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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, July 10, 2003.

Met at a quarter past eleven o'clock A.M.

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

Distinguished Guests.

There being no objection, the President handed the gavel to the Senator from Worcester, Ms. Chandler, who along with the Senator from Franklin and Hampshire, Mr. Rosenberg, introduced Veronika Ilina, Chair of the Committee for Social Policy and Rights Protection of the Primorski Krai Legislative Assembly, Anita Ustinova, member of the Vyborg City Council and Chair of the Vyborg Chapter of the League of Women Voters, and Tatyana Zykova, Deputy Chair of a municipal education council in St. Petersburg, all in Russia. They were in the United States as guests of the International Center of Worcester as part of the "Women as Leaders" program of the Center. They were the guests of Senators Chandler, Rosenberg and Murray.

There being no objection, the Chair (Ms. Walsh) introduced, seated in the rear of the Chamber, Joyce Blickley, her daughter Janine, and her niece, Shannon Ladden, of Philadelphia, Pennsylvania. They were the guests of Senator Creedon.

There being no objection, the Chair (Mr. Havern) introduced, seated in the Senate gallery, Bill and Marie Loosemoore of Auburn. Bill is a teacher at Quabbin Regional High School. They were the guests of Senators Brewer and Glodis.

There being no objection, the Chair (Mr. Havern) handed the gavel to the Senator from Middlesex and Worcester, Ms. Resor, who introduced, seated in the rear of the Chamber, Virginia and Subu Kota and their guests from the Bank of Mandiri of Indonesia. Virginia and Subu Kota are founders of The Boston Group, an innovative software company in Northborough. They were the guests of Senator Resor.

Petitions.

Petitions were presented and referred as follows:

By Mr. Morrissey, a petition (accompanied by bill, Senate, No. 2038) of Michael W. Morrissey and Kathleen M. Teahan (by vote of the town) for legislation to authorize the town of Abington to transfer certain funds to the stabilization fund for open space and recreational purposes [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate, No. 2039) of Michael W. Morrissey and Kathleen M. Teahan (by vote of the town) for legislation to authorize the town of Abington to pay an unpaid bill to Glenn R. LaPointe, Inc. [Local approval received];

**Severally, under Senate Rule 20, to the committee on Natural Resources and Agriculture.
Severally sent to the House for concurrence.**

Report of a Committee.

By Mr. Moore, for the committee on Health Care, recommending that the communication from the Board of Trustees of the Health Care Security Trust (under the provisions of Section 4(h) of Chapter 29D of the General Laws) submitting an operating trust agreement (Senate, No. 1951), — be placed on file.

**Under Senate Rule 36, the report was considered forthwith and was accepted.
Sent to the House for concurrence.**

PAPER FROM THE HOUSE.

A Bill providing for an accelerated transportation development and improvement program for the Commonwealth (House, No. 3914,— on House, No. 3811),— **was read and, under Senate Rule 26B, referred to the committee on Long-Term Debt and Capital Expenditures.**

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Designating the Merrimac Street, Route 1 bridge overpass in the city of Newburyport as the Raymond F. Welch Memorial Overpass (Senate, No. 1854); and

To extend the reporting deadline of the Advisory Committee on Financial Obligations of the Massachusetts Turnpike Authority (Senate, No. 1884, changed);

Were severally read a second time and ordered to a third reading.

The Senate Bill clarifying the name of a certain bridge in the town of Amesbury (Senate, No. 1853),— **was read a second time and, after remarks, was ordered to a third reading.**

The Senate Bill relative to the Massachusetts business corporation act (Senate, No. 103),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Pacheco moved that the bill be amended in section 1, line 1488, by inserting after the word “communication”, the following words:— “unless the corporation is a public corporation”; in section 1, line 5197, by striking out the word “a” and inserting in place thereof the following words:— “an equitable”; and in section 1, line 5224, by striking out the words “There shall be no right to a jury trial.”.

This amendment was adopted.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at twenty-one minutes before twelve o’clock noon, on motion of Mr. Pacheco, as follows, to wit (yeas 35 — nays 0) **[Yeas and Nays No. 106]:**

YEAS.

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.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.

Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
	35.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

**The yeas and nays having been completed at eighteen minutes before twelve o'clock noon, the bill (Senate, No. 103, amended) was passed to be engrossed.
Sent to the House for concurrence.**

The Senate Bill relative to the punishment for sale and storage of fireworks (Senate, No. 1364)— was considered, the question being on ordering it to a third reading.

Mr. Lees moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

The Senate Bill relative to the production of wind energy along the coastline (Senate, No. 380, changed),— was considered, the main question being on passing the bill to be engrossed.

After debate, the pending motion, previously moved by Mr. Lees, to lay the bill on the table, was determined by a call of the yeas and nays, at nine minutes before twelve o'clock noon, on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 30) [**Yeas and Nays No. 107**]:

YEAS.

Hedlund, Robert L.	Melconian, Linda J.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E. — 6.

NAYS.

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Tisei, Richard R. — 3.
Fargo, Susan C.	

