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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE

Monday, May 23, 2005.

Met at four minutes past twelve o'clock noon.

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

Distinguished Guests.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Messrs. Brown and Timilty for the purpose of introducing, seated in the rear of the Chamber, former Missouri State Senator Fred Dyer. He was accompanied his daughter Sherry Dyer-Cox of Dover who was the highest bidder in the "Senator for a Day" at an auction to benefit the Beth Israel Deaconess Hospital in Needham.

Mr. Brown also recognized, seated in the Senate Gallery, Mr. Robert Wyler, Past President of the Lions Club in Wrentham.

Resolutions.

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

Resolutions (filed by Messrs. Joyce and Timilty) "honoring Lillian Savage on the joyous occasion of her eighty-fifth birthday"; and

Resolutions (filed by Ms. Resor) "congratulating the Marlboro Lions Club."

Reports of Committees.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Thomas M. McGee for legislation relative to vacation accrual rate of Donald J. Castle, an employee of the Trial Court.

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

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Edward M. Augustus, Jr., James B. Leary, Richard R. Tisei, Alice Hanlon Peisch and other members of the General Court for legislation to establish the public libraries fund.

Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Tourism, Arts and Cultural Development.

Severally sent to the House for concurrence

Order.

Mr. Lees offered the following order to wit:-

Ordered, that notwithstanding any rule to the contrary, in order to provide television coverage of the Senate debates on the fiscal year 2006 budget, any media outlet shall be provided access, with consent of the Senate President, to the Senate chamber during the entirety of the Senate debates on the fiscal year 2006 budget, commencing on May 23, 2005 at 12:00 P.M. Any media outlet granted permission by the Senate President to have access to the Senate chamber shall be permitted to occupy the area known as the "press area" and shall remain in the Senate chamber for the entirety of the Senate debates on the fiscal year 2006 budget. Media outlets shall not be required to remain in the Senate chamber during specified recesses but shall be required to maintain the decorum of the Senate chamber.

The order was considered; and it was laid aside.

Orders of the Day.

The Orders of the Day were considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),-- was read a second time.

After remarks, pending the main question on ordering the bill to a third reading and pending the question on adoption of the amendment as recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2100,- the following amendments were considered:-

Mr. Hart moved that the bill be amended, in Section 2, in item 0810-0000, by striking the wording "provided further, that \$100,000 shall be expended for the Ella J. Baker House and the Tieng Xanh-Voice program" and inserting in place "provided further, that \$260,000 shall be expended for the Ella J. Baker House in the city Boston for violence prevention programs for high-risk youth".

After remarks, the amendment was **adopted**.

Mr. Hart moved that the bill be amended, in Section 2, in item 0810-0000, by inserting after "city of New Bedford" the following: "provided further, that not less than \$150,000 shall be expended for a safe neighborhood initiative pilot program in the Grove Hall area of Roxbury and Dorchester".

The amendment was *rejected*.

Mr. Moore moved that the bill be amended, in Section 2, in item 0640-0300 be amended by inserting at the end thereof the

following:- Provided further, that not less than \$50,000 shall be awarded as a grant to the John Paul II Foundation of New England to initiate an endowment to support a Polish culture and arts program in cooperation with Saint Joseph's School of Webster; .

The amendment was *rejected*.

Mr. Rosenberg moved that the bill be amended, in Section 2, in item 9700-0000 by inserting, after the words "of the legislature," the following:- "provided further, that \$10,000 shall be expended for the Massachusetts contribution to the CSG/ERC Northeast State Association for Agricultural Stewardship".

The amendment was *rejected*.

Messrs. Lees and Brown moved that the bill be amended by inserting, after Section ____, the following new section:-

"SECTION ____. There shall be a special commission to study the production of cable television coverage of legislative sessions, committee hearings, and other legislative and administration proceedings. The commission shall consist of 9 members, including 3 members appointed by the governor, one of whom shall have expertise in the cable television industry, and one of whom shall be an attorney, 2 members appointed by the senate president, 1 member appointed by the senate minority leader, 2 members appointed by the speaker of the house of representatives, and 1 member appointed by the minority leader of the house of representatives. The commission shall submit a report and recommendations to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight by November 1, 2005, which shall include, but not be limited to, to the following: (a) the possibility of arranging for television coverage of state legislative proceedings similar to federal coverage available on C-Span, (b) the cost, if any, to the commonwealth of such an arrangement, (c) potential revenue options to pay for the cost of providing coverage, (d) estimated viewer demand, including analysis of demand by region, for such coverage, and (e) recommendations for appropriate measures to arrange for such coverage."

After remarks, the amendment was **adopted**.

Mr. Lees moved that the bill be amended by inserting, after Section ____, the following Section:-

"SECTION _____. The chief of staff for the senate committee on ways and means shall chair a commission to study the impact and advantages of owning a vehicle that can help to save the commonwealth much-needed parking space and shall report on the possible cost saving measures associated with like vehicles. Said commission shall file a report no later than July 1, 2005." After remarks, the amendment was *rejected*.

Mr. Havern moved that the bill be amended, in Section 2, in item 0640-0000, by striking out the figures "\$68,610,397" and inserting in place thereof the figures "\$68,730,397". The amendment was *rejected*.

Messrs. Lees, Tarr and Knapik moved that the bill be amended, in Section 2, in item 0640-0000 by inserting at the end thereof the following:- "and provided further that the Commission shall study the impact, cost of implementation, and the revenue effects of establishing online lottery games in the Commonwealth, and report to the House and Senate Ways and Means Committees their findings and recommendations no later than December 31, 2005;" The amendment was *rejected*.

Ms. Tucker moves that bill be amended in section 2, item 0640-0010 by striking the figure "10,000,000" and inserting in place thereof the figure "5,000,000"; and amended in section 2, item 0640-0010, line 3, by inserting after the words "General Fund" the following words: "; provided further, that the funds appropriated in this item shall be expended solely for the purpose of reasonably informing the public of the odds and the jackpot amounts of the games created and regulated by the Massachusetts State Lottery Commission; and provided further that the Massachusetts State Lottery Commission shall file a copy of all planned advertisements no later than two months prior to the commencement of each public advertising campaign with the house and senate clerks, the house and senate chairs of the ways and means committees, the house and senate chairs of the joint committee on public health, the house and senate chairs of the joint committee on elder affairs, the house and senate chairs of the joint committee on consumer protection and professional licensure, and the house and senate chairs of the joint committee on telecommunication, utilities, and energy"

After debate, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-five minutes before one o'clock P.M., on motion of Ms. Tucker, as follows, to wit (yeas 10 - nays 28) **[Yeas and Nays 23]**:

YEAS.

Barrios, Jarrett T.	O'Leary, Robert A.
Fargo, Susan C.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Montigny, Mark C.	Tisei, Richard R.
Nuciforo, Andrea F., Jr.	Tucker, Susan C. — 10.

NAYS.

Antonioni, Robert A.	Lees, Brian P.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Spilka, Karen E.
Creem, Cynthia Stone	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 28.

The yeas and nays having been completed at twenty-three minutes before one o'clock P.M., the amendment was rejected.

Messrs. Berry, Tarr, Baddour, McGee, and Ms. Tucker moved that the bill be amended, in Section 2, in item in item 0526-0100, by inserting at the end thereof the following:- "provided that not less than \$95,000 shall be provided as a grant to the Essex National Heritage Commission."

After remarks, the amendment was *rejected*

Mr. Antonioni moved that the bill be amended, in Section 2, in item 0540-2000 by striking the figure "\$764,143" and inserting in its place the following figure:- "\$799,149"

After remarks, the amendment was *rejected*

Messrs. Brewer, Antonioni, Ms. Chandler, Ms. Fargo, Messrs. Nuciforo, Moore, Knapik, Tarr, and Ms. Tucker moved that the bill be amended, in Section 2, in item 0611-5510, by striking out the figure "\$16,100,000" and inserting in place thereof the following figure:- "\$19,500,000".

After debate, the amendment was *rejected*.

Mr. Hart moved that the bill be amended by inserting, after Section __, the following new Section:-

"SECTION __. Section 1(1) of Chapter 152 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:

Section 1: For the purposes of Section 35C, Section 32, and Section 31, the earnings of the employee shall be determined as of the date of his last full time employment, irrespective of whether that employer is subject to this chapter.

Notwithstanding the prior voluntary retirement of the employee, such earnings shall be considered wages upon which the spouse is dependent at the time of the employee's death. Section 2: For purposes of Section 2A of Chapter 152 of the General Laws, Section 1 of this act, above, shall be deemed to be procedural in character."

The amendment was *rejected*.

Ms. Chandler and Messrs. Augustus and Antonioni moved that the bill be amended by inserting after Section , the following new Section:-

"SECTION _____. Subparagraph (iv) of paragraph (b) of subsection (2) of section 40 of chapter 15A of the General Laws is hereby repealed.

Said section 40 of said chapter 15A is further amended by inserting after subsection (3) the following subsection:-

(4)(a) If an employee who participates in the optional retirement program becomes ineligible to continue in the optional retirement program, the employee shall thereafter participate in the state employees' retirement system established under chapter thirty-two. An eligible employee may withdraw from the optional retirement program, at any time, by notifying the plan administrator in writing.

(b) If an employee becomes ineligible to continue in or withdraws from the optional retirement program, the employee shall authorize the optional retirement program to transfer all funds held on behalf of the employee to the state employees' retirement system.

(c) The employee shall be reinstated as a member in service of the state employees' retirement system and shall be entitled to creditable service for the period of service during which the employee was enrolled in the optional retirement program and retirement deductions were made from the employee's regular compensation if the employee repays to the state employees' retirement system the total amount of regular deductions plus interest that would have accrued had the employee been a participant in the state employees' retirement system during this period.

(d) The payment under paragraph (c) shall include the rollover of funds currently in the optional retirement program and, to the extent necessary, an additional payment which shall be in 1 sum or in installments as the state board of retirement shall prescribe."

The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION _____. Notwithstanding the provisions of Sections 13 through 17B of Chapter 58 of the General Laws of Massachusetts, as most recently amended by Section 23 of Chapter 352 of the Acts of 2004, or any other general or special law to the contrary, for the 2005 state-owned land valuation process the town of Stoneham may submit such information as may be required by the Commissioner of Revenue for purposes of determining values providing for reimbursements for state-owned land pursuant to the provisions of Sections 13 through 17B of Chapter 58 of the General Laws up to and including August 1, 2005, for the Middlesex Fells Reservation property. Upon submission of such information, the Commissioner shall forthwith value such

property and provide notice of such value to the town of Stoneham.
The amendment was **adopted**.

Ms. Fargo, Messrs. Brown, Moore, Tarr, Joyce, Ms. Chandler and Ms. Tucker moved that the bill be amended by inserting, after Section 109, the following new Section: -

"SECTION __. Notwithstanding any general or special law to the contrary, for fiscal years 2007 and thereafter, the total amount allocated for distribution to cities and towns pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws shall be the sum of the amount distributed in fiscal year 2006 and: (i) in fiscal year 2007, 25 per cent of the difference between the fiscal year 2006 distribution and the total obligation; (ii) in fiscal year 2008, 50 per cent of the difference between the fiscal year 2006 distribution and the total obligation; (iii) in fiscal year 2009, 75 per cent of the difference between the 2006 distribution and the total obligation. For fiscal year 2010 and thereafter, the distribution shall be the total obligation as determined pursuant to section 13 of said chapter 58."

After remarks, the amendment was **adopted**.

Messrs. Nuciforo, Baddour, Joyce, Tisei and Buoniconti moved that the bill be amended, in Section 2, in item 7000-9401, by striking out the figure "\$14,980,361" and inserting in place thereof the following figure - "\$15,230,361".
After remarks, the amendment was *rejected*.

Mr. Moore moved that the bill be amended, in Section 2, in item 7000-9401, by striking the numbers "\$14,980,361" and inserting in place thereof the numbers "\$15,230,361".
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7000-9501, by striking out the figure "\$8,539,844" and inserting in place thereof the following figure:- "\$9,000,000".
The amendment was *rejected*.

Messrs. Augustus, Moore, Joyce, Baddour, Brown, Antonioni, Tarr, Barrios, Knapik, Tisei, Ms. Fargo, Ms. Resor and Ms. Chandler moved that the bill be amended, in Section 2, in item 7000-9501, by striking the figure "\$8,539,844" and inserting in place thereof the following figure:- "9,039,844".
The amendment was *rejected*.

Mr. Moore, Ms Fargo, Mr Barrios, Mr. O'Leary moved that the bill be amended, in Section 2, in item 7000-9506, by striking the figure \$2,000,000 and inserting in place thereof the following figure:- \$6,000,000 .
The amendment was *rejected*.

Messrs. McGee and Berry moved that the bill be amended by adding at the end thereof the following section:

"Notwithstanding the provisions of section nineteen A of chapter seventy-eight of the General Laws or any other general or special law to the contrary, for the fiscal year 2006 state aid to public libraries program, the board of library commissioners shall consider that Lynn has met the standard of minimum hours of service as set forth in section nineteen B of chapter seventy-eight of the General Laws and defined in section 4.01(3) of chapter 605 of the Code of Massachusetts regulations; furthermore, the board shall grant temporary certification to Lynn by August 31, 2005, upon receipt of a preliminary report showing compliance with the materials expenditure requirement during fiscal year 2005 and showing that the library has met the municipal appropriation requirement, or is likely to qualify for a waiver of said requirement, in the 2006 state aid to public libraries program; furthermore, the board shall grant temporary certification to Beverly by August 31, 2005, upon receipt of a preliminary report showing compliance with the materials expenditure requirement and hours of service requirement during fiscal year 2005 and showing that the library has met the municipal appropriation requirement in the 2006 state aid to public libraries program; and furthermore, in order for either city to retain this certification and receive a grant award it must successfully complete the annual certification process of the board in fiscal year 2006."

After remarks the amendment was **adopted**.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7061-0008 by inserting after the word "Act" with the following "provided \$178,000 shall go to the Town of Stoughton for school busing costs".
The amendment was *rejected*.

Mr. Moore moved that the bill be amended in Section 3, by striking lines 34 through 41 inclusive, in their entirety and replacing therein the following:- In fiscal years 2006 and thereafter, if the closure and/or value reduction of a power plant results in the loss of property tax and, in the fiscal year before its closure and/or loss of value, that power plant represented 20 per cent (20%) or more of the tax levy on industrial and/or personal property in any city or town, the department of education shall reduce that city or town's required local contribution to its local school district, as determined by the department in accordance with Chapter 70 of the General Laws, in the amount of the total industrial and/or personal property tax attributable to the closed and/or reduced value plant paid to the city or town in the previous fiscal year. For that city or town, the department shall calculate the amount of aid necessary to offset the loss of local spending, and shall increase prior-year Chapter 70 aid by that amount when calculating

Chapter 70 aid due in the following fiscal year.
The amendment was *rejected*.

