Aid to Needy Families Fund 15.25%
."

The President in the Chair, after remarks the question on adoption of the amendment was determined by a call of the yeas and nays, at thirteen minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) **[Yeas and Nays No. 11]**:

YEAS.

Antonioni, Robert A.	Knapik, Michael R.
Baddour, Steven A.	Lees, Brian P.
Barrios, Jarrett T.	Magnani, David P.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Melconian, Linda J.

Chandler, Harriette L.	Menard, Joan M.
Creedon, Robert S., Jr.	Montigny, Mark C.
Creem, Cynthia Stone	Moore, Richard T.
Fargo, Susan C.	Morrissey, Michael W.
Glodis, Guy W.	Murray, Therese
Hart, John A., Jr.	Nuciforo, Andrea F., Jr.
Havern, Robert A.	O'Leary, Robert A.
Hedlund, Robert L.	Pacheco, Marc R.
Jacques, Cheryl A.	Panagiotakos, Steven C.
Joyce, Brian A.	Resor, Pamela
Shannon, Charles E.	Tolman, Steven A.
Sprague, Jo Ann	Tucker, Susan C.
Tarr, Bruce E.	Walsh, Marian
Tisei, Richard R.	Wilkerson, Dianne — 38.
Rosenberg, Stanley C. — 1	

NAYS — 0.
ABSENT OR NOT VOTING — 0.

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

Mr. McGee, Ms. Chandler, Ms. Wilkerson and Ms. Tucker moved to amend the bill by inserting after section 54 the following:—

"SECTION 54A. Notwithstanding any general or special law to the contrary, if there is insufficient funding during fiscal year 2003 to provide for the range of programs funded as of January 1, 2003 by item 4401-1000 of section 2 of chapter 184 of the acts of 2002, the department of transitional assistance shall revise its policies as follows:

(1) The department shall allow active participation in self-directed job search efforts, as defined by the department, to qualify a family for an extension of time-limited benefits pursuant to subsection (f) of section 110 of chapter 5 of the acts of 1995 and shall be deemed to meet the work requirement in subsection (j) of said section 110 of said chapter 5 to the same degree as did participation in a job search or other program funded by said item 4401-1000 as of January 1, 2003. These policies shall only apply to recipients not able to participate in such a job search program due to insufficient funding.

(2) The department shall not sanction recipients who are unable to comply with the work requirement in said subsection (f) of said section 110 of said chapter 5 or the terms of an employment development plan because of insufficient funding for programs previously funded by said item 4401-1000 including, but not limited to, transportation services.

(3) The department shall not deny benefits to, or otherwise sanction, an applicant for, or recipient of, transitional aid to families with dependent children benefits pursuant to said section 110 of said chapter 5 for failure to comply with the teen parent school attendance rules where the department is unable to provide or arrange for an appropriate school

program because of insufficient funding for the young parents program previously funded by said item 4401-1000.

(4) For a recipient who is participating in, is required to participate in or volunteers to participate in a program previously funded by said item 4401-1000 or a comparable program, the department shall not count toward the time limit imposed by said subsection (f) of said section 110 of said chapter 5 any time that passes until the department, in consultation and collaboration with the division of employment and training, the one-stop career centers and other workforce development agencies, has arranged a placement in a comparable education, training or job search program funded by the federal, state or local government to prepare the recipient for reaching the time limit.

(5) The department shall continue to operate an employment services program under which the department collects information about education, training and other work preparation programs that are available in each local area, actively seeks to maximize the number of slots in such programs that are available to serve current and former recipients of transitional aid to families with dependent children, makes referrals of current and former recipients to the programs and facilitates the delivery of child care and transportation services to such recipients who are required to or wish to participate in such programs."; and by adding the following section:—

"SECTION 61. Section 54A shall cease to be effective on the effective date of the general appropriation act for fiscal year 2004."
After debate, the amendment was adopted.

Mr. Morrissey moved to amend the bill in section 38, by striking out, in lines 32 to 36, the words "; and (5) whether the existence of the limited liability company is determined to have commenced on the date when the other business entity was first created, incorporated or otherwise came into being."
After remarks, the amendment was adopted.