The yeas and nays having been completed at five minutes before twelve o'clock noon, the motion to lay on the table was *negatived*.

Ms. Walsh in the Chair, after further debate, the main question on passing the bill to be engrossed was then determined by a call of the yeas and nays, at thirteen minutes past twelve o'clock noon, on motion of Mr. O'Leary, as follows, to wit (yeas 28 — nays 6) [Yeas and Nays No. 108]:

YEAS.

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

28.

NAYS.

Hedlund, Robert L.	Melconian, Linda J.
Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E. — 6.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Berry, Frederick E.	Tisei, Richard R. — 5.
Fargo, Susan C.	

The yeas and nays having been completed at seventeen minutes past twelve o'clock noon, the bill was passed to be engrossed.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The President in the Chair, a message from His Excellency the Governor recommending legislation relative to authorizing the Department of Highways to acquire certain parcels of land in the town of Bourne (House, No. 3943),— **came from the House with the endorsement that said branch had referred the matter to the committee on State Administration. The Senate non-concurred in the reference to the committee on State Administration.**

On motion of Mr. Baddour, the matter was referred to the committee on Transportation.

Sent to the House for its action.

Committee of Conference Report.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill providing relief and flexibility to municipal officials (House, No. 4003, printed as amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2014), reported, in part, a bill entitled "An Act providing relief and flexibility to municipal officials" (House, No. 3944),— came from the House, and was read.

After debate, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at sixteen minutes past one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 31 — nays 4) [Yeas and Nays No. 109]:

YEAS.

Baddour, Steven A.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
Tarr, Bruce E.
Tolman, Steven A.
Tucker, Susan C.

McGee, Thomas M.
Melconian, Linda J.
Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Murray, Therese
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Walsh, Marian
Wilkerson, Dianne — **31.**

NAYS.

Barrios, Jarrett T.
Knapik, Michael R.

Lees, Brian P.
Morrissey, Michael W.—
4.

ABSENT OR NOT VOTING.

Antonioni, Robert A.
Fargo, Susan C.

Nuciforo, Andrea F., Jr.
Tisei, Richard R. — **4.**

The yeas and nays having been completed at twenty-one minutes past one o'clock P.M., the report (House, No. 3944) was accepted, in concurrence.

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

PAPERS FROM THE HOUSE.

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

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4004), which on Friday, June 20, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4005) was read; and the Senate proceeded to reconsider several items which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 616 (Early retirement incentive program) was considered as follows:—

“SECTION 616. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received his pay

advice via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws; and (vi) shall have filed a written application with the board in accordance with subsection (b).

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

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

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than September 1, 2003. The retirement date requested, shall be October 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

To ensure the successful completion of the academic year, employees of the University of Massachusetts and employees of state and community colleges shall file their applications for retirement within the period required in this section, but the retirement date requested shall be December 31, 2003. The president of the University of Massachusetts and the chancellor of higher education may identify job titles which may elect to retire earlier than December 31, 2003. Said president and said chancellor shall each file a complete list of titles and corresponding job title codes with the state board of retirement not later than January 15, 2003, but no retirement shall be effective earlier than August 29, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied; the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 60 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement. Notwithstanding any special or general law to the contrary, the state board of retirement may employ retired former employees of said board through December 31, 2004, to assist it in the implementation of the retirement incentive program authorized by this section, and in the administration of tasks related thereto.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated.

The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall include: (1) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by November 1, 2003 the total value of compensation of the last pay period prior to October 1, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and

means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 percent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (j).

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated.

The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (l) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (l).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

The board of trustees or the president of the University of Massachusetts shall not create any position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (n) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (n).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before January 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive $\frac{1}{4}$ of such payment on October 1, 2003, $\frac{1}{4}$ of such payment on July 1, 2004, $\frac{1}{4}$ of such payment on July 1, 2005, and $\frac{1}{4}$ of such payment on July 1, 2006. Each such employee shall sign a statement that he has agreed to receive $\frac{1}{4}$ of such payment on October 1, 2003, $\frac{1}{4}$ of such payment on July 1, 2004, $\frac{1}{4}$ of such payment on July 1, 2005, and $\frac{1}{4}$ of such payment on July 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority established

pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts Convention Center Authority established pursuant to chapter 190 of the acts of 1982 may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions."

[The Governor disapproved this section.]

The question on passing Section 616 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-nine minutes past two o'clock P.M., as follows, to wit (yeas 35 — nays 0)
[Yeas and Nays No. 110]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
Melconian, Linda J.	35.

NAYS — 0.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at twenty-two minutes before three o'clock P.M., Section 616 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 621 (Supported nursing facility payments) was considered as follows:—

“SECTION 621. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers including, but not limited to, Neville Communities Home, Inc., Cape End Manor, Taunton Nursing Home, Hampshire Care, Our Island Home, and the Geriatric Authority of Holyoke provided that no such payment shall be made until the division determines that a home qualifies for matching federal revenue under Title XIX. The payments shall be established in accordance with Title XIX of the Social Security Act or any successor federal statute, any regulations promulgated thereunder, the commonwealth’s Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.”