Messrs. Barrios, Tisei, Augustus, Joyce, McGee, Havern, Knapik, Tolman, Ms. Resor, Messrs. O'Leary, Antonioni, Ms. Fargo, Mr. Montigny, Ms. Spilka, and Ms. Creem Wilkerson moved that the bill be amended, in Section 2, in item 7010-0005 by striking out the following: "provided, that the Department of Education, in collaboration with the Governor's Commission on Gay and Lesbian Youth, shall implement the Board of Education's recommendations on the support and safety of gay and lesbian students" and inserting in place thereof the following: "provided, that the Department, in collaboration with the Governor's Commission on Gay and Lesbian Youth, shall allocate not less than \$75,000 for programming to ensure public schools' compliance with the Board of Education's recommendations for the support and safety of gay and lesbian students and the implementation of related suicide-prevention and violence-prevention efforts"; and in said item by striking out the figures "\$9,522,805" and inserting in place thereof the figures "\$9,597,805".
After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Knapik and Brown moved that the bill be amended, in Section 2, in item by inserting after item 7010-0012 the following item:-

"7010-0017
For grants to charter schools \$2,301,790";

In said section in item 7010-0030 by striking out the following ", as amended by provisions of this act; provided, that funds shall be expended from this item to provide one time grants to ensure that no charter school receives less funding in fiscal year 2005 than it would have received had tuition been calculated pursuant to subsection (nn) of section 89 of chapter 71 of the General Laws as in effect prior to passage of this act; prior appropriation continued";

In said item by striking out the figures "\$11,863,923" and inserting in place thereof the figures "\$13,800,000"; and

In said section in item 7061-9010 by striking out the figures "\$46,715,985" and inserting in place thereof the figures "\$50,100,000".

After debate, the question on adoption of the amendment was determined by a call of the yeas and the nays at three minutes past one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 9 - nays 29) **[Yeas and Nays 24]:**

YEAS.

Baddour, Steven A.	Lees, Brian P.
Brown, Scott P.	Tarr, Bruce E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tucker, Susan C. — 9.
Knapik, Michael R.	

NAYS.

Antonioni, Robert A.	Moore, Richard T.
Augustus, Edward M., Jr.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Havern, Robert A.	Timilty, James E.
Joyce, Brian A.	Tolman, Steven A.
McGee, Thomas M	Walsh, Marian

Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —
	29.
Moore, Richard T.	

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

Mr. Brewer moved that the bill be amended, in Section 2, in item 7035-0007, by striking out the figures "\$1,600,000" and inserting in place thereof the figures "\$2,000,000".
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, after line item 7061-0011 the following item:

"7061-0015
For an increase in the calculation of base aid to all municipalities that have received foundation reserve grants since 1993 in order to provide that any funds distributed as a foundation reserve grant to a municipality shall be considered base aid
..... \$55,000,000
The amendment was *rejected*.

Messrs. Tisei, Lees, Knapik, Tarr, Hedlund, and Brown moved that the bill be amended, in Section 2, in item 7061-0011, by striking out the wording and inserting in place thereof the following wording:- "For a Chapter 70 Equalization grant program, to be administered by the department of education to (i) provide enrollment aid to communities which have experienced past extraordinary enrollment growth or (ii) to meet deficiencies in the base chapter 70 aid that a community received at the inception of the education reform act; provided that said grants shall be available upon application to communities which receive less than 20% of their foundation budget through chapter 70. The commissioner of the department is hereby directed to establish criteria for the awarding of said grants; provided that the commissioner shall consult with the school district regarding the merits of any application; provided further that the commissioner shall issue a report to the chairs of the joint committee on ways and means and to the chairs of the joint committee on education regarding any money expended from this account; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall be available on a recurring basis until the chapter 70 formula has been revised; and provided further, that funds distributed from this item to a municipality shall be considered as base aid used in the calculation of the minimum required local contribution for fiscal year 2007.....\$10,000,000"
Mr. Rosenberg in the Chair, after debate, the amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7061-0012 by inserting after the word "families" with the following "and provided further, that \$200,000 shall be made available to the Town of Avon".
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 7061-0012, by adding at the end thereof the following new language:- ";provided further, that an additional \$300,000 be allocated to the town of Cohasset for unexpected special education costs."
The amendment was *rejected*.

Messrs. Antonioni, Moore, and Knapik moved that the bill be amended, in Section 2, in item 7061-0029, by adding at the end thereof the following language:- "; provided further that not less than \$650,000 will be provided for the purpose of periodically auditing and reporting on the fiscal practices of school districts; provided further that such audits, to be carried out at intervals deemed appropriate by the office, will include, but need not be limited to, district administration of federal and state grants , district personnel practices, district budgetary policies and processes, district procurement of goods and services, district revolving accounts, and oversight of district expenses; provided further that the office shall file a report with the house and senate committees on ways and means and the joint committee on education no later than May 1, 2006 on the results of the audits."; and

By striking out the figure \$3,049,470 and inserting in its place the following figure:-"3,699,470".
The amendment was *rejected*.

Messrs. Baddour and Tarr moved that the bill be amended, in Section 2, in item 7061-9404 by inserting after the words "Casa Dominica in the city of Lawrence;" the following:-"and provided further, that no less than \$25,000 shall be expended for School Link Services provider, the Pettengill House to provide advocacy counseling, referrals, emergency assistance and prevention

education programs to the children and families of both Triton Regional and Amesbury Public Schools."
The amendment was *rejected*.

Mr. Tarr moved that the bill be amended, in Section 2, in item 7061-9404 by inserting, after the words "Astronomy Facility at Barnstable High School;" the following:- "provided further, that not less than \$26,000 shall be expended for the COMPASS Program in the City of Gloucester."
The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik and Brown moved that the bill be amended, in Section 2, in item 7061-9404 the figure "\$10,000,000" and inserting in place thereof "\$15,000,000".
After remarks, the amendment was *rejected*.

Mr. Antonioni moved that the bill be amended, in Section 2, in item 7061-9404 by striking the language "provided further, that not more than \$500,000 be expended for English language acquisition professional development" and inserting in place thereof the following:- "provided further, that not more than \$1,000,000 be expended for English language acquisition professional development".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at nine minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 26**]:

YEAS.

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

38.

NAYS — 0.

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

Mr. Creedon, Ms. Resor, Mr. Hedlund, Ms. Spilka and Mr. Lees moved that the bill be amended, in Section 2, in item 7061-9621 by striking the figure "\$250,000" and inserting in place thereof the following figure:-"\$500,000".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at four minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 27**]:

YEAS.

Antonioni, Robert A. Hedlund, Robert L.

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

38.

NAYS — 0.

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

Messrs. Antonioni, Knapik, Moore, and Augustus moved that the bill be amended, in Section 2, in item 7061-9408, by inserting after the words "strategies which are research based and replicable;" the following:- "provided further that not less than \$1,000,000 be expended for planning and early implementation grants to cities, towns, and regional school districts for the purpose of expanding learning time in the form of longer school days and/or school years at selected schools; provided further, that school districts may submit qualifying proposals for Expanded Learning Time planning and early implementation grants to the department no later than October 1, 2005; provided further, that to be qualifying, a proposal must contain but need not be limited to the process the district will use to create an Expanded Learning Time implementation plan and a budget necessary to create said plan and any implementation required in FY06, the rationale for expanding learning time including specific goals, and the anticipated number of schools and students that will receive expanded learning time, and letters of support for the planning process from the governing school committee(s), all collective bargaining units that may be involved in implementation, and any external partners including, but not limited to, community-based organizations or institutions of higher education that may participate in planning or implementation; provided further, that in approving Expanded Learning Time planning and early implementation grant applications, preference shall be given to districts with high poverty rates or a high percentage of students scoring in levels I or II on the Massachusetts Comprehensive Assessment System, those districts whose plans have the greatest potential for district-wide impact, and those districts that plan to utilize partnerships with community-based organizations and institutions of higher education; provided further, that all schools districts are eligible to apply for said grants but not less than 75 per cent of said grants shall be awarded to qualifying districts where 25 per cent or more of students are eligible for free or reduced-price meals under the federally funded school meals program; provided further, that the department shall review all qualified proposals and award planning grants not later than November 1, 2005; provided further that not less than \$25,000 of the \$1,000,000 item shall be awarded to each district approved by the department in the form of an Expanded Learning Time planning and pre-implementation grant; provided further, that upon award of said planning grants each district will create a detailed Expanded Learning Time implementation plan and submit said implementation plan to the department not later than January 15, 2006; provided further, that the department shall review all qualifying implantation plans and determine eligibility for Expanded Learning Time implementation funding not later than February 15, 2006; provided further, that the department shall only approve district implementation plans that contains a plan to convert one or more schools to expanded learning time schools such that each such school adds, on a mandatory basis for all students, no less than 30% more hours of instruction and enrichment than is standard for the applying district; provided further, that the department shall only approve implementation plans that include a comprehensive restructuring of the entire school day and/or year to maximize the use of the additional learning time; provided further, that the department shall only approve implementation plans that include an integrated plan to provide an appropriate mix of additional teacher preparation time and additional time that includes, but is not limited to, a combination of any of the following: additional time on math, literacy, and science instruction , individual or small group

tutoring, homework help, and enrichment opportunities such as music, arts, sports, physical activity, and project-based experiential learning; provided further that the department shall only approve implementation plans that include a comprehensive budget that includes matching funds from the district or its partners and assumes not more than \$1,300 per pupil per year in future state appropriations of Expanded Learning Time Implementation Funds; provided further that the department shall only approve implementation plans that include evidence of support from teachers, administrators, parents, and any community-based organizations or institutions of higher education involved in implementation, and all collective bargaining units involved in implementation; provided further that the department shall only approve implementation plans that include documentation of leadership capacity to successfully implement a longer school day or year and evidence that the district has made recent progress towards improved educational outcomes and improved district capacity; provided further that the department shall only approve implementation plans that include a clear method of using implementation benchmarks and specific, measurable goals to annually assess the implementation of a longer school day or year and the impact of additional learning time on student learning and achievement; provided further, that in carrying out the provisions of this item, the department may expend up to \$75,000 of the \$1,000,000 item to administer the Expanded Learning Time grant review and approval process; provided further, that the department may, for the purpose of this item, provide technical support that includes, but is not limited to direct services and documentation that provides examples of how to implement expanded learning time; provided further, that the department shall issue a report, not later than December 1, 2005 describing and analyzing all planning grants and estimating the Expanded Learning Time Implementation funding necessary in FY07 to fully fund all district implementation plans under development at that time; provided further, that said report shall include but not be limited to the names and total number of districts awarded planning grants, and the total number of schools and students named in the planning grant application; provided further, that said report shall be provided to the Secretary of Administration and Finance, the Senate President, the Speaker of the House, the Chairs of the House and Senate Ways and Means Committees and the House and Senate Chairs of the Joint Committee on Education; provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2006 to allow for early implementation or principal or teacher training and professional development which occurs during the summer months; and provided further, that any funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary;"

After remarks, the amendment was **adopted**.

Mr. Antonioni moved that the bill be amended, in Section 2, in item 7061-9614, by striking out the figure "\$1,000,000" and inserting in place thereof the following figure:- "\$1,250,000"

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended, in Section 2, in item 7061-9621, by adding at the end thereof the following:- "Not less than \$100,000 shall be spent for teacher training and curriculum development to encourage student teachers, administrators and educational policy makers to participate in international studies, international exchange programs and other activities that advance cultural awareness and including the awarding of grants to local or regional school districts that use the funds to support international education programs."; and in said item by striking out the figure"\$250,000" and inserting in place thereof the following figure:- "\$350,000".

The amendment was *rejected*.

Messrs. Buoniconti and Lees moved that the bill be amended, in Section 2, in item 7061-9626, by striking out the figure "\$1,450,000" and inserting the figure "\$2,300,000".

The amendment was *rejected*.

Ms. Menard moved that the bill be amended in Section 63 by inserting after the words "division shall also authorize" the following:- "upon request", and in said item by striking out the following words "December 1, 2004" the third time they appear and inserting in their place the following:- "each year".

After remarks, the amendment was **adopted**.

At a quarter past two o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Rosenberg) declared a recess; and, at one minute before three o'clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Messrs. Moore, Tarr and Antonioni moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION __. Section 6 of chapter 62 of the General Laws, as most recently appearing in the 2002 Official Edition, is hereby amended in subsection (k)(1) by striking out in the definition of "Residence" the words, "not to exceed one acre," and inserting in place thereof, "not to exceed two acres;" Section 6 of said chapter 62 is hereby further amended in subsection (k)(3) (ii), by inserting at the end, thereof, the following; provided, however, that for any assessed valuation in excess of \$600,000, the taxpayer shall be entitled to a credit for that portion of the property up to \$600,000.
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 4E of Chapter 40 of the General Laws is hereby amended in line 93 by inserting after the words "regional school district" the following: "Educational programs administered by or through an education collaborative shall be considered to be in-district public school programs for purposes of section 2, section 4, and section 5 of chapter 71B."
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 7 of Chapter 76 of the General Laws is hereby amended by inserting after "department of education" in line 9 the following new paragraph:

"The cost to the city, town, or regional school district to provide educational services to a school age child eligible to receive special education under chapter seventy-one B, placed in an approved residential school program by the department of social services, shall not exceed the average per pupil cost of education in the city, town, or regional school district in which the residential school is located if the child was participating in a public school program at the time of the child's placement in a residential school by the department of social services. If the child was receiving services in a private special education day program at the time of the child's placement in a residential special education school by the department of social services, the cost to the child's city, town, or regional school district shall not exceed the cost of the eligible child's private day school placement."
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 3 of Chapter 71B of the General Laws is hereby amended in line 12 by striking out the words "proven otherwise" and inserting in place thereof the following words: - "found eligible for special education by the school committee"
The amendment was *rejected*.