Mr. Joyce moved to amend the bill by striking out section 39 and inserting in place thereof the following section:—

"SECTION 39. Chapter 200A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 6C the following section:—

Section 6D. Notwithstanding any provision of this chapter to the contrary, and subject to the provisions of section one A, unclaimed property payable or distributable in the course of a demutualization or related reorganization of an insurance company is presumed abandoned 3 years after the earlier of: (a) the date of last contact with the policyholder; (b) the date of last activity on the account of the policyholder, as defined in 960 CMR 4.02; or (c) the date the property becomes payable or distributable."; by inserting after section 38 the following sections:—

"SECTION 38A. Section 1A of chapter 200A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 4, the words 'A or six B'

and inserting in place thereof the following:— A, six B or six D.”; by inserting after section 40 the following sections:—

“SECTION 40A. Said section 7 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 27, the word ‘November’ and inserting in place thereof the following word:— May.

SECTION 40B. Said section 7 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 28, the words ‘June thirtieth’ and inserting in place thereof the following word:— December thirty-first.

SECTION 40C. Said section 7 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 24, the word ‘May’ and inserting in place thereof the following word:— November.

SECTION 40D. Said section 7 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 30, the words ‘December thirty-first’ and inserting in place thereof the following words:— May thirtieth.

SECTION 40E. Section 8 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 2, the word ‘March’ and inserting in place thereof the following word:— September.

SECTION 40F. Said section 8 of said chapter 200A, as so appearing, is hereby further amended by striking out, in lines 2 and 3, the word ‘September’ and inserting in place thereof the following word:— March.

SECTION 40G. Said section 8 of said chapter 200A, as so appearing, is hereby further amended by striking out, in line 28, the words ‘March first or September’ and inserting in place thereof the following words:— September first or March.”; and by inserting after section 41 the following section:—

“SECTION 41A. Section 12 of said chapter 200A, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words ‘or 6B’ and inserting in place thereof the following words:— 6B or 6D.”
After debate, the amendment was adopted.

Ms. Fargo and Mr. Shannon moved to amend the bill by striking out section 48 and by inserting after section 16 the following 2 sections:—

“SECTION 16A. Said section 33 of said chapter 63, as so appearing, is hereby amended by inserting after the word ‘corporations’, in line 7, the following words:— but wherever a controlled group of corporations exists as defined in section 1563 of the Internal Revenue Code, there shall be a presumption that all payments to the parent corporation or affiliated corporation are in excess of fair value and that fair compensation was not included for all commodities sold to or services performed for the parent corporation or affiliated corporations.

SECTION 16B. Subsection (1) of section 38 of chapter 63 is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:—

(3) As used in this paragraph, the following words shall, unless the context otherwise requires, have the following meaning:

‘Base period employment level,’ the number of qualified employees in this commonwealth of the manufacturing corporation as of December 31, 1995, and the number of non-qualified employees in this commonwealth of the manufacturing corporation as of December 31, 1995, determined separately.

‘Non-qualified employment level,’ the number of non-qualified employees of the manufacturing corporation in the taxable year.

‘Qualified employment level,’ the number of qualified employees of the manufacturing corporation in the taxable year.

‘Non-qualified employee in the commonwealth,’ an individual who: (i) is employed by a manufacturing corporation; (ii) works on a full-time basis with a normal week of 30 or more hours; (iii) at the inception of the employment relationship does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; (iv) is eligible to receive employee benefits including, but not limited to, paid holidays, vacation and unemployment benefits; and (v) is subject to Massachusetts income tax withholding. Three or fewer individuals who collectively fulfill the requirement of clause (ii) and who each meet the requirements of clauses (i), (iii), (iv), and (v) shall be counted as one qualified employee for purposes of this section.

‘Qualified employee in the commonwealth,’ an individual who: (i) is employed by a manufacturing corporation; (ii) works on a full-time basis with a normal week of 30 or more hours; (iii) at the inception of the employment relationship does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; (iv) is eligible to receive employee benefits including, but not limited to, paid holidays, vacation and unemployment benefits; (v) is subject to Massachusetts income tax withholding; (vi) is employed working in the manufacturing corporation’s manufacturing operations; and (vii) is not working in a bona fide executive, administrative, or professional capacity under the provisions of 29 U.S.C. 213(a)(1). Three or fewer individuals who collectively fulfill the requirement of clause (ii) and who each meet the requirements of clauses (i), (iii), (iv), (v), (vi), and (vii) shall be counted as one qualified employee for purposes of this section.