[The Governor disapproved this section.]

After debate, the question on passing Section 621 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty minutes before three o’clock P.M., as follows, to wit (yeas 31 — nays 4) [**Yeas and Nays No. 111**]:

YEAS.

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

NAYS

Hedlund, Robert L.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E. — 4.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at sixteen minutes before three o’clock P.M., Section 621 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 678 (Fernald Reuse Committee) was considered as follows:—

“SECTION 678. There is hereby established a Fernald Developmental Center Land Reuse Committee. The committee shall include the mayor of the city of Waltham or his designee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, the ward councilor from the city of Waltham representing the ward in which the campus is located, 4 citizens of Waltham to be appointed by the mayor of the city of Waltham, the state representative from the

ninth Middlesex house district, the state representative from the tenth Middlesex house district, and the senator from the third Middlesex senate district. The commissioner of the division of capital asset management and maintenance shall appoint a representative from the division to be a non-voting member of the committee, and who shall attend each of the meetings of the committee. The committee shall be responsible for representing the interests of the town in all deliberations with the division of capital asset management and maintenance about the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a Comprehensive Reuse Consensus Plan for Fernald Developmental Center State Property, which shall provide a detailed description, by parcel, of how the property is to be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup, including, but not limited to, any building demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation, of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. Upon approval by the reuse committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of authorizing legislation, if any, necessary to effectuate the provisions of the reuse plan. If the reuse plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan, including, but not limited to, any restrictions on and requirements imposed by the plan. The reuse committee shall meet as necessary to complete said reuse plan, but shall not meet less than once per month.”

[The Governor disapproved this section.]

After debate, the question on passing Section 678 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at fourteen minutes before three o'clock P.M., as follows, to wit (yeas 30 — nays 5) [Yeas and Nays No. 112]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne —

30.

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. —

4.

The yeas and nays having been completed at ten minutes before three o'clock P.M., Section 678 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having

approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 5930-1000 (Facilities operations) was considered as follows:—

“5930-1000 For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, called ICF/MRs, managed by the department and shall endeavor within available resources to discharge clients residing in the ICF/MRs to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting, 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service and, 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services pro-

vided by the employees funded in this item 163,661,641”.

[The Governor reduced the item to \$162,963,187 and struck out the following wording: “; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental Center, provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another, provided further, that the department shall submit the report no later than February 15, 2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process”.]

After debate, the question on passing item 5930-1000 (contained in section 2) notwithstanding the reduction and disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at seven minutes before three o'clock P.M., as follows, to wit (yeas 31 — nays 4) [Yeas and Nays No. 113]:

YEAS.

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.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.

Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.
Menard, Joan M.

Tarr, Bruce E.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne —
31.

NAYS

Hedlund, Robert L.
Lees, Brian P.

Sprague, Jo Ann
Knapik, Michael R.— **4.**

ABSENT OR NOT VOTING.

Antonioni, Robert A.
Fargo, Susan C.

Nuciforo, Andrea F., Jr.
Tisei, Richard R. — **4.**

The yeas and nays having been completed at four minutes before three o'clock P.M., item 5930-1000 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 693 (Board of Higher Education membership) was considered as follows:—

“SECTION 693. Notwithstanding any general or special law to the contrary, the terms of all appointed members of the board of higher education shall expire on August 30, 2003. Commencing on September 1, 2003, and continuing for the terms hereinafter stated and until successors are appointed, the board of higher education shall include among its appointed members not fewer than 7 persons appointed by the governor from among the members of the board of higher education serving as of June 30, 2003. Of the appointed members of said board, a student member shall be appointed for a term to expire May 30, 2004. Of the remaining appointed members, 1 shall be appointed for a 1-year term, 1 shall be appointed for a 2-year term, 1 shall be appointed for a 3-year term, 2 shall be appointed for a 4-year term, and 1 shall be appointed for a 5-year term. The member chosen to represent the state university shall be elected for a 2-year term. The member chosen to represent the state colleges shall be elected for a 3-year term. The member chosen to represent the community colleges shall be elected for a 4-year term. The term of the chairperson of the board of higher education shall continue under the provisions which existed prior to the effective date of this act.”

[The Governor disapproved this section.]

After debate, the question on passing Section 693 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at one minute before three o'clock P.M., as follows, to wit (yeas 30 — nays 5) **[Yeas and Nays 114]:**

YEAS.

Baddour, Steven A.
Barrios, Jarrett T.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian

Melconian, Linda J.

Wilkerson, Dianne —

30.

NAYS

Hedlund, Robert L.

Sprague, Jo Ann

Knapik, Michael R.

Tarr, Bruce E. — **5.**

Lees, Brian P.

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Nuciforo, Andrea F., Jr.

Fargo, Susan C.