Ms. Creem moved that the bill be amended by inserting after Section __ the following new Section:-

SECTION __. Section 5A of Chapter 71B, as appearing in the 2002 Official Edition, is hereby amended by inserting in line 58 after the words "individual education plans." the following words:- "Provided that reimbursable instructional costs for students placed in a program after the beginning of the year shall be calculated on an annualized basis."
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 3 of Chapter 71B of the General Laws is hereby amended in line 69 by striking out the words "thirty days after said notification the school committee shall provide an evaluation as hereinafter defined" and inserting in place thereof the following words:- "sixty days after said notification the school committee shall provide an evaluation and convene a Team meeting to discuss the results of the evaluation and make an eligibility determination as hereinafter defined."
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 3 of chapter 71B of the General Laws is hereby amended in line 152 by inserting after the word "request" the following new words:- "within one (1) year of the date on which the parents, guardians, or persons with custody knew or should have known about the act(s) or omissions(s) that form the basis of the request,".
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. Section 3 of Chapter 71B of the General Laws hereby amended in line 31 by inserting after the word "effort" the following:- "Notwithstanding the department's obligation to monitor and enforce compliance with this section, the department shall not establish a rule required for compliance with, or eligibility under, this part without following the public notice and comment requirements necessary to promulgate regulations under this chapter and chapter 30A."
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION ____ . Section 3 of Chapter 71B of the General Laws is hereby amended by striking paragraph 9 in its entirety and inserting in place thereof the following new paragraph:- "If a child with a disability requires and is found eligible for special education and related services in accordance with the provisions of the federal Individuals with Disabilities Education Act and the provisions of this chapter, such services shall be made available consistent with the notice provisions of federal law at 20 U.S.C. 1400, et. seq., the provisions of this chapter, and the federal and state regulations promulgated pursuant thereto."
The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended, in Section 2, in item 3000-1000, by striking the figure "\$9,114,743" and inserting in place thereof the following figure:- "\$9,852,336";

In said section 2, by striking item 4000-0351; and

In section 87, in subsection (a), by striking out clauses (2) and (3) and inserting in place thereof the following:-"(2) the functions of the office of child care services with regard to licensure or approval and subsidy administration of child care and day care, as presently described in section 2 of chapter 28A of the General Laws, as the transferor agency, to the department of early education and care, as the transferee."
The amendment was *rejected*.

Mr. Antonioni, Ms. Chandler, Messrs. Augustus and Tolman moved that the bill be amended, in Section 2, in item 3000-4050, by inserting after the words "income-eligible child care programs in fiscal year 2006;" the following words:- " provided further that not less than \$750,000 shall be expended for expansion of early childhood mental health consultation services in group care childcare programs with state supported slots;"; and

By striking the figure "\$292,473,570" and inserting in place thereof the following figure:- "\$293,223,570".
The amendment was *rejected*.

Ms. Spilka moved that the bill be amended, in Section 2, in item 3000-6000 by inserting after the words "school-age child care activities" the following; "and provided further, that not less than \$80,000 shall be expended for a one time grant for the establishment, operation and capital costs of an early childhood education and training program at South Middlesex Vocational-Technical High School"
The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended in Section 7, in line item 3000-7000, by inserting in line 12, after the word "parents" the following: "; provided further, that the amount of \$500,000 shall be contracted with Northern Educational Services, Inc. in Springfield to operate the Healthy Families Program in the city of Springfield."
The amendment was *rejected*.

Mr. Moore moved that the bill be amended, in Section 2, after Item 7061-9404 the following new item:-

7061-9405 For support of the Turnaround Collaborative comprised of up to 115 schools that appear on the United States Department of Education's 2004 Federal Watch List and schools that have been determined Underperforming or Chronically Underperforming through the Massachusetts Department of Education's school review process in order to improve the absolute performance of all low-performing schools as developed by the Great Schools Campaign and Mass Insight.....\$14,350,000
The amendment was *rejected*.

Ms. Spilka, Ms. Chandler, Mr. McGee, Ms. Tucker and Mr. Barrios moved that the bill be amended, in Section 2, in item 7066-0016, by striking the figure "\$850,000" and inserting in place thereof the following figure:- "\$1,200,000".
The amendment was **adopted**.

Mr. Berry moved that the bill be amended, in Section 2, in item 7070-0065 in line 49, by inserting after "assistance;" the following:- "provided that not less than \$800,000 shall be directed to One Family Inc. for the purposes of administering and sponsoring a scholarship program for the higher education of heads-of-household for homeless families with children under the age of 18, or who are at-risk of homelessness as determined by the federal poverty, or who have experienced homelessness within the previous 12 months; provided further that said funds shall be expended for scholarships and assistance with living expenses at accredited institutions of higher learning in the Commonwealth of Massachusetts; provided further that each scholarship shall be matched dollar-for-dollar by One Family Inc.; provided further that the scholarship recipients shall be monitored and tracked for their progress and that the results shall be reported to the Commonwealth on a bi-annual basis through the Board of Higher Education;".
After remarks, the amendment was **adopted**.

Ms. Menard and Mr. Montigny moved that the bill be amended, in Section 2, in line item 7100-0200 by inserting after the words "Center for Portuguese Studies to operate at the University of Massachusetts at Dartmouth;" the following:- "provided further, that not less than \$50,000 shall be expended for the UMASS Dartmouth Center for Business Research;".
After remarks, the amendment was **adopted**.

Mr. Moore moved that the bill be amended, in Section 2, in item 7512-0100, by inserting at the end thereof the following:- provided further that \$525,000 shall be expended for the operation of the George I. Alden Library at Quinsigamond Community College and in said item by striking out the figure "\$12,974,525 and inserting in place thereof the figure "\$13,499,525".
The amendment was *rejected*.

Ms. Chandler, Messrs. Augustus and Moore moved that the bill be amended, in Section 2, in item 7512-0100, by striking out the figure "\$12,974,525" and inserting in place thereof the following figure:- "\$13,474,525".
The amendment was *rejected*.

Mr. Panagiotakos moved that the bill be amended, in Section 2, in item 7516-0100 by inserting the following:- "provided, that the so called Federal Building on the Lowell Campus of Middlesex Community College be named the Brad Morse Building in honor of the late Frank Bradford Morse, former Congressman and Undersecretary of the United Nations and that suitable markers bearing such designation be erected.
After remarks, the amendment was **adopted**.

Messrs. Tarr, Baddour, Pangiotakos and McGee moved that the bill be amended by inserting, after section 109, the following new section: -

"Section ____ . Authorize and Direct the Board of Directors of Higher Education to evaluate the feasibility of developing a Northeastern Massachusetts Nursing Institute through the collaboration of Salem State College, Northern Essex Community College, North Shore Community College, Middlesex Community College and area hospitals for the purpose of developing and sharing additional resources for nursing education in the Commonwealth."
The amendment was *rejected*.

Messrs. Antonioni, Knapik, Moore, and Brown moved that the bill be amended by inserting, after Section 109, the following new section:-

"SECTION 110. Notwithstanding any general or special law or regulation to the contrary, non-public school students in grade 10 shall be eligible to take the Massachusetts Comprehensive Assessment Skills (MCAS) exam at a non-public school site to solely qualify for the John and Abigail Adams Scholarship program administered by the Board of Higher Education."
The amendment was *rejected*.

Mr. Lees moved that the bill be amended by inserting, after Section 109, the following new Section:-

Notwithstanding any general or special law to the contrary, for the purpose of determining eligibility for in-state tuition and fees at public institutions of higher education, only those holding official status as a citizen or permanent resident of the United States and resident of the Commonwealth shall be considered for in state tuition and fees.
The amendment was *rejected*.

Mr. Brewer moves that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION ____ . Notwithstanding any general or specific law to the contrary, the list established in Section 45 of Chapter 208 of the Acts of 2004 shall include a provision that the regulations in effect on July 1, 2001 regarding reimbursable costs shall be in effect for the Ralph C. Mahar Project."
The amendment was *rejected*.

Distinguished Guests.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Mr. O'Leary for the purpose of introducing, seated in the rear of the Chamber, Miss Laurel E. Labdon. Laurel is Miss Wheelchair Massachusetts and she will be competing in the National Wheelchair pageant this summer in Albany, NY. Laurel was accompanied by her father, Dr. Robert Labdon. They are from Brewster, Massachusetts.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Messrs. Lees, Tisei, Tarr, Knapik and Brown moved that the bill be amended, in Section 2, in item 1201-0100, by inserting at the end thereof the following:- "provided further, that the department shall institute a tax credit for entities engaged in the production of motion pictures; provided further, said tax credit shall be offered to only those entities that produce motion pictures in the Commonwealth; provided further, said tax credit shall include provisions to waive the sales tax on goods bought and used in the Commonwealth; provided further, said tax credit shall be comparable to tax incentives offered in other states; provided further, the commissioner shall report to the house and senate ways and means committees no later than September 15, 2005 on the status of the implementation of the tax credit; provided further, said tax credit shall be effective on January 1, 2006."

Pending the question on adoption of the amendment, the President made a ruling on the following tax amendments 1, 3, 4, 5, 6, 7, 10, 12, 13 and 92, as follows:

"The Massachusetts Constitution says: "All money bills shall originate in the House of Representatives" Senate Counsel has advised the Chair that, based on his extensive legal research, a bill that reduces general state tax revenue, as well as one that increases it, is a "money bill." Senate Counsel has taken this position in his published Legislative Drafting and Legal Manual since 2003.

The parliamentary precedents of the Senate require the President to observe with meticulous care the constitutional prerogatives of the House of Representatives. Without waiting for a point of order to be raised, he must see that the Senate does not originate a "money bill" in violation of the Constitution. A pending Senate amendment that would convert into a 'money bill' a bill that was not a "money bill" when the House passed it is out of order.

The amendments were severally laid aside.

The Chair is advised that the pending general appropriation bill as the House passed it was not a "money bill," because no tax provisions in the House bill take effect until further legislation is enacted. Each of these pending amendments before the Senate has the effect of increasing or reducing general state tax revenue, and would thus convert the general appropriation bill into a "money bill". Therefore, each of these amendments is not in order."

Ms. Creem moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. There shall be a commission to study and make recommendations for the establishment and implementation of a coordinated curriculum for the training of law enforcement officers in responding to mental health emergencies and incidents involving persons with mental illness or mental retardation. The commission shall include and be co-chaired by the senate and house chairs of the joint committee on public safety. The commission's other members shall be the secretary of public safety or his designee, the commissioner of mental health or his designee, the commissioner of mental retardation or his designee, a representative of the municipal police training committee, a representative of the University of Massachusetts medical school's law and psychiatry program, a representative of the Disability Law Center, a representative of the Building Partnerships Initiative, a representative of the Massachusetts Chiefs of Police Association, a representative of the National Alliance for the Mentally Ill of Massachusetts, the colonel of the department of state police or his designee, a representative of the Massachusetts Psychological Association, a representative of the Mental Health and Substance Abuse Corporation of Massachusetts, Inc., a representative of the organization M-Power, a representative of the disabled persons protection commission, a representative of Consumer Quality Initiatives, Inc. , and a representative of the Massachusetts Police Association.

The commission's review shall include, but not be limited to, the following issues as they relate to the training of law enforcement officials in responding to persons with mental illness or mental retardation:

- (1) risk management, crisis identification and intervention and de-escalation techniques;
- (2) the provision of information to law enforcement officers about individuals with mental illness or mental retardation, strategies law enforcement officers may use for reducing or preventing any risk of harm in mental health emergencies by using the least intrusive, restrictive and violent means of addressing such incidences while protecting the safety of the law enforcement officer, the individual in crisis and other persons present at the scene;
- (3) the laws regarding the defenses of lack of criminal responsibility and competency to stand trial, and the diversion of persons with mental illness or mental retardation for treatment instead of criminal prosecution;
- (4) the availability of civil remedies and community resources for persons experiencing mental health emergencies, and the protection of persons with mental illness or mental retardation and for law enforcement officers engaging such persons; an

(5) an analysis of the financial impact of establishing and implementing the commission's recommendations as well as identifying any outside resources, programs or grants available to reduce any such financial impact.

The commission shall conduct at least 1 public hearing and shall file its report and recommendations with the clerks of the senate and the house respectively, including any legislation necessary to implement such recommendations, not later than January 1, 2006.

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended, in Section 2, in item 8000-0110 by inserting at the end thereof the following:- "provided further, section 172E of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the second paragraph in its entirety."

The amendment was *rejected*.

Messrs. Nuciforo and Tolman, Ms. Resor and Mr. Lees moves that the bill be amended, in Section 2, in item 8000-1122, by inserting after the words "KK object class", the following words:- "provided further, that no later than December 31, 2005 the board shall create a system that allows all certified agencies that provide services to the elderly, children, victims of crime, medically infirm persons, or the physically or mentally challenged to utilize online filing, payment and receipt of criminal offender record information".

The amendment was *rejected*.

Ms. Chandler moved that the bill be amended, in Section 2, in item 8200-0200, by inserting at the end thereof the following wording:- "; and provided further, that not less than \$25,000 shall be provided to the Municipal Police Training Academy located in the Town of Boylston for the purpose of increased rental, maintenance and utility costs to be paid to the Town of Boylston."

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 8324-0000, by inserting after the word "supplies" the following:- "; provided further, not less than \$65,000 shall be expended for forest fire control equipment in Millis"; and

In said item by striking out the figures "\$10,223,098" and inserting in place thereof the figures "\$10,288,098".

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, by striking out item 8324-0000 and inserting in place thereof the following item: -

"8324-0000

For the administration of the department of fire services, including the state fire marshal's office, the hazardous materials emergency response program and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office and the Massachusetts firefighting academy shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, funds scheduled in the PP object class, pursuant to section 27 of chapter 29 of the General Laws for this item in fiscal year 2006 shall not be transferred to any other object class in said fiscal year; provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program; provided further, that the expenses of the board of fire prevention regulations, pursuant to section 4 of chapter 22D of the General Laws, shall be paid from this item; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that \$25,000 shall be expended for the costs of operating the fire starters program by the Plymouth county juvenile court; provided further, that \$75,000 be expended for the South Shore Hospital to establish a response training program for fire department and private EMS personnel in Southeastern Massachusetts to increase their training in handling victims requiring decontamination due to chemical and or Bioterrorism injuries; and provided further, that not less than \$100,000 be expended for the administration of a statewide program to provide for critical incident stress intervention for the fire departments of the cities, towns, and fire districts of the commonwealth including, but not limited to, consultant services, training, equipment, and supplies\$10,298,098"

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 8900-0001, by adding the following: "; provided further that not less than the amount of \$302,000 shall be expended for the Dunbar Community Center, Inc., so-called, in Springfield to

operate the DCC Teen Safe Zone Program."
The amendment was *rejected*.

Ms. Spilka, Mr. McGee and Ms. Creem moved that the bill be amended, in Section 2, in item 8900-0001 by adding the following:- "; and provided further that not less than \$100,000 be allocated to the Center for Women in Politics and Public Policy at the University of Massachusetts, Boston to conduct a comprehensive study of resources and best practices that develop and strengthen the family connections of women inmates and their children."
The amendment was **adopted**.

Messrs. Tarr and Lees moved that the bill be amended in section 2, in item 8900-0001, by inserting, after the word "board" at the end thereof the following: - "provided further, that the department shall study and design a system whereby any adult person who has not been determined to be in a financial condition of indigency shall be required to pay to the commonwealth if committed to a state correctional facility or to the county if committed to a house of correction, a sum of not less than \$2.00 (two dollars) nor more than \$5.00 (five dollars) per calendar day to defray the costs of incarceration. Said system shall provide the means for an incarcerated person to seek total or partial exemption from the payments prescribed above, in addition to one or more mechanisms whereby an incarcerated person could arrange for payments following the release from a correctional facility, and/or over a period of time through installments or other means deemed appropriate. The department shall report the findings of said study, the system it has designed to meet the goals established herein, and any necessary legislation to implement the system to the Clerks of the House and Senate not later than January 15, 2006.