(i) If for any taxable year beginning on or after January 1, 2003 but before January 1, 2004, a manufacturing corporation’s non-qualified employment level is less than 80% of its base period employment level, or its qualified employment level is less than 80% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).

(ii) If for any taxable year beginning on or after January 1, 2004 but before January 1, 2005, a manufacturing corporation's non-qualified employment level is less than 82.5% of its base period employment level, or its qualified employment level is less than 82.5% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).

(iii) If for any taxable year beginning on or after January 1, 2005 but before January 1, 2006, a manufacturing corporation's non-qualified employment level is less than 85% of its base period employment level, or its qualified employment level is less than 85% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).

(iv) If for any taxable year beginning on or after January 1, 2006 but before January 1, 2007, a manufacturing corporation's non-qualified employment level is less than 87.5% of its base period employment level, or its qualified employment level is less than 87.5% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).

(v) If for any taxable year beginning on or after January 1, 2007 but before January 1, 2008, a manufacturing corporation's non-qualified employment level is less than 90% of its base period employment level, or its qualified employment level is less than 90% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).

(vi) If for any taxable year beginning on or after January 1, 2008, a manufacturing corporation's non-qualified employment level is less than 90% of its base period employment level, or its qualified employment level is less than 90% of its base period employment level, the corporation shall instead be required to apportion its taxable net income for such taxable year to the commonwealth in accordance with subsection (c).";
and by inserting after section 24 the following sections:—

"SECTION 24A. Sub-section (a) of section 44 of chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:— The commissioner shall maintain suitable records for each employer, including but not limited to the number of qualified and non-qualified employees as defined in paragraph (3) of subsection (1) of section 38 of chapter 63 employed by that employer in the commonwealth during each year.

SECTION 24B. Section 45 of said chapter 151A, as so appearing, is hereby amended by inserting after the word 'chapter', in line 4, the following words:— including but not limited to the number of qualified and non-qualified employees as defined in paragraph 3 of subsection (1) of section 38 of chapter 63 employed by that employer in the

commonwealth during each year."
The amendment was *rejected*.

Ms. Fargo and Messrs. Shannon and Hedlund moved to amend the bill by striking out section 48.
The amendment was *rejected*.

Ms. Walsh and Mr. Lees moved to amend the bill by striking out sections 1 (the second time it appears) and 2 and inserting in place thereof the following 3 sections:—

"SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after section 2III, the following 2 sections:—

Section 2JJJ. (a) There shall be established on the books of the commonwealth a separate fund to be known as the Registers Technological Fund for the benefit of the registers of deeds under the control of the state secretary. This fund shall consist of the amounts specified in section 31 of chapter 9. The state treasurer shall deposit these amounts into the fund, which shall be expended solely for the purposes of automation, modernization, operation and technological improvements at the registries of deeds. The state secretary for the benefit of the registers under his control, shall submit a spending plan to the clerks of the house of representatives and senate, who shall refer the plan to the house and senate committees on ways and means and house and senate committees on post audit and oversight. In preparing the plan, the secretary shall consult with the commonwealth's chief information officer and require that the projects and purchases funded through disbursements in this section shall be consistent with the enterprise information technology strategy, plan and information technology standards adopted by him. All such monies shall be used to purchase information technology systems that are interoperable with other like systems that are used or will be used by all registries. The plan shall include, but not be limited to, the cost and description of all intangible, personal and real property to be purchased or services to be received and any and all personnel changes for the automation, modernization, operation and technological improvements. If the general court takes no final action relative to the plan within 30 days after the date on which the plan is first referred to those committees, the state treasurer shall disburse the funds according to the plan.

(b) In conjunction with the preparation of the Commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenue and expenditure of said fund.