Tisei, Richard R. — **4.**

The yeas and nays having been completed at two minutes past three o'clock P.M., Section 693 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 1599-7092 (County corrections reserve) was considered as follows:—

“1599-7092 For a reserve for the county correctional programs; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until 60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter; and provided further, that it is the intent of the General Court that no funds be spent from this item nor any funds be transferred from this item to another item until all of aforementioned restrictions and conditions have been satisfied 39,319,632”.

[The Governor struck out the following wording: “; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until 60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided farther, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter” .]

The question on passing item 1599-7092 (contained in section 2) notwithstanding the disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at three minutes past three o'clock P.M., as follows, to wit [yeas 30 — nays 5] **[Yeas and Nays No. 115]:**

YEAS.

Baddour, Steven A.

Menard, Joan M.

Barrios, Jarrett T.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne —
30.

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.
Fargo, Susan C.
Nuciforo, Andrea F., Jr.
Tisei, Richard R. — **4.**

The yeas and nays having been completed at eight minutes past three o'clock P.M., item 1599-7092 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 2001-1001 (Environmental Affairs data processing services) was considered as follows:—

“2100-1001 The secretary of environmental affairs may expend an amount not to exceed \$125,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services; provided further, that the secretary of environmental affairs shall increase any existing digital data and map fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year

2004 125,000”.

[The Governor reduced the item to \$50,000 and struck out the following wording: “The secretary of environmental affairs may expend an amount not to exceed \$125,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services; provided further, that the secretary of environmental affairs shall increase any existing digital data and map fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004” and has inserted the following wording: “The secretary of environmental affairs may expend an amount not to exceed \$50,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services”.]

The question on passing item 2001-1001 (contained in section 2) notwithstanding the reduction and disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at nine minutes past three o'clock P.M., as follows, to wit (yeas 29 — nays 5) [**Yeas and Nays No. 116**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at eleven minutes past three o'clock P.M., item 2001-1001 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 4190-1101 (Soldiers' Home in Holyoke long term care fees) was considered as follows:—

“4190-1101 The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$579,000 from resident fees for long-term care beds and domiciliary beds; provided, that the only revenue available for expenditure in this item shall be amounts collected for fiscal year 2004 from said resident fees; provided further, that funds shall only be expended on items directly related to patient care; provided further, that funds shall not be expended on office furniture or any other ancillary administrative expenses; and provided further, that said Soldiers' Home shall submit a quarterly report to the house and senate committees on ways and means on any

expenditures made from this account 579,000”.

[The Governor disapproved this item.]

The question on passing item 4190-1101 (contained in section 2) notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twelve minutes past three o'clock P.M., as follows, to wit (yeas 32 — nays 2) [**Yeas and Nays No. 117**]:

YEAS.

Baddour, Steven A.	Melconian, Linda J.
Barrios, Jarrett T.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.

Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	O'Leary, Robert A.
Glodis, Guy W.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Jacques, Cheryl A.	Rosenberg, Stanley C.
Joyce, Brian A.	Shannon, Charles E.
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 32.

NAYS

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

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at a quarter past three o'clock P.M., item 4190-1101 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 504 (Domestic Violence and Family Health Preservation Fund) was considered as follows:—

“SECTION 504. Section 34 of said chapter 262, as so appearing, is hereby amended by striking, in line 78, the words ‘four dollars’ and inserting in place the following words:— \$50, of which \$46 shall be deposited in the General Fund.”

[The Governor disapproved this section.]

The question on passing Section 504 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at sixteen minutes past three o'clock P.M., as follows, to wit (yeas 29 — nays 5) [**Yeas and Nays No. 118**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at eighteen minutes past three o'clock P.M., Section 504 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 640 (Child care block grant) was considered as follows:—

“SECTION 640. Notwithstanding any general or special law to the contrary, the office of child care services shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Child Care Development Block Grant. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Child Care Development Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.”

[The Governor disapproved this section.]

The question on passing Section 640 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at nineteen minutes past three o'clock P.M., as follows, to wit (yeas 29 — nays 5)
[Yeas and Nays No. 119]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.

Wilkerson, Dianne

The yeas and nays having been completed at twenty minutes past three o'clock P.M., Section 640 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 641 (TANF fund reporting) was considered as follows:—

“SECTION 641. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Transitional Aid to Needy Families Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.”

[The Governor disapproved this section.]

The question on passing Section 641 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-one minutes past three o'clock P.M., as follows, to wit (yeas 29 — nays 5)

[Yeas and Nays No. 120]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at twenty-four minutes past three o'clock P.M., Section 641 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 653 (DEP determination of applicability) was considered as follows:—

“SECTION 653. Notwithstanding any general or special law or regulation to the contrary, the term defined in that certain Determination of Applicability issued by the department of environmental protection dated as of February 11, 1999 and referred to as WRP File No. JD 98-6009, issued pursuant to 310 C.M.R., shall be extended, and that such activities allowed thereunder shall continue to be permitted, until a date 18 months following the filing of a certificate by the city of Boston, acting by and through the Boston redevelopment authority, to the clerk of the city of Boston, with a copy of the department, declaring that said authority has identified a water-dependent user for the area of land defined in said determination. The foregoing shall serve as a declaration of variance allowing the continuation of the activities described in the determination defined in the preceding sentence, for such period of time as defined by this section.”