Mr. Havern in the Chair, after remarks, the amendment was *rejected*.

Messrs. Lees, Tarr, Knapik, Brown and Barrios moved that the bill be amended, in Section 2, in item, in item 8311-1000, by striking out the figure "\$1,052,495" and inserting in place thereof the figure:- "\$1,280,533".
The amendment was *rejected*.

Messrs. Brewer, Baddour and Tarr moved that the bill be amended, in Section 2, by inserting after item 8311-1000 the following item:-

"8311-1001 The department of public safety shall, in accordance with chapter 764 of the acts of 1987, process every application for licensure or certificate of clearance and every license or certificate of clearance issued by the department shall contain the photograph of the holder, the registration number or such other number as the commissioner requires and the name and business address of the holder. Prior to the issuance of any permit to perform security system work, as defined in chapter 764 of the acts of 1987, every licensee under this section, as directed by the commissioner in consultation with the council established by executive order 440, must demonstrate proof of valid and current licensure to the city, town, or district; provided further, that no city, town or district shall, in addition to requirements under state law, establish by ordinance or bylaw, any additional fee, permit or license as a condition for a permit to be issued to perform security system work. Notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, and the remainder of all fees collected shall be deposited into the General Fund
.....\$500,000"

The amendment was *rejected*.

Paper from the House.

There being no objection, during consideration of the Orders of the Day, a petition (accompanied by bill, House, No. 4066) of David M. Nangle and others relative to health care benefits for utility company employees during work stoppages,-- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Labor and Workforce Development.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Mr. Hart moved that the bill be amended, in Section 2, in item 8000-0000 by striking the out the figure "\$2, 250,856" and inserting in place thereof the following figure "\$2,245,856";

In line item 0910-0200 by striking out the figure "\$2,600,000" and inserting in place thereof the following figure "\$2,650,000"; and

Inserting after the word "general" the following "provided further provided, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5

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

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended, in Section 2, in item 8000-0100 by inserting, after the words "shall receive 100 per cent of the amount so earmarked in fiscal year 2006" by adding the following: - "provided further that the following communities shall receive no less than \$30,000 from this item: Boxford, Essex, Gloucester, Groveland, Hamilton, Manchester By-the-Sea, Middleton, Rockport, Wenham and West Newbury."

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 8000-0010, by inserting after the words "policing in Revere;" the following: "provided further, that not less than \$480,000 shall be expended respectively to the Fire Departments in the Towns of Milton and Randolph for costs associated with provision of emergency services by said departments to state highways. Said funds shall be paid directly to the Milton and Randolph Fire Departments for the specific purpose of providing emergency services including but not limited to, additional staffing, equipment and vehicles;"

The amendment was *rejected*.

Messrs. Lees, Tarr, Knapik, and Brown moved that the bill be amended in section 81 by striking out in line 5 the words "90 days" and inserting in place thereof:- "120 days"

The amendment was **adopted**.

Mr. Pacheco moved that the bill be amended by inserting the following new section:-

SECTION _____. The Executive Office of Public Safety shall provide a grant to Plymouth, the town in which the Pilgrim Nuclear Power Plant is located, and to Braintree, Bridgewater, and Taunton, the cities and towns that are required to provide services to the Pilgrim Nuclear Power Plant as "host communities," as defined under the radiological emergency response plan of the commonwealth approved on January 10, 2003, utilizing if available, but not limited to, federal Department of Homeland Security funds or other existing federal or state monies available to the Executive Office of Public Safety or any of its agencies, departments or divisions. The grant shall be sufficient to provide for public safety service equal to the levels of public safety service provided for as of January 10, 2003, and shall be awarded only if Plymouth or the host community meets the following criteria, as determined by the division of local services of the department of revenue: (1) the community has exhausted all available reserves; (2) the community is taxing to its levy limits; and (3) the local aid reductions for fiscal year 2004 for the community would cause a reduction in the number of public safety employees in the city or town.

After remarks, the amendment was **adopted**.

Messrs. Lees, Tarr, Knapik, Brown and Barrios moved that the bill be amended, in Section 2, in item 8950-0001, by striking out the figure "\$13,436,481" and inserting in place thereof the figure:- "\$14,321,626".

After debate, the amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, in item 8100-0000, by striking out the following:- " Newburyport and Haverhill;"

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended, in Section 2, in item 8100-0000 by inserting after the word " Haverhill" with the following "provided that not less than \$100,000 shall be expended to provide additional police patrols for the Blue Hills Reservation".

The amendment was *rejected*.

Messrs. Hart and Barrios moved that the bill be amended, in Section 2, in item 8100-0000 by inserting the following words:- "and provided further that not less than \$179,983 shall be expended for teen and youth violence prevention and intervention programs administered by the Youth Service Providers Network in partnership with the Boys and Girls Clubs of Boston and Boston Police Department"

The amendment was rejected.

Mr. O'Leary moved that the bill be amended, in Section 2, in item 8100-0000 by adding, at the end thereof, the following:- "; and provided further, that not less than \$62,400 shall be expended to the State Police- South Yarmouth to prevent accidents and expedite traffic flow in the Town of Yarmouth."

After remarks, the amendment was **adopted**.

Mr. Brewer and Ms. Resor moved that the bill be amended, in Section 2, in item 8100-0000, by striking the wording "provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation" and inserting in place thereof the following wording:- "provided further, that not fewer than 40 officers shall be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation".

After remarks, the amendment was **adopted**.

Mr. Barrios moved that the bill be amended by inserting, after Section V, the following new Section:-

SECTION 34A. Said section 4B of said chapter 1078 of the acts of 1973, as most recently amended by said chapter 333 of the acts of 1988, is hereby by further amended by striking out, in the tenth paragraph, the following words, "that the scope of arbitration in police matters shall be limited to wages, hours, and conditions of employment and shall not include the following matters of inherent managerial policy: the right to appoint, promote, assign, and transfer employees. Assignments shall not be within the scope; provided however, that the subject matters of initial station assignment upon appointment or promotion shall be within the scope of arbitration. The subject matter of transfer shall not be within the scope of arbitration; provided, however, that the subject matters of relationship of seniority to transfers and disciplinary and punitive transfers shall be within the scope of arbitration" and inserting in place thereof the following:- "that the scope of arbitration shall include wages, hours, standards of productivity and performance, and any other term and condition of employment."

The amendment was **adopted**.

Mr. Morrissey moved that the bill be amended, in Section 2, in item 1599-7780 by inserting after the words, "eastern district attorney's office" the following:- "; provided further that no less than \$118,000 shall be expended for the norfolk district attorney's office."; and

In item 1599-7780 by striking out the figure "\$1,240,000" and inserting in place thereof the following new figure:- "\$1,358,000". After remarks, the amendment was **adopted**.

Mr. Nuciforo moves that the bill be amended, in Section 2, by inserting after item 8910-0445 the following item:- "8910-0446 For the operation of the Berkshire County Juvenile Resource Center operated by the Sheriff of the former Berkshire County in the city of Pittsfield \$500,000"

After remarks, the amendment was *rejected*.

Mr. Baddour and Ms. Tucker, Messrs. Tarr and McGee moved that the bill be amended, in Section 2, by striking out line item 8910-6619 in it's entirety and inserting in place thereof the following:- "The Essex sheriff's department may expend for the operation of the department an amount not to exceed \$2,000,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited quarterly into the general fund before the retention by the department of any of these revenues as certified by the comptroller; provided further, that said quarterly payments shall total \$600,000 in fiscal year 2006 and provided further, that said sheriff may expend from this item costs associated with joint federal and state law enforcement activities from federal reimbursements received; that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$2,000,000

After remarks, the amendment was **adopted**.

Messrs. Rosenberg, Brewer, and Nuciforo moved that the bill be amended, in Section 2, in item 8910-0108, by striking out the figure \$6,264,939 and inserting in place thereof the following figure:- "\$7,249,939".

After remarks, the amendment was *rejected*.

Messrs. Buoniconti, Brewer, Lees, Knapik and Ms. Wilkerson moved that the bill be amended, in Section 2, by inserting after 8910-0102 the following item:

8910-0103 For one-time costs for the operation of the jail, house of correction and any other statutorily authorized facilities and the functions under the administration of the office of the sheriff of Hampden resulting from the increase in the inmate population directly due to the state and local police gang and warrant task forces in the city of Springfield; provided that the sheriff shall provide a report on the increases in inmate populations directly due to the gang and warrant task forces to the house and senate committees on ways and means not later than February 1, 2006 \$1,144,915
The amendment was *rejected*.

Ms. Creem moved that the bill be amended, in Section 2, by inserting after item 0810-0004 the following item:

"0810-0005

For the operation of the Witness Protection Board pursuant to chapter 258D of the General Laws\$300,000"; and

By inserting after Section ___ the following three new Sections:-

SECTION ___. The General Laws are hereby amended by inserting after Chapter 258C the following new chapter:-

Chapter 258D

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context otherwise requires:-
"Board", the witness protection board as established in section two.

"Family member", a spouse, child, stepchild, sibling, parent, stepparent, dependent, as defined in section one of chapter two hundred and fifty-eight C, or legal guardian of a victim, unless such family member has been charged in relation to the crime against the victim.

"Prosecutor", the attorney general, assistant attorneys general, district attorney, assistant district attorneys, police prosecutors, other attorneys specially appointed to aid in the prosecution of a case, law students approved for practice pursuant to and acting as authorized by the rules of the supreme judicial court.

"Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

Section 2. There shall be a witness protection board, to consist of five members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A to the contrary, the board shall consist of the attorney general or his designee who shall be chairman, two district attorneys who shall be appointed by the governor, the colonel of the state police, and a chief of police who shall be appointed by the governor.

The board shall by majority vote of its members, appoint an executive director who shall serve, subject to appropriation, at such rate of compensation as the board directs for a term of three years unless removed for cause by a vote of four members of the board. The executive director, subject to appropriation, shall have the power to hire such staff, subject to the approval of the board, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him.

The provisions of chapter thirty-one shall not apply to the executive director or any employee of the board.

Section 3. The board shall implement and operate the witness protection program as described in this chapter, shall develop and issue appropriate guidelines to implement this chapter, shall establish procedures to maximize federal funds for witness protection services, and shall investigate methods to improve witness protection efforts.

Section 4. A witness protection program is hereby established, which shall coordinate the efforts of state, county and local law enforcement agencies to protect the health, safety, and welfare of witnesses and their family members, and to reimburse those agencies for the costs of such efforts, subject to appropriation.

Section 5. Protection services provided to a witness may include, but shall not be limited to :

- (a) armed protection or escort, marked or unmarked surveillance or periodic visits or contact by law enforcement officials prior, during or subsequent to a criminal proceeding;
- (b) physical relocation to an alternate residence;
- (c) housing expenses;
- (d) transportation or storage of personal possessions;
- (e) basic living expenses
- (f) petition for a protective order on any individual identified as a threat to a witness.

Section 6. (a) A witness who feels that he or a family member is endangered may request protection in writing to a law enforcement officer, a prosecutor, a victim witness advocate, or to the board. A copy of all requests shall be forwarded to the board as soon as is practicable.

(b) The board shall review requests for assistance, shall assist the prosecutor to coordinate the efforts of state, county and local agencies to secure witness protection services, and, subject to appropriation, reimburse the prosecutor or other law enforcement agency for any witness protection related costs that are in compliance with the guidelines established by the board.

(c) If a witness, after being offered protective services under this section, declines to receive such services, the prosecuting officer shall request that the witness make such refusal in writing.

Section 7. The commonwealth, its officers and employees and law enforcement personnel shall have immunity from civil liability for any decision declining or revoking protection to a witness under this chapter.

SECTION ____. Commencing one year after the effective date of this chapter, the Witness Protection Board, as established in Chapter 258D of the General Laws, shall make an annual report to the general court, including the House and Senate Ways and Means Committees no later than January 1 of each year on the fiscal and operational status of the program.

SECTION ____. Section 13B of chapter 268 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by in line 14 striking out the word "five" and inserting in place thereof the following word:- "fifty".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-three minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 11 - nays 27) [**Yeas and Nays 28**]:

YEAS.

Barrios, Jarrett T.	Lees, Brian P.
Brown, Scott P.	Montigny, Mark C.
Creem, Cynthia Stone	Tarr, Bruce E.
Fargo, Susan C.	Tisei, Richard R.
Hedlund, Robert L.	Wilkerson, Dianne —
Knapik, Michael R.	11.

NAYS.

Antonioni, Robert A.	Baddour, Steven A.
Augustus, Edward M., Jr.	Berry, Frederick E.
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Buoniconti, Stephen J.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian — 27.
Murray, Therese	

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

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Sections:-

"SECTION ____ . Subsection (a) of section 15A of chapter 265 of the General Laws, as appearing in the 2002 Official Edition is hereby amended by striking out the word "ten", in line 3, and inserting in place thereof the following figure:- 15; by striking out the word "one", in line 4, and inserting in place thereof the following word:- two; by striking out the words "two and one-half", in line 5, and inserting in place thereof the following word:- five; and by striking out the word "two", in line 9, and inserting in place thereof the following word:- five.

SECTION ____ . Subsection (a) of section 15B of said chapter 265 is hereby amended by striking out the word "five", in line 3, and inserting in place thereof the following word:- ten; by striking out the word "one", in line 4, and inserting in place thereof the following word:- two; by striking out the words "two and one-half", in line 5, and inserting in place thereof the following word:- five; and by striking out the words "one year", in lines 9-10, and inserting in place thereof the following words:- "five years."

SECTION ____ . Subsection (a) of section 18 of said chapter 265 is hereby amended by striking out the word "twenty", in line 3, and inserting in place thereof the following figure:- 25; and by striking out the word "two", in line 10, and inserting in place thereof the following word:- five.

SECTION ____ . Subsection (a) of section 19 of said chapter 265 is hereby amended by striking out the words "not less than two years", in lines 8-9, and inserting in place thereof the following word:- life; by striking out the word "two", the second time it appears in line 9, and inserting in place thereof the following word:- ten; and by striking out the word "two", in line 12, and inserting in place thereof the following word:- ten."
The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____ . Section 1A of chapter 188 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the word "sixty-two", in line 2, and inserting in place thereof the following figure:- 55."
After remarks, the amendment was *rejected*.

Ms. Menard moved that the bill be amended, in Section 2, in item 7066-0009, by striking out the figure "\$367,402" and inserting in place thereof the following figure:- "\$417,402".
After remarks, the amendment was **adopted**.

Mr. Lees moved that the bill be amended, in Section 2, in item 7002-0500 by inserting at the end thereof the following:-
"provided further, clause twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended in subparagraph (c) by inserting after the word 'information' in line 141 the following:- 'relating to the medical or health status of any employee, including, but not limited to, documentation relating to employees injured during the course of their employment'"
The amendment was *rejected*.