Section 2KKK. (a) There shall be established on the books of the commonwealth a separate fund for each of the counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Nantucket to be known as the County Registers Technological Fund, for the benefit of the registers of deeds under the control of the governments of those counties. The fund shall consist of the amounts specified in section 41 of chapter 36. The state treasurer shall deposit these amounts into the fund, which shall be expended, subject to section 40 of chapter 36, solely for the purposes of automation, modernization and technological improvements at the registries of deeds. Each such register shall submit a spending plan

to the clerks of the house of representatives and senate, who shall refer the plan to the house and senate committees on ways and means and house and senate committees on post audit and oversight. In preparing the plan, the register shall consult with the commonwealth's chief information officer and the state secretary and require that the projects and purchases funded through disbursements in this section shall be consistent with the enterprise information technology strategy, plan and information technology standards adopted by him. All such monies shall be used to purchase information technology systems that are interoperable with other like systems that are used or will be used by all registries. The plan shall include, but not be limited to, the cost and description of all intangible, personal and real property to be purchased or services to be received for said automation, modernization and technological improvements. If the general court takes no final action relative to the plan within 30 days after the date on which the plan is first referred to those committees, the state treasurer shall disburse the funds according to the plan.

(b) In conjunction with the preparation of the commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenue and expenditure of the fund.

SECTION 1. Chapter 9 of the General Laws is hereby amended by adding the following section:—

Section 31. Notwithstanding any general or special law to the contrary, the fees of the registers of deeds and of the assistant recorders, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of $5. The surcharge shall be imposed for the purpose of automation, modernization, operation and technological improvements at the registries of deeds. Only those registries under the control of the state secretary shall be subject to the terms and conditions of this section. From March 1, 2003 until June 30, 2008, all surcharges on fees collected pursuant to this section shall be forwarded to the Registers Technological Fund established in section 2JJJ of chapter 29. From July 1, 2008, all the surcharges shall be forwarded to the general fund as provided in section 2 of said chapter 29.

SECTION 2A. Chapter 36 of the General Laws is hereby amended by adding the following section:—

Section 41. Notwithstanding any general or special law to the contrary, the fees of each of the registers of deeds and of the assistant recorders, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of $5. The surcharge shall be imposed for the purpose of automation, modernization and technological improvements at the registries of deeds. Only registries presently under the control of county government shall be subject to this section. From March 1, 2003 until June 30, 2008, all surcharges on fees collected pursuant to this section shall be forwarded to the County Registers Technological Fund established in section 2KKK of chapter 29. From July 1, 2008, all of the surcharges shall be forwarded to the general fund as provided in section 2 of chapter 29."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at six minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 —nays 0) **[Yeas and Nays No. 12]**:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Rosenberg, Stanley C. — 1.

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

Mr. Morrissey moved to amend the bill, by striking out in lines 63 and 64, and in line 90, the words "clear and convincing evidence" and inserting in place thereof the following words:— "a preponderance of the evidence"; and in said section 12, in proposed section 31J, by striking out subsections (b), (c) and (d) and inserting in place thereof the following subsection:

"(b)(1) The adjustments required in subsection (a) shall not apply if: (i) a principal purpose of the transaction giving rise to the payment of interest was not to avoid payment of taxes due under this chapter; (ii) the interest is paid pursuant to a contract that reflects the arms length rate of interest and terms; and only in the case of corporations; (iii)(A) the related member was subject to tax on its net income in this state or another state or possession of the United States or a foreign nation; (B) a measure of that tax included the interest rate received from the taxpayer; and (C) the rate of tax applied to the interest received by the related member is not less than the statutory rate of tax applied to the taxpayer under this chapter minus 3 percentage points.

(2) The adjustments required under subsection (a) shall not apply if the corporation can establish by a preponderance of the evidence that:

(i) the affiliated groups' total debt to persons who are not related members exceeds the amount of debt held between members of the affiliated group;

(ii) the debt is part of a regular and systematic treasury funds management or portfolio investment activity conducted by the related member, whereby the funds of 2 or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of related members or the benefit of centralized management of funds; or

(iii) the debt can be directly or indirectly traced to a third party."
The amendment was *rejected*.