[The Governor disapproved this section.]

The question on passing Section 653 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-five minutes past three o'clock P.M., as follows, to wit (yeas 30 — nays 4) [Yeas and Nays No. 121]:

YEAS.

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

NAYS

Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E. — 4.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Tisei, Richard R.
Fargo, Susan C.	Wilkerson, Dianne — 5.
Nuciforo, Andrea F., Jr.	

The yeas and nays having been completed at twenty-eight minutes past three o'clock P.M., Section 653 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 631 (Division of Occupational Safety fees) was considered as follows:—

“SECTION 631. Notwithstanding any general or special law to the contrary and with the exception of fees charged for the testing of blood lead levels, fees charged by the division of occupational safety authorized in subsection (e) of section 197B of chapter 111 of the General Laws, section 46F of chapter 140 of the General Laws or section 6B of chapter 149 of the General Laws under the minimum wage program under 801 CMR 4.02 shall be set at a rate not less than twice the rate charged on July 1, 2002.”

[The Governor disapproved this section.]

After debate, the question on passing Section 631 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-seven minutes before four o'clock P.M., as follows, to wit (yeas 29 — nays 5) [**Yeas and Nays No. 122**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at twenty-four minutes before four o'clock P.M., Section 631 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 636 (Apprentice Training Fees I) was considered as follows:—

“SECTION 636. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$50 for apprentice program sponsor verification on public bidding projects.”

[The Governor disapproved this section.]

The question on passing Section 636 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-two minutes before four o'clock P.M., as follows, to wit (yeas 29 — nays 5) [**Yeas and Nays No. 123**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 29.
Melconian, Linda J.	

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Wilkerson, Dianne	

The yeas and nays having been completed at twenty minutes before four o'clock P.M., Section 636 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 637 (Apprentice Training Fees II) was considered as follows:—

“SECTION 637. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge an annual fee of \$300 to certify apprentice training sponsors.”

[The Governor disapproved this section.]

After debate, the question on passing Section 637 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at eighteen minutes before four o'clock P.M., as follows, to wit (yeas 30 — nays 5) **[Yeas and Nays No. 124]:**

YEAS.

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

30.

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at sixteen minutes before four o'clock P.M., Section 637 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 1599-1971 (Snow and ice equipment) was considered as follows:—

“1599-1971 For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice control; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; and provided further, that no funds shall be expended from this appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation 15,000,000”.

[The Governor struck out the following wording: “; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice”.]

After debate, the question on passing item 1599-1971 (contained in section 2) notwithstanding the disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at eight minutes before four o'clock P.M., as follows, to wit (yeas 30 — nays 5) [**Yeas and Nays No. 125**]:

YEAS.

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.	O'Leary, Robert A.

Creem, Cynthia Stone
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.

Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne —
30.

NAYS

Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Sprague, Jo Ann
Tarr, Bruce E. — **5.**

ABSENT OR NOT VOTING.

Antonioni, Robert A.
Fargo, Susan C.

Nuciforo, Andrea F., Jr.
Tisei, Richard R. — **4.**

The yeas and nays having been completed at five minutes before four o'clock P.M., item 1599-1971 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 203 (Open space acquisition fund — repeal II) was considered as follows:—

“SECTION 203. Section 6A of chapter 62F of the General Laws, inserted by section 71 of chapter 184 of the acts of 2002, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

For any fiscal year when expenditure from the Commonwealth Stabilization Fund is required to pay expenses of the commonwealth, the comptroller shall reimburse the commonwealth Stabilization Fund from the temporary holding fund the amount of all such appropriations from the Commonwealth Stabilization Fund, provided that said reimbursement shall not exceed the balance in the temporary holding fund. Any funds remaining in the temporary holding fund at the end of the fiscal year shall be transferred to the General Fund and shall be part of the consolidated net surplus certified by the comptroller pursuant to section 5C of chapter 29.”

[The Governor disapproved this item.]

The question on passing Section 203 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at four minutes before four o'clock P.M., as follows, to wit (yeas 30 — nays 5) **[Yeas and Nays No. 126]:**

YEAS.

Baddour, Steven A.
Barrios, Jarrett T.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Jacques, Cheryl A.

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrisey, Michael W.
Murray, Therese
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.

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

30.

NAYS

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

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at two minutes before four o'clock P.M., Section 203 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 679 (Pondville Hospital) was considered as follows:—

“SECTION 679. Notwithstanding the provisions of any general or special law to the contrary, the property located in Norfolk, Massachusetts, as identified in chapter 519 of the acts of 1980 and formerly known as the Department of Public Health Hospital, Pondville Hospital, is hereby added to the list of properties for which said department has responsibility, pursuant to chapter 21E of the General Laws or any other applicable general or special law, for ensuring that all needed environmental remediation and related work is performed and that all contamination is eliminated from said property.”

[The Governor disapproved this section.]

After debate, the question on passing Section 679 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at four o'clock P.M., as follows, to wit (yeas 30 — nays 5) [**Yeas and Nays No. 127**]:

YEAS.