Mr. Hart moved that the bill be amended, in Section 2, in item 7006-0067 by striking out the figure \$458,900 and inserting in place thereof the following figure:- "\$558,900".
The amendment was *rejected*.

Messrs. Morrissey, Tarr, Knapik, O'Leary and Ms. Resor moved that the bill amended, in Section 2, in item 7006-1000, by striking the text in its entirety and inserting in place thereof the following two items:-

"7006-1000 for energy efficiency programs; provided, that notwithstanding any general or special law to the contrary, the amount assessed pursuant to provisions included in this act shall be equal to the amount expended from this item..... \$400,000."

"7006-1003 For the operation of the division of energy resources; provided, that \$100,000 shall be expended for the purchase of electricity produced by renewable energy technologies for the commonwealth's own use, pursuant to subsection (l) of section 4E of chapter 40J of the General Laws..... "\$1,056,404".
After remarks, the amendment was *rejected*.

Messrs. Hart, Baddour and Nuciforo, Ms. Tucker, Mr. McGee, Ms. Chandler, Mr. Tarr, Ms. Spilka, Messrs. Brown, and Panagiotakos moved that the bill be amended, in Section 2, in item 1110-1000, by striking out the figures "1,102,144" and inserting in place thereof the figure "1,352,144" ;

Inserting after line-item 2020-0100 the following:

2020-0101

For the office of technical assistance to provide technical assistance and outreach capacity to support the provisions of chapter 43D of the General Laws \$1,800,000;

Inserting after line-item 7002-0012 the following:

7002-0013

For the streamlining of state and local permitting processes; provided, that not less than \$4,500,000 shall be expended for technical assistance grants as established in section 3(b) of chapter 43D of the General Laws to be administered by the interagency permitting board; provided that not less than \$400,000 shall be expended for state permit evaluation and to overhaul state agency services for streamlined and expedited permitting at the direction of the interagency permitting board; provided further, that such analysis and evaluation shall include the executive office of environmental affairs, the executive office of public safety, the executive office of transportation, and the executive office economic development; and provided further, that not less than \$1,200,000 shall be expended by the Massachusetts Development Finance Agency to work with local governments to promote and implement the provisions of chapter 43D of the General Laws to foster job creation efforts within the municipality and region \$6,100,000; and

Inserting after line-item 7007-0300 the following:

7007-0310 - For the Massachusetts business resource team to manage and market an online inventory of priority development properties and other development sites as established in chapter 43D of the General Laws \$1,100,000.
The amendment was *rejected*.

Mr. Hart moved that the bill be amended, in Section 2, in item 7002-0101 by inserting after the words "Chapter 31 of the General Laws;" the following: - "provided further, that notwithstanding any general or special law to the contrary, the deputy director shall require each apprentice entering into a written agreement to submit an application to the division for an apprentice identification card; provided further, that the application shall be accompanied by a fee of \$35 and paid by the apprentice or the program sponsor, together with photographic prints as required by the deputy director; provided further, that said card shall expire one year from the date of issue requiring each apprentice to submit an application to the division for an updated apprentice identification card which shall be accompanied by a fee of \$35 paid by the apprentice or the program sponsor; provided further, that the first \$125,000 of the fees collected by the division for this identification card program shall be deposited into the General Fund; provided further, that the second \$125,000 of said fees shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 357 of the acts of 2002 and the remainder of all fees collected shall be deposited into the General Fund;"

The amendment was *rejected*.

Mr. Montigny moved that the bill be amended, in Section 2, in item 7002-0200, by striking the figure "\$2,336,350" and inserting in place thereof the following figure:- "\$2,480,246" .

The amendment was **adopted**.

Mr. McGee moved that the bill be amended, in Section 2, in item 7003-0702 the following item:

"There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Workforce Competitiveness Trust Fund, in this section called the Fund. There shall be credited to the Fund from the general fund annually an amount as determined by appropriation to match workforce training contributions required by section 14L of chapter 151A and collected in each fiscal year pursuant to said requirements, provided by private employers, provided further subject to appropriation, the director of workforce development, shall make expenditures from the Fund for the development and implementation employer-and worker responsive programs to enhance worker skills, incomes, productivity and retention and to increase the quality and competitiveness of Massachusetts firms; train and help the unemployed find employment, improve employment for low income individuals or low wage workers, improve wages to a level sufficient to support a family or place individuals on a career path leading to such employment and wages; train vulnerable youth (18-24 years old) to master basic academic skills including the attainment of a high school credential, develop occupational skills, and become employed in jobs that have career potential; train older workers (ages 45 and older) for new occupations. \$2,000,000."

The amendment was *rejected*.

Messrs. Moore and Antonioni moved that the bill be amended, in Section 2, in item 7003-0702, by inserting at the end thereof the following:- provided further, that not less than \$500,000 shall be expended for a high school science teacher training program in biotechnology operated by Commonwealth Corporation\$4,000,000

Workforce Training Fund 100.0%

After remarks, the amendment was **adopted**.

Mr. Barrios moved that the bill be amended, in Section 2, in item 7003-0702 by inserting the following words:- "and provided further that not less than \$250,000 shall be expended for a gang intervention prevention program called the At-Risk Teens Youth Project, operated by the Center for Teen Empowerment Inc., for the community of Somerville;"

The amendment was *rejected*.

Messrs. Buoniconti and Lees moved that the bill be amended, in Section 2, in item 7003-0702, by inserting the following language:- "; provided further that not less than \$100,000 shall be expended for the Springfield Technical Assistance Program (TAP), to be operated by the Affiliated Chambers of Commerce of Greater Springfield."
The amendment was **adopted**.

Messrs. Buoniconti and Lees moved that the bill be amended, in Section 2, in item 7003-0702, by inserting the following language:- "; provided further that not less than \$200,000 be expended for Massachusetts Career Development Institute, Inc (MCDI) in Springfield."
The amendment was **adopted**.

Mr. Augustus and Ms. Chandler moved that the bill be amended, in Section 2, in item 7003-0702 by inserting after the words "Martin Luther King, Jr. Business Empowerment Center in the City of Worcester;" the following "provided further, that not less than \$100,000 shall be expended for Centro Las Americas to provide workforce training, educational services and other transitional services in the city of Worcester;"
The amendment was **adopted**.

Messrs. Tolman, Knapik and Hart moved that the bill be amended, in Section 2, in item 7003-0702, by striking out the line "that not less than \$127,000 shall be expended for the employee involvement and ownership program," and replace with the line "that not less than \$196,960 shall be expended for the employee involvement and ownership program".
The amendment was *rejected*.

Messrs. Buoniconti and Lees moved that the bill be amended by adding the following outside section: Section 66 of Chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out section 66, as so appearing, and inserting in place thereof the following section:

Section 66- No person shall employ a boy or a girl under eighteen or permit such boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty before six o'clock in the morning, or after ten o'clock in the evening; provided, that boys or girls under eighteen may be employed as operators in regular service telephone exchanges or telegraph offices until, but not after, eleven o'clock in the evening; and provided further, that boys or girls between the ages of sixteen and eighteen may be employed in restaurants and race tracks until, but not after, twelve o'clock in the evening on Fridays and Saturdays and during school vacation periods, excepting the last day of such vacation period, and provided further that boys or girls between the ages of sixteen and eighteen may be employed at Six Flags New England until, but not after, eleven o'clock in the evening, during the 2005 school summer vacation period, excepting the last day of such vacation period.
The amendment was *rejected*.

Messrs. Hart, Baddour, Nuciforo, Tucker, McGee, Chandler, Tarr, Spilka, Brown, and Panagiotakos moved that the bill be amended by adding the following section:

SECTION ____ Chapter 23A of the General Laws, as appearing in the 2002 official edition, is hereby amended by inserting at the end thereof the following new section: -- Section 62. There shall be an interagency permitting board within the department of economic development. The members of the board shall be the secretary of economic development, the secretary of transportation, the secretary of environmental affairs, the secretary of public safety, the chair of the development coordinating council, and the executive director of the Massachusetts Development Finance Agency or their designees. Four members shall constitute a quorum for the transaction of business. At the direction of the secretary of economic development, the board shall meet no less than 8 times per year, and shall monitor the development of priority development sites as provided for in chapter 43D, and investigate ways in which to expedite priority development site projects. The boards shall evaluate state agency permit procedures and recommend changes for improved efficiency.
The amendment was *rejected*.

Ms. Walsh and Ms. Fargo moved that the bill be amended by inserting, after Section ____, the following new Section:-
"SECTION _____. (a) Whereas, In today's economy, employers face a shortage of skilled labor; Whereas, Lower-wage workers do not earn enough to support their families; Whereas, Lack of an adequately prepared workforce can cause employers to turn to workers outside of the Commonwealth; Whereas, A skilled labor shortage can have an impact on the economic strength of the Commonwealth; and Whereas, The poverty guidelines as measured by the federal government do not adequately reflect the costs of living in Massachusetts; Therefore, It shall be the responsibility of the Commonwealth to define a self-sufficiency standard in order to provide a measure of the extent to which the incomes of households in Massachusetts are sufficient to support the costs of living, working, raising a family, and paying taxes in Massachusetts.

(b) Not later than June 30, 2006, the Commonwealth Corporation, known in this section as the Corporation, shall develop a self-sufficiency standard for the commonwealth, known in this section as the standard. As used in this section, the term "self-sufficiency standard," shall mean the amount of income needed by a family or household to provide for adequate housing, food, child care, health care, transportation and employment-related expenses, and to pay taxes. The Corporation may enter into a contract through the competitive procurement process for the development of such standard.

(c) Such standard shall take into account the family size and age of children, and shall take into account regional variations in the costs of housing and child care, the differential inflation rates that affect the growth of these costs, and the effect of existing tax laws, including state sales tax, payroll taxes, federal and state income tax, child care tax credits and the earned income tax credit. In developing the standard, the Corporation shall rely, to the extent possible, on data reported by the United States Census Bureau, United States Department of Housing and Urban Development and on other data reported to state and federal agencies using standardized methodology and shall consult with state departments or agencies that serve low-income populations. Housing costs will be determined using fair market rents for apartments as reported by the United States Department of Housing and Urban Development. Child care costs will be determined using average costs for licensed child care facilities, including, but not limited to, family day care, as reported to the commonwealth's child care resource and referral agencies for children of different ages in different areas of the state. The president of the Commonwealth Corporation shall establish an advisory board to advise the Corporation on all matters relating to the development of a self-sufficiency standard and future revisions to it. The advisory board shall be composed of 25 members, each of whom shall serve a term of 2 years. The following shall be members of the board: the secretary of administration and finance or his designee, the director of labor and workforce development or his designee; the secretary of health and human services or his designee; the commissioner of the department of revenue or his designee; the director of housing and community development or her designee; 4 members of the senate, 3 of whom shall be appointed by the president of the senate and 1 by the senate minority leader; 4 members of the house of representatives, 3 of whom shall be appointed by the speaker and 1 by the house minority leader; the chairman of the board of higher education or his designee; 1 faculty member of a Massachusetts university or college with research expertise in the areas of demographics, living costs and labor markets to be selected by the Commonwealth Corporation; and representatives of the following 10 organizations to be nominated by their respective organizations and selected by the Commonwealth Corporation: the Massachusetts Family Economic Self-Sufficiency Project; the Massachusetts AFL-CIO; the Associated Industries of Massachusetts; the Massachusetts Association of Community Colleges; the Massachusetts Taxpayers Foundation; the Massachusetts Workforce Boards Association; the Massachusetts Community Action Program Directors' Association; the Women's Industrial and Educational Union; the Citizens' Housing and Planning Association; and the Massachusetts Association of Day Care Agencies. (3) Members of the advisory board shall serve without compensation.

(d) Not later than June 30, 2006, the Commonwealth Corporation shall report the self-sufficiency standard, including the methodology used to arrive at the standard to the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on commerce and labor. The Standard shall be distributed to each of the state executive offices and state agencies that counsel individuals who are seeking education, training or employment, including, but not limited to, the executive office of health and human services, the department of labor and workforce development, the department of transitional assistance, the department of public health, the department of social services, the Massachusetts rehabilitation commission, the department of housing and community development, the department of economic development, the Massachusetts office of business development, the office of child care services, the board of higher education, all workforce investment boards and One Stop Career Centers. The standard shall be made available to educational institutions, nonprofit organizations, and the general public upon request. The standard shall also be made available on any internet site established and maintained by the Commonwealth Corporation. (2) Such state agencies and other entities may use the updated standard to assist and guide individuals who are seeking education, training or employment in establishing personal financial goals and estimating the amount of income such individuals may need to support their families.

(e) The standard shall be updated and issued every other year by the Commonwealth Corporation and shall be reported on June 30 in the second year of each sitting of the general court, with the next update on June 30, 2006.

(f) The standard shall not be used to increase the amount of entitlement benefits provided by the Commonwealth, unless enacted by the Legislature and subject to appropriation, and said standard shall not give rise to enforceable legal rights in any party to services or entitlements or an enforceable entitlement to services or benefits not currently provided. The amendment was *rejected*.

Ms. Wilkerson moved that the bill be amended after Section 109, the following new Section 110:

SECTION 1. Section 148B of chapter 149 of the General Laws, as amended by chapter 193 of the acts of 2004, is further amended by inserting the following paragraph at the end thereof:

(f) Notwithstanding the foregoing provisions of section 148B or any other provision of any other general or special law to the contrary, a licensed real estate broker or salesperson working in the usual course of business of a licensed real estate broker shall be deemed to be an independent contractor and not an employee, provided that: (1) the services performed by the licensed individual are pursuant to a written agreement with the employing broker which provides that the individual will not be treated as an employee with respect to such services; and, (2) substantially all the remuneration for services performed by the licensed individual are directly related to sales or output rather than to the number of hours worked.

SECTION 2. The effective date of Section 1 shall be retroactive to July 19, 2004. After remarks, the amendment was **adopted**.

Mr. O'Leary moved that the bill be amended, in Section 2, in item 7004-0099, by adding the following:- "provided further, that not less than \$250,000 be expended for the purposes of constructing an Adult Day Services facility in the Town of Barnstable." The amendment was *rejected*.

Mr. Lees moved that the bill be amended, in Section 2, in item 7004-0099 by striking the following language:- "provided further, that not less than \$150,000 shall be expended for the Hungry Hill Development Corporation in the city of Springfield" and further moved that the bill be amended by inserting the following in said item:- "provided further, that not less than \$50,000 shall be expended for the Hungry Hill Development Corporation in the city of Springfield" The amendment was **adopted**.

Mr. Brewer moved that the bill be amended, in Section 2, in item 7004-0099, by inserting at the end thereof the following words:- "provided further, that not less than \$22,000 shall be expended to the East Quabbin Alliance;" The amendment was *rejected*.