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

"SECTION 12A. Said chapter 63, as so appearing, is hereby further amended by striking out section 32D and inserting in place thereof the following section:—

Section 32D. Any domestic business corporation or foreign corporation subject to an excise under sections 32 or 39 which is an S corporation or a qualified subchapter S subsidiary, as defined under section 1361 of the Internal Revenue Code, as amended and in effect for the taxable year, shall determine the net income measure of the excise as follows:

(a) Such net income shall be determined by taking into account the provisions of subchapter S of said Code. Income or loss shall be determined as if it were realized or incurred directly by an owner or owners subject to taxation under chapter 62 or 63, as applicable. In the case of an S corporation, income shall be included in the net income measure under this subsection to the extent that such income is taxed to said S corporation for federal income tax purposes. In the case of a qualified subchapter S subsidiary, income shall be included in the net income measure under this subsection to the extent that such income would have been taxed to the subchapter S subsidiary for federal income tax purposes had it been treated as a separate corporation; and

(b) Any such domestic business corporation or foreign corporation which is an S corporation or a qualified subchapter S subsidiary and which has total receipts for the taxable year of $6,000,000 or more shall also include in the net income measure of the excise imposed under section 32 or 39 an amount determined by multiplying its net income determined to be taxable in accordance with the provisions of this chapter by 1 of the following rates, in lieu of the rate provided in said section 32 or 39:

(1) If total receipts for the taxable year are at least $6,000,000 but less than $9,000,000, 2.63 per cent; and

(2) If total receipts for the taxable year are $9,000,000 or more, 3.95 per cent.

For purposes of this subsection, net income determined to be taxable in accordance with this chapter shall be determined without taking into account the provisions of subchapter S of said Code, and shall not include income that is taxed to the S corporation or qualified subchapter S subsidiary at the entity level under subsection (a). 'Total receipts' mean gross receipts or sales, less returns and allowances, and includes dividends, interest, royalties, capital gain net income, rental income and all other income. The cost of goods sold or the cost of operations shall not be deductible in determining such total receipts. The commissioner shall, by regulation, apply such limits on an aggregate basis to S corporations engaged in a unitary business with majority direct or indirect ownership by common stockholders. Such aggregating shall also include any other type of entity, including any qualified subchapter S subsidiary, so engaged and so owned which the commissioner finds was established for the purpose of avoiding the foregoing limits.

For the purposes of this subsection, in determining the net income of any qualified subchapter S subsidiary, its gross income shall be determined by computing its gross income as defined under said Code as if it had been taxed as a separate corporation for federal income tax purposes."; and by adding the following section:—

"SECTION 61. Section 12A shall apply to tax years beginning on or after January 1, 2003."
After remarks, the amendment was *rejected*.

Messrs. Lees and Havern moved to amend the bill by striking out sections 1 and 2 and inserting in place thereof the following section:—

"SECTION 1. Chapter 9 of the General Laws is hereby amended by adding the following 2 sections:—

Section 31. The fees of the registers of deeds and of the assistant recorders, except as otherwise provided, to be paid when the instrument is left for recording, filing, or deposit shall be subject to surcharge of $5. The surcharge shall be imposed for the automation, modernization and operation at all 21 registries of deeds. All surcharges on fees collected pursuant to this section shall be forwarded to the Registers Technological Fund established in section 32 of chapter 9.

Section 32. There shall be established on the books of the commonwealth a separate fund to be known as the Registers Technological Fund, for the benefit of registries of deeds including those which are administered by the several counties. This fund shall consist of all revenues collected under the surcharge set forth in section 31. The state treasurer shall deposit all monies collected under section 31 into the Registers Technological Fund, which shall be under the control of the secretary of the commonwealth and shall be expended solely for the purpose of modernizing the operation and for the technological advancement of all 21 registries of deeds. Each register may petition the secretary to disburse a portion of the collected funds for the benefit of his registry."
After remarks, the amendment was *rejected*.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at six minutes past five o'clock P.M., on motion of Ms. Murray, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 13]**:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Rosenberg, Stanley C. — 1.

The yeas and nays having been completed at eight minutes past five o'clock P.M., the bill was passed to be engrossed. [For complete text, see Senate, No. 1943, printed as amended]
Sent to the House for concurrence.

PAPER FROM THE HOUSE.

The Senate Bill relative to the office of the District Attorney for the Eastern District (Senate, No. 1925),— came from the House passed to be engrossed, in concurrence *with an amendment* in section 1, in line 11, by inserting after the year "2005" the following:— "; provided, however, that those employees whose service with said office was so terminated prior to January 2, 2003 shall receive ½ of any such payment owned on or before February 14, 2003 and shall receive the remaining ½ of any such payment owed on or before July 18, 2003".
The rules were suspended, on motion of Mr. Berry, and the House amendment was considered forthwith and adopted, in concurrence.

Order Adopted.

On motion of Mr. Berry,—

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

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