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

30.

NAYS

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

Lees, Brian P.

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Nuciforo, Andrea F., Jr.

Fargo, Susan C.

Tisei, Richard R. — **4.**

The yeas and nays having been completed at three minutes past four o'clock P.M., Section 679 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 545 (DCAMM administrative costs) was considered as follows:—

“SECTION 545. Notwithstanding the provisions of any general or special law to the contrary, the department of capital assets maintenance and management may expend from capital authorizations amounts necessary to cover the operational costs not to exceed \$14 million of the department for fiscal year 2004.”

[The Governor disapproved this section.]

After debate, the question on passing Section 545 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at four minutes past four o'clock P.M., as follows, to wit (yeas 30 — nays 5) [**Yeas and Nays No. 128**]:

YEAS.

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.

O'Leary, Robert A.

Creem, Cynthia Stone

Pacheco, Marc R.

Glodis, Guy W.

Panagiotakos, Steven C.

Hart, John A., Jr.

Resor, Pamela

Havern, Robert A.

Rosenberg, Stanley C.

Jacques, Cheryl A.

Shannon, Charles E.

Joyce, Brian A.

Tolman, Steven A.

Magnani, David P.

Tucker, Susan C.

McGee, Thomas M.

Walsh, Marian

Melconian, Linda J.

Wilkerson, Dianne —

30.

NAYS

Hedlund, Robert L.

Sprague, Jo Ann

Knapik, Michael R.

Tarr, Bruce E. — **5.**

Lees, Brian P.

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Nuciforo, Andrea F., Jr.

Fargo, Susan C.

Tisei, Richard R. — **4.**

The yeas and nays having been completed at seven minutes past four o'clock P.M., Section 545 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 5 (ABCC transfer) was considered as follows:—

“SECTION 5. Sections 43, 44 and 45 of chapter 6 of the General Laws are hereby repealed.”

[The Governor disapproved this section.]

After debate, the question on passing Section 5 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty minutes past four o'clock P.M., as follows, to wit (yeas 26 — nays 9)

[Yeas and Nays No. 129]:

YEAS.

Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Shannon, Charles E.
McGee, Thomas M.	Tolman, Steven A.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 26.

NAYS

Barrios, Jarrett T.	Magnani, David P.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Knapik, Michael R.	Tucker, Susan C. — 9.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at twenty-four minutes past four o'clock P.M., Section 5 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 48 (ABCC transfer) was considered as follows:—

“SECTION 48. Said chapter 10 is hereby further amended by adding the following 3 sections:—

Section 70. There shall be a commission to be known as the alcoholic beverages control commission, to consist of a commissioner and 2 associate commissioners appointed by the treasurer. Not more than 2 members shall be members of the same political party. The commissioner shall serve a term coterminous with the treasurer. The 2 associate commissioners serving on the alcoholic beverages control commission on May 1, 2003 shall remain the associate commissioners until January 2, 2005. The 2 associate commissioners shall thereafter be appointed by the treasurer for terms of 4 years. The commissioner shall serve as chairman and shall devote his full time during business hours to his official duties. The positions of commissioner and associate commissioner shall be classified in accordance with section 45 of chapter 30 and their salaries shall be determined in accordance with section 46C of said chapter 30. Any vacancy may be filled in like manner for the remainder of the unexpired term. The treasurer may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard. Two members shall constitute a quorum for the purpose of conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

Section 71. The commission shall have general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages as defined in section 1 of chapter 138, and also of the quality, purity and alcoholic content thereof.

The commission shall submit to the governor, the treasurer and to the general court, as soon as possible after the end of each state fiscal year, a full report of its actions and of the conduct and condition of traffic in alcoholic beverages during such year, together with recommendations for such legislation as it deems necessary or desirable for the better regulation and control of such traffic and for the promotion of temperance in the use of such beverages. The members shall receive their necessary traveling and other expenses incurred while in the performance of their official duties.

Section 72. The commission may appoint and remove a secretary. It may expend for such investigators, clerical and other assistants as may be necessary for the performance of its duties such amounts as may be appropriated and the employees shall retain all collective bargaining and other rights previously held. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31, for the purpose of enforcing or causing to be enforced the penalties provided by law against every person who is guilty of a violation of chapter 138 of which they can obtain reasonable proof, and shall make all necessary and appropriate investigations for that purpose. Each person appointed as an investigator shall complete a basic reserve police officer training course through the criminal justice training council and shall attend a basic training course conducted by the commission. All investigators shall attend an annual in-service training course pursuant to this section. Each member of the commission, and each of its employees having access to moneys received by it, shall give to the treasurer a bond for the faithful performance of his duties in a penal sum and with sureties approved by the treasurer."

[The Governor disapproved this section.]

The question on passing Section 48 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-eight minutes past four o'clock P.M., as follows, to wit (yeas 27 — nays 8) [Yeas and Nays No. 130]:

YEAS.

Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —
Montigny, Mark C.	27.