Messrs. Antonioni and Brewer moved that the bill be amended, in Section 2, in item 7004-0099, by inserting after the words "Hungry Hill Development Corporation in the city of Springfield;" the following: - "provided further, that not less than \$75,000 shall be expended for the Greater Gardner Community Development Corporation;" The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 7004-0099, by inserting at the end thereof the following words:- "provided further, that not less than \$50,000 shall be expended to the South Quabbin Community Coalition;" The amendment was *rejected*.

Mr. Tisei moved that the bill be amended, in Section 2, in item 7004-0099, by inserting in line 37 after the words "rehabilitation program" the following language:- "; provided further, that not less than \$15,000 shall be made available to the town of Reading for the upgrade, renovation, repair or installation of technology equipment and infrastructure for the use of municipal government" The amendment was *rejected*.

Messrs. Tisei, Lees, Knapik, Tarr, and Brown moved that the bill be amended, in Section 2, by inserting after item 7004-0099 the following new item:-

"7004-1000
For the playground initiative fund, so-called, a grant program for cities and towns of the commonwealth, to provide up to \$10,000 per grant for the acquisition, development, renovation of, or equipment for playgrounds or ball fields; provided, the grants shall be administered by the Department of Housing and Community Development and shall be awarded on a first-come-first serve basis to municipalities submitting applications meeting program requirements.....\$1,000,000"
The amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, in line item 7004-0099 by inserting after the words "Beverly Affordable Housing Coalition;" the following:- "Provided further that \$700,000 shall be expended for the Newburyport Affordable Housing Corporation in Newburyport" The amendment was *rejected*.

Mr. Tolman moves that the bill be amended, in Section 2, in item 7004-0099, by adding the following: "provided further, that not less than \$100,000 be expended for the Allston-Brighton Community Development Corporation for the purpose of establishing an individual asset development program through the MIDAS collaborative for low-income residents." The amendment was *rejected*.

Messrs. O'Leary, Tarr, and McGee, Ms. Fargo, Ms. Chandler, Messrs. Moore and Nuciforo moved that the bill be amended, in Section 2, by adding the following new item:-

"7004-1000
For a State supplement to the Federal Low Income Home Energy Assistance Program, 42 U.S.C. § 8621 et seq., for the purpose of assisting low income elders, working families and other households with the purchase of heating oil, electricity, propane, natural gas and other primary or secondary heating fuel sources; provided that the department shall use such funds to augment any maximum assistance for which a household would be eligible if only federal funding were available; provided further that such supplemental funds may be used for payment of direct benefits, administrative costs and other related expenditures that may be allowed under said federal program; provided further that expenditure of these supplemental funds shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with said federal program; and provided that these funds shall be released no later than November 1, 2005.....\$10,000,000."
The amendment was *rejected*.

Messrs. Joyce and Montigny, and Ms. Spilka moved that the bill be amended, in Section 2, by inserting after item 7004-4314 the following item:

"7004-9003

For a program to provide transitional housing to homeless individuals; provided that grants shall be awarded on a competitive basis, pursuant to criteria established by the department of housing and community development, to regional non-profit housing associations, so called, to provide housing units for up to one year to homeless individuals who are working to transition into private housing.....\$2,500,000"

The amendment was *rejected*.

Mr. Joyce and Ms. Chandler, Ms. Fargo, Messrs. Knapik, Creedon, Tarr, Antonioni and. Tolman, Ms. Tucker, Ms. Spilka, Messrs. Hedlund, Augustus, Barrios, McGee and Brewer moved that the bill be amended, in Section 2, in item 7004-9005, by striking out the figure "\$34,871,170" and inserting in place thereof the following figure:- "\$37,000,000".

The amendment was *rejected*.

Mr. Joyce, Ms. Fargo, Ms. Spilka, Ms. Chandler, Messrs. O'Leary, Antonioni, Barrios and McGee moved that the bill be amended, in Section 2, in item in item 7004-9024, by striking out "there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher or project-based voucher, but each household shall pay at least 30 per cent but not more than 40 per cent of its income as rent;" and by inserting in its place:-- "each household holding a project-based voucher shall pay at least 30 per cent but not more than 35 per cent of its income as rent, and each household holding a mobile voucher shall pay at least 30 per cent but not more than 40 per cent of its income as rent;"; and

By striking out the figure "\$26,283,345" and inserting in place thereof the following figure:- "\$36,283,345".

The amendment was *rejected*.

Messrs. Joyce, Barrios and O'Leary, Mr. Tucker and Ms. Fargo moved that the bill be amended, in Section 2, in item 7004-9030, by striking out the figure "\$2,300,000" and inserting in place thereof the following figure:- "\$3,000,000".

After remarks, the amendment was **adopted**.

Messrs. Barrios and Joyce, Ms. Tucker, Mr. Knapik, Ms. Fargo moved that the bill be amended, by adding at the end the following new section:--

SECTION ____ . Not later than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the Affordable Housing Trust Fund, established by chapter 121D of the General Laws.

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended by inserting, after Section ____, the following new Section:-

SECTION ____ . Section 20 of Chapter 40B, is hereby amended by inserting after the word "organization" in line 9 : - "Low or moderate income housing shall include life leases granted to residents by non-profit entities, incorporated under Chapter 180 and 501 c. 3 of the IRS code. This requirement shall apply to current and future projects."

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting, after Section 109, the following Section: -

SECTION 110. All senior housing requiring an entrance deposit and a monthly fee shall be considered as rental housing units. Messrs. Lees, Knapik and Brown moved that the bill be amended, in Section 2, in item 7007-0300 by striking out "\$1,338,574" and inserting in place thereof "\$2,656,021".

The amendment was *rejected*.

Messrs. Lees, Knapik and Brown moved that the bill be amended, in Section 2, in item 7007-0300 by striking out "\$1,338,574" and inserting in place thereof "\$2,656,021".

The amendment was *rejected*.

Messrs. Lees, Tarr and Brown moved that the bill be amended, in Section 2 by inserting after line item 7007-0300 the following new line item:-

7007-0312

For the implementation and operation of the small business initiative\$1,500,000

The amendment was *rejected*.

Mr. Havern moved that the bill be amended, in Section 2, in item 7007-0900, by inserting after the word "Games;" the following: "provided further, that not less than \$500,000 shall be expended for a tourism promotion project at the Grandview Farm in

Burlington"; and in said item by striking out the figures "\$18,143,306" and inserting in place thereof the figures "\$18,643,306". The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 7007-0900, in line 29, by inserting after the word "commonwealth" the words "provided further that not less than \$30,000 shall be made available for the critical maintenance issues to the exterior and chimney of the Historic Woodcock Garrison House and One-Room School House in the town of North Attleboro."

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 7007-0900, by adding the following language:- "; provided further that not less than \$50,000 shall be expended for the Russian Community Association in Springfield."

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, in item 7007-0900, by striking out the following words:- "provided further, that not less than \$5,000 shall be expended for the Massachusetts Film Bureau and the agency shall be the primary service provider for film production and development in the commonwealth;"

The amendment was *rejected*.

Messrs. Knapik, Lees, Buoniconti, and Brewer moved that the bill be amended, in Section 2, in item 7003-0803 by inserting after the words " December 1, 1997;" the following:- "provided further, that \$88,000 shall be expended for a re-entry initiative program within the Hampden Sheriff's Department."

The amendment was *rejected*.

Ms. Walsh moved that the bill be amended by inserting after Section ____, the following new Section:-

Section ____. Section 1 of Chapter 176J of the General Laws is hereby amended by inserting at the end of the definition of "eligible small business" the following: Associations with a minimum of 100 members that have been organized and maintained in good faith for purposes other than that of obtaining insurance, as determined by the commissioner, have a constitution and by-laws or other governing document analogous thereto and have been in active existence for at least five years, shall be exempt from the provisions of this chapter, provided. Membership in said association cannot be denied based on an individual's health condition and health coverage cannot be denied due to the health condition of any individual member in order to maintain an exemption. Associations meeting said criteria shall not charge rates exceeding those which would be obtainable by an individual member company under the provisions of this chapter. If the commissioner determines that an association is not complying with the provisions of this chapter, the commissioner may disapprove of said association's eligibility and prohibit it from operating under the provisions of this section.

After debate, the amendment was *rejected*.

Messrs. Tisei, Lees, Knapik, Tarr, Hedlund, and Brown moved that the bill be amended by inserting, after Section 109, the following new section:-

"SECTION ____. Section 1 of Chapter 176J of the General Laws is hereby amended by inserting at the end of the definition of "eligible small business" the following: Associations with a minimum of 100 members that have been organized and maintained in good faith for purposes other than that of obtaining insurance, as determined by the commissioner, have a constitution and by-laws or other governing document analogous thereto and have been in active existence for at least five years, shall be exempt from the provisions of this chapter, provided. Membership in said association cannot be denied based on an individual's health condition and health coverage cannot be denied due to the health condition of any individual member in order to maintain an exemption. Associations meeting said criteria shall not charge rates exceeding those which would be obtainable by an individual member company under the provisions of this chapter. If the commissioner determines that an association is not complying with the provisions of this chapter, the commissioner may disapprove of said association's eligibility and prohibit it from operating under the provisions of this section."

The amendment was *rejected*.

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

"SECTION ____. Notwithstanding any general or special law to the contrary the Massachusetts Teachers' Retirement Board is hereby authorized and directed to recalculate the member survivor pension benefit paid to Marie Walsh, the widow of Mr. Bernard Walsh. The member survivor benefit shall be calculated under the provisions of subdivision (2) of Section 12 of Chapter 32, as amended by section 89 and section 90 of Chapter 159 of the Acts of 2000.

SECTION ____. This act shall take effect as of February 2, 2000."

After remarks, the amendment was **adopted**.

At twenty-four minutes before six o'clock P.M., the President declared a recess; and, at twenty-six minutes past seven o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Mr. Lees moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

At twenty-nine minutes past seven o'clock P.M., Mr. Lees doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Ms. Spilka, Ms. Fargo, Messrs. Tisei and McGee moved that the bill be amended, in Section 2, in item 5920-1000, by striking out the figure "\$53,490,519" and inserting in place thereof the following figure:- "\$54,853,237".
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 5920-3000, by adding at the end thereof the following : - "; and provided further that not more than \$50,000 be expended for the Friendship Home project in the town of Norwell."
The amendment was **adopted**.

Ms. Fargo moved that the bill be amended, in Section 2, in item 5930-1000, by striking out the words "October, 2005" and inserting in place thereof the following words: - "October, 2006".
The amendment was *rejected*.

Mr. Brown moved that the bill be amended by inserting after Section ____, the following new Section:-

"SECTION ____ . Notwithstanding any general of special law to the contrary, the department of mental retardation may lease two acres of land located on the grounds of the Wrentham Developmental Center to Tia's Rescue Haven for the purpose of constructing and maintaining a regional animal shelter.
The amendment was *rejected*.

Mr. Barrios moved that the bill be amended, in Section 2, in item 4800-0015 after the phrase "foster parents" to include:-provided further, no less than \$575,000 shall be expended for Center For Family Connections to provide therapeutic and rehabilitative mental health services, targeted research on well being outcomes and permanency planning for older hard to place youth and those aging out of the system;
The amendment was *rejected*.

Mr. Barrios moved that the bill be amended, in Section 2, by inserting after item 4800-0015 the following item:-

4800-0016

The department of social services is hereby authorized to expend for the operation of the department of social services transitional employment program an amount not to exceed \$2,000,000 from revenues collected from various state, county, and/or municipal government entities, as well as state authorities, for the costs related to the provision of services by the participants and the overhead costs and expenses incurred by the not for profit managing agent selected by the commissioner for administering the program. Notwithstanding any other provision of law to the contrary, the commissioner of social services is authorized to enter into a contract with Roca, Inc., a not for profit community based agency, to manage the transitional employment program and to provide services to participants from the ageing out population, parolees, probationers, youth service releasees, and/or other community residents deemed to have employment needs.
After remarks, the amendment was **adopted**.

Ms. Resor moved that the bill be amended, in Section 2, item 4800-0038, by inserting after the word "parents," in line 18 the following:- "provided further, that not less than \$150,400 shall be expended to the Town of Littleton for administrative and educational costs accrued to the Town of Littleton for services provided to Department of Social Services clients associated with a group home located in said town;"
The amendment was *rejected*.

Mr. Hart moved that the bill be amended, in Section 2, in item 4800-0038 by striking out the following language: "provided further, that not less than \$140,000 shall be expended for the Comprehensive School Age Parenting Program, Inc. for expansion of a year-round school-based program in Boston high schools and middle schools for pregnant teens, young mothers and fathers

and other youth at high-risk for school dropout" And inserting in place thereof the following: "provided further that not less than \$280,000 shall be expended for the Comprehensive School Age Parenting Program, Inc. for expansion of year-round school based programs in Boston high schools, middle schools, the South Boston Educational Complex and the Hyde Park Educational Complex for pregnant teens, young mothers and fathers and other youth at high risk for school drop out"
The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4800-0038 by inserting the following language:- "; provided further not less than \$200,000 shall be expended for the North End Outreach Network (NEON) of Springfield."
The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4800-0038, by adding the following words;- "; provided further that not less than \$100,000 shall be expend for the South End Community Center in Springfield."; and

By striking out the figure "\$271,459,996" and inserting the figure "\$271,559,996".
The amendment was **adopted**.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4800-0038, by inserting the following language:- "; provided further that not less than \$200,000 be expended for Alive With Awareness, Knowledge, and Empowerment (AWAKE) in Springfield."
The amendment was *rejected*.

Messrs. Tolman, Havern, Barrios, Tisei, Hedlund, Ms. Resor and Ms. Fargo moved that the bill be amended, in Section 2, in item 4800-0041 by adding at the end thereof the following section: "Provided further that not less than \$350,000 be provided for the existing transitional shelter and training services program for young parents administered by Just-A-Start Corporation in its current or an alternative location, being the sole remaining young parents shelter in the Metro Region for 65 cities and towns as defined by the Department of Social Services;" and striking out the figure "\$235,944,538" and inserting in place thereof the figure "\$236,294,538."
The amendment was *rejected*.

Messrs. Joyce and Tolman moved that the bill be amended, in Section 2, by striking out item 4800-1100 and inserting in place thereof the following item:-

"4800-1100

For the AA subsidiary costs of the department's social workers; provided, that funds shall be directed toward mitigating social worker caseloads in those area offices furthest above the statewide weighted caseload standard and toward achieving a social worker caseload ratio of 18 to 1 statewide; provided further, that the department shall report monthly to the house and senate committees on ways and means on this management plan and the current social worker caseloads by type of case and level of social worker assigned to cases, the caseload ratio of each social worker with a caseload ratio in excess of 18 to 1, the office in which each of the social workers works and the total number of social workers in excess of the 18 to 1 ratio by region; Provided further that the department shall develop and implement a management plan so that no social worker shall be over the 18 to 1 caseload standard for more than two consecutive months; provided further, that the department shall implement such plan by November 15, 2005 and report on said management plan to House Ways & Means and Senate Ways & Means by January 15, 2006; provided further, that only employees of bargaining unit 8 as identified in the Massachusetts personnel administrative reporting and information system shall be paid from this item; and provided further, that any other payroll or administrative expenses associated with the management or support of such employees shall be paid from item 4800-0015....\$136,297,301"
The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended, in Section 103, by inserting after the words "senate president" the following words:- ", one of whom shall be the senate minority leader or his designee"; and

By inserting after the words "speaker of the house of representatives" the following words:- ", one of whom shall be the house minority leader or his designee"

After remarks, the amendment was **adopted**.

Messrs. Antonioni and Tolman, Ms. Spilka, Messrs. Berry and Pacheco moved that the bill be amended, in Section 103, line 15, by inserting after the words "mental health" the following words:- ",suicide prevention,"; and by inserting after the word "issues" in line 17 the following words:- "and reduce the rate of suicide within the Department of Youth Services population;"
After remarks, the amendment was **adopted**.

Ms. Tucker and Messrs. Baddour and Tarr, Ms. Chandler and Messrs. Augustus, Moore, Berry and Pacheco moved that the bill be amended, in Section 2, in item 4000-0600 by inserting after the words "January 1, 2003;" the following:-"provided further, that effective July 1, 2005, nursing facility Medicaid rates shall be adjusted by no less than \$43,500,000 in the aggregate for the purpose of funding inflationary cost."
After remarks, the amendment was **adopted**.

Ms. Chandler moved that the bill be amended, in Section 2, in item 4000-0600, by inserting at the end thereof the following wording:- "; and provided further, that for the purposes of the financial eligibility exemption concerning treatment of the former home as an asset, and the repayment of assistance provided for nursing facility and other long term care services, the minimum coverage requirements for long term care insurance policies shall be no more restrictive than those that were in effect as of January 1, 2004."

The amendment was *rejected*.

Messrs. Berry and Pacheco moved that the bill be amended, in Section 2, in item 4000-0600 by inserting at the end thereof following:- "provided further, that effective July 1, 2005, nursing facility Medicaid rates shall be adjusted by no less than \$43,500,000 in the aggregate for the purpose of funding inflationary costs."

The amendment was *rejected*.

Messrs. Rosenberg, Barrios, Joyce, Montigny, and Tarr, Ms. Fargo, Ms. Resor, and Ms. Tucker moved that the bill be amended, in Section 2, in item 4000-0600, by adding the following words:- "provided further, that not less than \$2,000,000 shall be expended for the purpose of a housing with services demonstration project known as the "Caring Homes" initiative designed to delay or prevent nursing home placement by providing caregiving services to an elder; provided further, that under said demonstration project, eligible MassHealth enrollees shall be able to live in the home of an individual or relative, with the exception of spouses and dependent children, to provide for their long term supports, pursuant to regulations promulgated by said executive office";

The amendment was *rejected*.

Messrs. Tolman, Joyce, and Ms. Wilkerson, Ms. Walsh, Ms. Tucker, Ms. Chandler, and Messrs. Tarr, McGee, Knapik, O'Leary, Baddour, and Tisei moved that the bill be amended, in Section 2, in item 4000-0600, by inserting at the end thereof the following: "provided further that the Division of Health Care Finance and Policy shall establish rates for providers of adult day care for fiscal year 2006 that are, in the aggregate, not less than \$2,000,000 greater than the amount paid for the program in fiscal year 2005."

After remarks, the amendment was *rejected*.

Ms. Tucker, Ms. Spilka, Ms. Fargo, Mr. Tarr, Ms. Resor and Messrs. Barrios and Nuciforo moved that the bill be amended, in Section 2, in item 9110-1500, by striking out the figure "\$42, 015, 213" and inserting in place thereof the figure "\$45,915, 840".

The amendment was *rejected*.

Messrs. Joyce, Barrios, Montigny, O'Leary and Tarr moved that the bill be amended, in Section 2, in item 9110-1604 by striking out the item in its entirety, and replacing it with the following new item:--

9110-1604

For the operation of the supportive senior housing program, provided that said program shall be available in state or federally supported housing developments.....\$2,673,000.

The amendment was *rejected*.

Messrs. Nuciforo and Joyce, Ms. Spilka, Ms. Fargo, Mr. Tarr, Ms. Resor, Messrs. Antonioni, Barrios and Montigny, Ms. Tucker, Mr. Joyce, Ms. Spilka and Ms. Fargo moved that the bill be amended, in Section 2, in item 9110-1630 by striking the figure "98,509,945" and inserting in place thereof the following figure;- "100,481,321".

The amendment was *rejected*.

Messrs. Nuciforo and Joyce, Ms. Spilka, Ms. Fargo, Mr. Tarr, Ms. Resor, Messrs. Antonioni, Barrios and Montigny, and Ms. Tucker, Mr. Joyce, Ms. Spilka and Ms. Fargo moved that the bill be amended, in Section 2, in item 9110-1633 by striking the figure "38,627,967" and inserting in place thereof the following figure:- "39,292,911" .

The amendment was *rejected*.

Messrs. Brewer, Nuciforo, McGee, Knapik, Tarr, Fargo, Resor, Barrios, and Montigny moved that the bill be amended, in Section 2, in item 9110-1900, by striking out the figure "\$4,482,014" and inserting in place thereof the following figure:- "5,237,000".

After remarks, the amendment was **adopted**.

Messrs. Buoniconti, Lees, Knapik, Pacheco, Hart, and Ms. Menard moved that the bill be amended by inserting the following outside section:

Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in conjunction with the Executive Office of Elder Affairs and the Office of Medicaid, shall by August 1, 2005, for all non-acute chronic and rehabilitation hospitals, adopt and implement, for the rate year effective 10/01/05, a Medicaid rate reimbursement methodology, that utilizes a hospital base year of either 2002 or 2003; provided further that in calculating the Medicaid rate of reimbursement,

such reimbursement shall exclude any costs associated with any beds licensed by the Department of Health.
The amendment was **adopted**.

Mr. Knapik moved that the bill be amended in Section 80, by adding the following words:- "And further, the Soldiers' Home in Holyoke is authorized to transfer into said account an amount of \$49,000 from the Trustees Account and to deposit thereafter any and all sums generated by said licenses."
The amendment was **adopted**.

Ms. Spilka, Ms. Fargo, Ms. Chandler, Messrs. Tarr, Tisei, McGee and Brewer, Ms. Creem and Messrs. O'Leary and Morrissey moved that the bill be amended, in Section 2, in item 4120-4000, by adding the following words"; provided further that the 11 centers for independent living shall receive \$1,000,000 more than they received in fiscal year 2005"; and by striking out the figure "\$8,040,597" and inserting in place thereof the following figure:- "\$9,040,597".
The amendment was *rejected*.

Messrs. Augustus, Tolman, O'Leary, Knapik, Ms. Chandler, Ms. Tucker and Ms. Spilka moved that the bill be amended, in Section 2, in item 4120-4000, by striking the figure "\$858,000" and inserting in place thereof the following figure:- "\$1,183,000" and moved to further amend the bill, in Section 2, in item 4120-4000, by striking the figure "\$8,040,597" and inserting in place there of the following figure:- "8,365,597".
The amendment was *rejected*.

Ms. Tucker moved that the bill amended, in Section 2, in item in item 1599-6901, in line 18 by inserting after "adjustments", the following, "be compared with the average salary of equivalent job titles in each state agency receiving funding".
The amendment was *rejected*.

Messrs. Augustus, O'Leary, Moore, Tarr, Ms. Resor and Ms. Fargo moved that the bill be amended, in Section 2, in item 4400-1100, by striking the figure "\$53,681,903" and inserting in place thereof the following figure:- "\$55,681,903".
The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, in item 440X-XXXX by inserting the following:

"For the First Stop Initiative early warning homelessness prevention program to provide assistance, advocacy, and referrals to aid at-risk low-income families and individuals in retaining or obtaining affordable housing and services, administered by the Massachusetts Coalition for the Homeless, in conjunction with community health center.....\$500,000".
The amendment was *rejected*.

Mr. Augustus moved that the bill be amended, in Section 2, in item 4403-2120 by inserting after the words " East Boston." the following "provided further, that not less than \$500,000 shall be expended for the Playspace Programs operated by Horizons for Homeless Children serving children residing in family shelters."
The amendment was *rejected*.

Mr. Moore, Ms. Tucker, Ms. Fargo and Mr. Hedlund moved that the bill be amended, in Section 2, in item 4405-2000, by inserting after the words "November 1, 2003" the following:- Effective July 1, 2005 through June 30, 2006, the division of health care finance and policy shall establish rates for residential care facilities (rest homes) maintaining regulations effective January 1- June 30, 2005; provided further that the revised cost adjustment factor applied to the Variable Cost Allowance is 8.04%;provided further that the total payment adjustment as defined in 114.2 CMR 4.04 (12) (c) is eliminated; and is hereby further amended by striking the number \$205,568,300 and replacing it with the following : \$207,628,300.
After debate, the amendment was *rejected*.

Mr. Lees moved that the bill be amended, in Section 2, in item 4400-1000, by striking the figure "\$64,700,000" and inserting in place thereof the following : "\$65,800,906"
The amendment was *rejected*.

Ms. Fargo moved that the bill be amended, in Section 2, in item 4406-3000 by inserting after the words "homeless and indigent"; the following: - "provided further, that not less than \$50,000 shall be expended for the Community Day Center in Waltham."
The amendment was *rejected*.

Messrs. Lees, Knapik and Buoniconti moved that the bill be amended, in Section 2, in item 4406-3000 by inserting at the end thereof the following language:- "provided further, that not less than \$300,000 shall be expended for the Open Pantry Warming Place in the city of Springfield".
The amendment was *rejected*.

Mr. Pacheco moved that the bill be amended, in Section 2, in item 4406-3000 by inserting at the end thereof:- "; and provided further that no organization providing services to the homeless shall receive less than an average per bed/per night rate of

\$12.92."

The amendment was **adopted**.

Messrs. Tarr, Berry and McGee moved that the bill be amended, in Section 2, in item 6010-0001, by inserting at the end thereof the following: - "provided further, that portions of state highway routes 1A, 129, 129A, 114, and 127 in the cities of Lynn, Salem, Beverly and Gloucester and the towns of Swampscott, Marblehead, and Manchester-by-the-Sea, and Rockport hereby be designated as a state scenic byway."

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended, in Section 2, in item 6010-0001 by inserting after the word "repair" with the following "provided further, \$150,000 shall be expended to the Town of Milton for economic development on Central Avenue".

The amendment was *rejected*.

Ms. Resor moved that the bill be amended in section 2, in item 6030-7201 by inserting after the word "vehicle repair", the following:- "fuel costs,".

After remarks, the amendment was **adopted**.

Ms. Resor moved that the bill be amended by inserting after Section 13, the following new section:

"SECTION 13A. Section 20 of chapter 44 of the General Laws, as most recently amended by section 33 of chapter 46 of the acts of 2003, is hereby further amended by inserting at the end thereof the following sentence:- The provisions of the proceeding 2 sentences shall apply only to bond premiums received on or after July 31, 2003."

The amendment was *rejected*.

Mr. Havern moves to amend the bill by inserting a new section at the end thereof the following:-

"SECTION ____ . Cities and Towns may set a cost for electronic public records of no more that \$0.02 (2 cents) per name; this cost shall not apply to voter list electronic records."

The amendment was *rejected*.

Messrs. Hart, Baddour and Nuciforo, Ms. Tucker, Mr. McGee, Ms. Chandler, Mr. Tarr, Ms. Spilka, Messrs. Brown and Panagiotakos moved that the bill be amended by inserting after Section ____ the following new Section: -

SECTION ____ . Chapter 43D of the General Laws, as inserted by section 94 of chapter 149 of the Acts of 2004, is hereby amended by striking out the chapter in its entirety and inserting in place thereof the following:-

CHAPTER 43D

Expedited Permitting

Section 1. Notwithstanding any general or special law, charter provision, by-law or ordinance to the contrary this chapter shall apply upon its acceptance by any city or town.

Section 2. For the purposes of this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

"Governing body", in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen.

"Interagency Permitting Board", the board, as described in section 62 of chapter 23A, established to review and approve or deny municipal priority development site proposals and to grant and administer technical assistance grants.

"Issuing authority", a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

"Permit", a permit formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land, buildings, or structures required by any issuing authority including but not limited to those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclusive, of chapter 111, chapter 40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance, and all associated regulations, bylaws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. "Permit" shall not include the decision of an agency to dispose of property under its management or control; predevelopment reviews conducted by the municipal office of permit coordination or a technical review team; or permits granted by the Massachusetts Water Resources Authority.

"Priority Development site", a privately or publicly owned property that is (1) commercially or industrially zoned, (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for the development or redevelopment of a building at least 50,000 square feet of gross floor area in new or existing buildings or structures, and (3) designated as a priority development site by the board. Several parcels or projects may be included within a single priority development site.

"Secretary", the secretary of the executive office of economic development.

"Technical Review team", an informal working group consisting of representatives of the various issuing authorities designed by the head of their issuing authority to review requests submitted under this chapter. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) For a property to receive a designation as a priority development site, the governing body must file a formal proposal with the board. The proposal shall include: (1) a detailed description of the property, (2) good faith commitment to comply with the provisions of this chapter, (3) written authorization of the property owner, and (4) at the discretion of the governing body, a request for a technical assistance grant.

(b) All requests for a technical assistance grant, shall include a detailed description of how the grant will be used and shall be submitted with the formal proposal as described in subsection (a). The grants shall be used to implement the requirements of this chapter, which shall include but not limited to, professional staffing assistance, local government reorganization, and consulting services. The board shall review and determine eligibility of such proposals and approve requests within 60 days of receipt of such proposals. In special circumstances where a specific and originally unforeseen need can be demonstrated, the governing body may be eligible for an additional technical assistance grant if approved by the board and the secretary.

Section 4. Within 120 days of the acceptance of this chapter the governing body shall implement the following:

(a) appoint a single point of contact to serve as the primary municipal liaison for all issue relating to the provisions of this chapter.

(b) amend rules and regulations on permit issuance to conform to this chapter,

(c) along with the issuing authority, collect and ensure the availability of all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit.

(d) establish a procedure whereby the governing body shall determine all permits, reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities and a procedure for notifying the applicant.

(e) establish a procedure, following the notification of the required submissions for review as set forth in subsection (d) of this section, for determining if all the materials required for the review of the project has been completed.

Section 5. (a) Priority development permit reviews and final decisions shall be completed within 180 days subject to the extension herein. The said time period shall begin the day after the issuance of the notice that the application materials are complete pursuant to subsection (e) of section 4 . The governing body shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have. The governing body may provide for pre-application conferences to facilitate this process.

(b) The resubmission of the application or the submission of such additional information required by the governing body shall commence a new 30-day period for review of the additional information.

(c) If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall where public notice and comment or hearings are not required complete action on the application filed for the previously unidentified permit within 30 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows. The failure of the governing body to notify an applicant of the requirement of a public hearing or comment period shall not constitute a waiver of said requirement.