NAYS

Barrios, Jarrett T.	Lees, Brian P.
Hedlund, Robert L.	Magnani, David P.
Jacques, Cheryl A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 8.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

Ms. Menard in the Chair, the yeas and nays having been completed at twenty-nine minutes past four o'clock P.M., Section 48 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the

members present and voting, having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 411 (ABCC transfer) was considered as follows:—

“SECTION 411. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words ‘forty-three of chapter six’ and inserting in place thereof the following words:— 70 of chapter 10.”

[The Governor disapproved this section.]

After debate, the question on passing Section 411 notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at a half past four o’clock P.M., as follows, to wit (yeas 26 — nays 9)
[Yeas and Nays No. 131]:

YEAS.

Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Shannon, Charles E.
McGee, Thomas M.	Tolman, Steven A.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —
	27.

NAYS

Barrios, Jarrett T.	Magnani, David P.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Knapik, Michael R.	Tucker, Susan C. — 9.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at twenty-eight minutes before five o’clock P.M., Section 411 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

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

“0610-0050 For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission is authorized and directed to work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; and provided further, that said commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining

to the traffic of alcoholic beverages 1,766,478”.

[The Governor reduced this item to \$825,921 and struck out the following wording: “; provided that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages”.]

The question on passing item 0610-0050 (contained in section 2) notwithstanding the reduction and disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twenty-seven minutes before five o'clock P.M., as follows, to wit (yeas 32 — nays 3) **[Yeas and Nays No. 132]**:

YEAS.

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.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	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 — 3.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed twenty-five minutes before five o'clock P.M., item 0610-0050 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Emergency Preambles Adopted.

An engrossed Bill providing relief and flexibility to municipal officials (see House, No. 3944), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 12 to 3.

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill consolidating Massachusetts Housing Finance Agency mortgage loans (see House, No. 3734, 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 5 to 1.

The bill was signed by the President and sent to the House for enactment.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Fall River (see House, No. 3831) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-one minutes before five o'clock P.M., as follows, to wit (yeas 35 — nays 0) [**Yeas and Nays No. 133**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
Melconian, Linda J.	35.

NAYS — 0.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at eighteen minutes before five o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Ms. Menard, having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

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

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4004), which on Friday, June 20, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message House, No. 4005) was read; and the Senate proceeded to reconsider an item which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 4100-0060 (Uncompensated care pool) was considered as follows:—

“4100-0060 For the operation of the division and the administration of the uncompensated care pool established pursuant to chapter 118G of the General Laws; provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of said chapter 118G for the estimated expenses of the division shall include in fiscal year 2004, the estimated expenses, including indirect costs, of the division and shall be equal to the amount appropriated in

this item less amounts projected to be collected in fiscal year 2004 from: (1) filing fees; (2) fees and charges generated by the division's publication or dissemination of reports and information; and (3) federal financial participation received as reimbursement for the division's administrative costs; provided further, that the assessed amount shall be not less than 65 per cent of the division's expenses as specified in this item; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the uncompensated care pool to report to the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly to the house and senate committees on ways and means a summary report compiling said data; provided further, that the division, in consultation with the division of medical assistance, shall not promulgate any increase in medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that the division shall share financial data and expertise about the Massachusetts health care industry with the Massachusetts Institute for Social and Economic Research for the purpose of enhancing, developing and marketing data products for the public; provided further, that the division and the institute shall share any revenue generated through sale, licensure, royalty and usage fees charged for said data products; provided further, that not later than October 24, 2003, the division shall submit to the comptroller and to the house and senate committees on ways and means a report describing the method by which the division shall generate revenues through said sale, licensure, royalty, and usage fees in an amount sufficient to meet 25 per cent of the projected costs of the division in any fiscal year, as required by section 612 of chapter 151 of the acts of 1996; provided further, that funds may be expended for the purposes of a survey and study of the uninsured and underinsured in the commonwealth, including the health insurance needs of the residents of the commonwealth; provided further, that said study shall examine the overall impact of programs administered by the division and the division of medical assistance on the uninsured, the underinsured, and the role of employers in assisting their employees in affording health insurance pursuant to section 23 of chapter 118G of the General Laws; provided further, that for hospital fiscal year 2004, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws shall be \$315,000,000; provided further, that the division shall publish annual reports on the financial condition of hospitals and other health care providers through the Health Benchmarks project website, in collaboration with the executive office of health and human services, the office of the attorney general, and the University of Massachusetts; provided further, that the division shall submit to the house and senate committees on ways and means not later than December 6, 2003 a report detailing utilization of the uncompensated care pool; provided further, that the report shall include: (1) the number of persons in the commonwealth whose medical expenses were billed to the pool in fiscal year 2003; (2) the total dollar amount billed to the pool in fiscal year 2003; (3) the demographics of the population using the pool, and; (4) the types of services paid for out of the pool funds in fiscal year 2003; provided further, that the division shall include in the report an analysis on hospitals' responsiveness to enrolling eligible individuals into the MassHealth program upon the date of service rather than charging said individuals to the uncompensated care pool; provided further, that the division shall include in the report possible disincentives the state could provide to hospitals to discourage such behavior; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, the division shall not allow any exceptions to the usual and customary charge defining rule as defined in 114.3 CMR 31.02, for the purposes of drug cost reimbursement to eligible pharmacy providers for publicly aided and industrial accident patients; provided further, that the division is hereby authorized to change the pricing standard used by said division when determining the rate of payment to pharmacy providers for prescribed drugs for publicly-aided or industrial accident patients if such a change would financially benefit the commonwealth; and provided further, that notwithstanding any general or special law to the contrary said division shall set the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 beginning in fiscal year 2004 9,670,807".

[The Governor struck out the following wording: "; and provided further, that notwithstanding any general or special law to the contrary said division shall set the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 beginning in fiscal year 2004".]

After debate, the question on passing item 4100-0060 (contained in section 2) notwithstanding the disapproval, in part, of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at one minute before five o'clock P.M., as follows, to wit (yeas 25 — nays 11) **[Yeas and Nays No. 134]:**

YEAS.

Baddour, Steven A.

Barrios, Jarrett T.

Brewer, Stephen M.

Creedon, Robert S., Jr.

Creem, Cynthia Stone

Glodis, Guy W.

Hart, John A., Jr.

Morrissey, Michael W.

Murray, Therese

O'Leary, Robert A.

Pacheco, Marc R.

Panagiotakos, Steven C.

Resor, Pamela

Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tolman, Steven A.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne —

25.

NAYS

Berry, Frederick E.	Melconian, Linda J.
Chandler, Harriette L.	Moore, Richard T.
Hedlund, Robert L.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tucker, Susan C. — 11.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 4.

The yeas and nays having been completed at three minutes past five o'clock P.M., item 4100-0060 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Engrossed Bill — State Loan.

An engrossed Bill providing relief and flexibility to municipal officials (see House, No. 3944) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage; and, this being a bill providing for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII 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 four minutes past five o'clock P.M., as follows, to wit (yeas 32 — nays 2) [**Yeas and Nays No. 135**]:

YEAS.

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.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne —

32.

NAYS

Knapik, Michael R.	Lees, Brian P.— 2.
ABSENT OR NOT VOTING.	
Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Glodis, Guy W.	

The yeas and nays having been completed at eight minutes past five 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 (both of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Designating certain bridges and a park in the town of Billerica (see House, No. 1036, amended); and

Consolidating Massachusetts Housing Finance Agency mortgage loans (see House, No. 3734, amended).

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

The President in the Chair, 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 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4004), which on Friday, June 20, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4005) was read; and the Senate proceeded to reconsider an item which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 4510-0790 (Office of Emergency Medical Services) was considered as follows:—

“4510-0790 For regional emergency medical services; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from item 4510-0100 in fiscal year 2004; provided further, that the regional emergency medical services councils, designated as such in accordance with 105 CMR 170.101 and the C-MED communications as of January 1, 1992, shall remain the designated councils and C-MEDs; provided further, that the department shall report quarterly on the number of investigations of ambulance services performed by said inspectors and by inspectors funded in items 4510-0710 and 4510-0712 as well as the number of investigations pending at the end of each quarter and the reasons therefor; provided further, that the department, in conjunction with the regional emergency services councils, notwithstanding section 27C of chapter 29 of the General Laws to the contrary, shall promulgate regulations to ensure that all basic, intermediate, and paramedic emergency medical technicians are certified to use and have available epinephrine for the emergency treatment of anaphylaxis; provided further, that the department shall report to the house and senate committees on ways and means not later than January 15, 2004 on the implementation of the certifications and availability of epinephrine; and provided further, that the department shall widely disseminate this requirement to all relevant parties 1,246,896”.

[The Governor disapproved this item.]

The question on passing item 4510-0790 (contained in section 2) notwithstanding the disapproval of His Excellency the Governor, to the contrary, was determined by a call of the yeas and nays at twelve minutes past five o'clock P.M., as follows, to wit (yeas 33 — nays 1) [**Yeas and Nays No. 136**]:

YEAS.

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.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
Melconian, Linda J.	33.

NAYS

Sprague, Jo Ann — **1.**

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Tisei, Richard R. — 5.
Glodis, Guy W.	

The yeas and nays having been completed a quarter past five o’clock P.M., item 4510-0790 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Order Adopted.

On motion of Ms. Wilkerson,—

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

Adjournment in Memory of Charles F. Lloyd, Sr.

The Senator from Suffolk, Ms. Wilkerson, moved that when the Senate adjourns, it adjourn in memory of Charles F. Lloyd, Sr. of Roxbury. Mr. Lloyd was a member of the Harbor Colored Giants, a semi-professional baseball team that played throughout New England in the early part of the 20th century; the motion prevailed.

Accordingly, as a mark of respect to the memory of Charles F. Lloyd, Sr., at sixteen minutes past five o’clock P.M., on motion of Mr. Berry, the Senate adjourned to meet again on Monday next at eleven o’clock A.M., in full formal session.