Section 6. In accordance with the provisions of this chapter, the governing body:

(a) may establish an informal procedure to allow permit applicants to obtain advisory review by a technical review team of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing

authority which has affected or will affect the ability of the applicant to obtain timely review of the permit application. Procedures shall provide for a filing a request for review by the applicant, representation by the issuing authority on the technical review team, and a period not to exceed 30 days for issuance of a decision. Use of this procedure shall toll the review time periods. An advisory determination or ruling made pursuant to a procedure established in this section shall not constitute a decision or final action and shall not be subject to any right of administrative or judicial review;

(b) may establish an additional and separate fee, in addition to any fees that may be assessed by an issuing authority in order to carry out its duties under any provision of this chapter, and may deposit the fees in a special account to be maintained by the treasurer. The special account, including any accrued interest shall be expended at the direction of the governing body, without further appropriation; provided, however, that the funds shall be expended only in carrying out its responsibilities under this chapter

Section 7. Failure by any issuing authority to take final action on a permit or approval within said 180-day period or extended time, if applicable, shall be deemed a grant of the relief requested of that authority. In that event, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to said grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to such notice of hearing in connection with the application.

Section 8. The said grant shall not occur where (1) the governing body has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application; (2) the governing body has determined that the final application contained false or misleading information; or (3) the governing body has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

Section 9. The 180 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body or upon written request of the issuing authority with the consent of the applicant. The said 180 day period may be extended for up to 30 days by the governing body in the event an additional permit or other predevelopment review is required in accordance with section 5 (c); provided however, that the requirement for the previously unidentified permit or review has been determined no less than 150 days after the issuance of the notice of completeness. The 180 day time period shall be extended when the issuing authority determines either (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In such circumstances, the issuing authority must provide written notification to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued. An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

Where chapter 831 of the acts of 1977 and chapter 716 of the acts of 1989 require or allow a referral of a permit application to a regional commission, the 180 day time period shall be extended until completion of the regional commission's review. In cases where a regional commission denies a regional permit on a priority development site in accordance with the aforementioned chapters, the issuing authority shall cease the 180 day review period without penalty. The provisions of chapter 831 of the acts of 1977 and chapter 716 of the acts of 1989 shall apply to this chapter.

Section 10. (a) Appeals from issuing authority decisions or from a grant by operation of law, must be filed within 20 days after the last such individual permitting decision has been rendered or within 20 days after the conclusion of the 180 day period as set forth in Section 5 A, whichever is later. The 180 day period shall be increased by the number days in any extension granted under this chapter.

(b) A person aggrieved by a final decision of any issuing authority, or by the failure of such authority to take final action concerning any such application within the time specified,

whether or not previously a party to the proceeding, or any governmental officer, board, or agency, may appeal to the division of administrative law appeals by bringing an action within 20 days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. Nothing in this section shall apply to appeals pursuant to sections 40 and 40A of chapter 131, which shall continue to be appealed in accordance with said chapter, chapter 30A and applicable regulations.

(c) When hearing appeals hereunder, the said division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of this chapter.

(d) The said division shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the land court department by bringing an action within 20 days after the said division has rendered a final decision.

Section 11. (a) Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

(b) Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this chapter.

(c) Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original review period for permit categories as set forth in section 5 shall apply.

(d) Permits issued pursuant to this chapter shall expire five years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 12. A municipality that designates a priority development site shall be eligible for the following:

- (a) priority consideration for community development action grants, and public works economic development grants;
- (b) priority consideration for other state resources such as quasi-public financing and training programs;
- (c) brownfields remediation assistance;
- (d) enhanced marketing by the Massachusetts office of business development; and
- (e) technical assistance provided by the Massachusetts Development Finance Agency.

Section 13. Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall be conducted concurrently and shall conclude within 120-days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

Section 14. Nothing in this chapter shall be construed to alter the substantive jurisdictional authority of issuing authorities.

Section 15. The secretary shall promulgate such rules and regulations as are necessary to implement the purposes of this chapter. The amendment was *rejected*.

Mr. Baddour moved that the bill be amended by inserting after Section 109, the following new Section:-

"SECTION 110. Section 6 of Chapter 43D of the General Laws, as inserted by section 94 of chapter 149 of the Acts of 2004, is hereby amended by striking out the chapter in its entirety and inserting in place thereof the following:-

CHAPTER 43D

Expedited Permitting

Section 1. Notwithstanding any general or special law, charter provision, by-law or ordinance to the contrary this chapter shall apply upon its acceptance by any city or town.

Section 2. For the purposes of this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

"Governing body", in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen.

"Interagency Permitting Board", the board, as described in section 62 of chapter 23A, established to review and approve or deny municipal priority development site proposals and to grant and administer technical assistance grants.

"Issuing authority", a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

"Permit", a permit formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land, buildings, or structures required by any issuing authority including but not limited to those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclusive, of chapter 111, chapter 40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance, and all associated regulations, bylaws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. "Permit" shall not include the decision of an agency to dispose of property under its management or control; predevelopment reviews conducted by the municipal office of permit coordination or a technical review team; or permits granted by the Massachusetts Water Resources Authority.

"Priority Development site", a privately or publicly owned property that is (1) commercially or industrially zoned, (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for the development or redevelopment of a building at least 50,000 square feet of gross floor area in new or existing buildings or structures, and (3) designated as a priority development site by the board. Several parcels or projects may be included within a single priority development site.

"Secretary", the secretary of the executive office of economic development.

"Technical Review team", an informal working group consisting of representatives of the various issuing authorities designed by the head of their issuing authority to review requests submitted under this chapter. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) For a property to receive a designation as a priority development site, the governing body must file a formal proposal with the board. The proposal shall include: (1) a detailed description of the property, (2) good faith commitment to comply with the provisions of this chapter, (3) written authorization of the property owner, and (4) at the discretion of the governing body, a request for a technical assistance grant.

(b) All requests for a technical assistance grant, shall include a detailed description of how the grant will be used and shall be submitted with the formal proposal as described in subsection (a). The grants shall be used to implement the requirements of this chapter, which shall include but not limited to, professional staffing assistance, local government reorganization, and consulting services. The board shall review and determine eligibility of such proposals and approve requests within 60 days of receipt of such proposals. In special circumstances where a specific and originally unforeseen need can be demonstrated, the governing body may be eligible for an additional technical assistance grant if approved by the board and the secretary.

Section 4. Within 120 days of the acceptance of this chapter the governing body shall implement the following:

- (a) appoint a single point of contact to serve as the primary municipal liaison for all issue relating to the provisions of this chapter.
- (b) amend rules and regulations on permit issuance to conform to this chapter,
- (c) along with the issuing authority, collect and ensure the availability of all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit.
- (d) establish a procedure whereby the governing body shall determine all permits, reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities and a procedure for notifying the applicant.
- (e) establish a procedure, following the notification of the required submissions for review as set forth in subsection (d) of this section, for determining if all the materials required for the review of the project has been completed.

Section 5. (a) Priority development permit reviews and final decisions shall be completed within 180 days subject to the extension herein. The said time period shall begin the day after the issuance of the notice that the application materials are complete pursuant to subsection (e) of section 4 . The governing body shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have. The governing body may provide for pre-application conferences to facilitate this process.

(b) The resubmission of the application or the submission of such additional information required by the governing body shall commence a new 30-day period for review of the additional information.

(c) If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall where public notice and comment or hearings are not required complete action on the application filed for the previously unidentified permit within 30 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows. The failure of the governing body to notify an applicant of the requirement of a public hearing or comment period shall not constitute a waiver of said requirement.

Section 6. In accordance with the provisions of this chapter, the governing body:

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

(b) may establish an additional and separate fee, in addition to any fees that may be assessed by an issuing authority in order to carry out its duties under any provision of this chapter, and may deposit the fees in a special account to be maintained by the treasurer. The special account, including any accrued interest shall be expended at the direction of the governing body, without further appropriation; provided, however, that the funds shall be expended only in carrying out its responsibilities under this chapter

Section 7. Failure by any issuing authority to take final action on a permit or approval within said 180-day period or extended time, if applicable, shall be deemed a grant of the relief requested of that authority. In that event, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to said grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to such notice of hearing in connection with the application.

Section 8. The said grant shall not occur where (1) the governing body has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application; (2) the governing body has determined that the final application contained false or misleading information; or (3) the governing body has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

Section 9. The 180 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body or upon written request of the issuing authority with the consent of the applicant. The said 180 day period may be extended for up to 30 days by the governing body in the event an additional permit or other predevelopment review is required in accordance with section 5 (c); provided however, that the requirement for the previously unidentified permit or review has been determined no less than 150 days after the issuance of the notice of completeness. The 180 day time period shall be extended when the issuing authority determines either (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In such circumstances, the issuing authority must provide written notification to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued. An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

Where chapter 831 of the acts of 1977 and chapter 716 of the acts of 1989 require or allow a referral of a permit application to a regional commission, the 180 time period shall be extended for such review. In cases where a regional commission denies a permit on a priority development site in accordance with the aforementioned chapters, the issuing authority shall cease the 180 review period without penalty.

Section 10. (a) Appeals from issuing authority decisions or from a grant by operation of law, must be filed within 20 days after the last such individual permitting decision has been rendered or within 20 days after the conclusion of the 180 day period as set forth in Section 5 A, whichever is later. The 180 day period shall be increased by the number days in any extension granted under this chapter.

(b) A person aggrieved by a final decision of any issuing authority, or by the failure of such authority to take final action concerning any such application within the time specified, whether or not previously a party to the proceeding, or any

governmental officer, board, or agency, may appeal to the division of administrative law appeals by bringing an action within 20 days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. Nothing in this section shall apply to appeals pursuant to sections 40 and 40A of chapter 131, which shall continue to be appealed in accordance with said chapter, chapter 30A and applicable regulations.

(c) When hearing appeals hereunder, the said division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of this chapter.

(d) The said division shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the land court department by bringing an action within 20 days after the said division has rendered a final decision.

Section 11. (a) Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

(b) Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this chapter.

(c) Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original review period for permit categories as set forth in section 5 shall apply.

(d) Permits issued pursuant to this chapter shall expire five years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 12. A priority development site shall be eligible for the following:

- (a) priority consideration for community development action grants, and public works economic development grants;
- (b) priority consideration for other state resources such as quasi-public financing and training programs;
- (c) brownfields remediation assistance;
- (d) enhanced marketing by the Massachusetts office of business development; and
- (e) technical assistance provided by the Massachusetts Development Finance Agency.

Section 13. Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall be conducted concurrently and shall conclude within 120-days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

Section 14. Nothing in this chapter shall be construed to alter the substantive jurisdictional authority of issuing authorities.

Section 15. The secretary shall promulgate such rules and regulations as are necessary to implement the purposes of this chapter. The amendment was *rejected*.

Mr. Nuciforo moved that the bill be amended by inserting after section 109 the following section:-

"Section 110. Notwithstanding any general or special law to the contrary, the accumulated deductions, including interest, credited as of July 1, 2005 to the annuity savings accounts of persons employed by the Berkshire Regional Planning Commission who are members of the Pittsfield retirement system shall be transferred to the state employees' retirement system. The public employee retirement administration commission shall certify to the state board of retirement that the amounts transferred under this act are accurate.

Upon completion of the required documentation and acceptance by the state board of retirement under applicable law and regulations, as of July 1, 2005, persons employed by the Berkshire Regional Planning Commission who are members of the Pittsfield retirement system shall become members of the state employees' retirement system and shall be subject to the rules and regulations of that system.

Under paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws, the Pittsfield retirement system shall reimburse the state employees' retirement system for the amount of any retirement allowance that would be paid to employees transferred under this act that is attributable to their credible service while employees of the Berkshire Regional Planning Commission and members of the Pittsfield Retirement System. This provision shall have no effect on any other liability under said chapter 32 that the Pittsfield Retirement System may have to the state employees' retirement system.

The state board of retirement shall not be responsible for any amount of retirement allowance, disability allowance, or other benefit under said chapter 32 for any employee, survivor or beneficiary of the Berkshire Regional Planning Commission existing on or before July 1, 2005 from the Pittsfield retirement system, or for any portion of any unfunded liability that may exist for an employee, survivor, or beneficiary of the Berkshire Regional Planning Commission related to the Pittsfield retirement system." The amendment was **adopted**.

Mr. Moore moved that the bill be amended by adding at the end thereof the following 2 new sections:-

SECTION _____. The first paragraph of section 57 of chapter 59 of the General Laws, as appearing in section 102 of chapter 149 of the acts of 2004, is hereby further amended by striking out the last sentence.

SECTION _____. The seventh paragraph of section 57C of chapter 59 of the General Laws, as appearing in section 26 of chapter 352 of the acts of 2004, is hereby further amended by striking out the second sentence. The amendment was *rejected*.

Messrs Tarr, Lees, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by inserting, after section 109, the following new section: -

"SECTION _____. There is hereby established a commission to evaluate the feasibility and potential benefits of allowing municipalities to extend the time for payment of obligations for municipal borrowing for new capital projects for a period not to exceed 40 years. The Commission shall be comprised of the Commissioner of the Department of Revenue or his designee, the Secretary of Administration and Finance, or his designee, 3 members from the House Committee on Ways and Means, at least one being a member of the minority party, and 3 members from the Senate Committee on Ways and Means, at least one being a member of the minority party. Said Commission shall file a report, together with any legislative recommendations with the Senate and House Committees on Ways and Means and the House and Senate Clerks not later than December 31, 2005." The amendment was **adopted**.

Messrs. Tarr, Lees, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by inserting, after section 109, the following new section: -

"SECTION _____. Section 117 of Chapter 46 of the Acts of 2003 is hereby amended by striking out the section in its entirety and replacing it therein with the following new section: - "Notwithstanding section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, during fiscal year 2004, 2005 and 2006, so long as a municipality has entered into a purchase and sale agreement to dispose of property in accordance with this section by December 31, 2005, the municipality shall be authorized to dispose of the property consistent with this section, in a town, following a majority vote by the board of selectmen that is ratified by a special or annual town meeting, or in a city, following a majority vote of the city council and approval by the mayor, the proceeds of the sale or other disposal of real estate, including the taking by eminent domain by another governmental unit, but other than that acquired through tax title foreclosure, by a city, town or district, that exceed \$500, may be applied for any purpose or purposes for which the city, town or district deems necessary during said fiscal years, except that the proceeds of a sale in excess of \$500 of any park land by a city, town, or district shall be used only by said city, town, or district for acquisition of land for park purposes or for capital improvements to park land, shall be authorized to dispose of the property consistent with this section." The amendment was **adopted**.

Messrs. O'Leary and McGee, Ms. Fargo, Mr. Moore, Ms. Spilka, and Ms. Resor moved that the bill be amended by adding at the end thereof the following sections:-

"Notwithstanding any general or special law to the contrary, the city council of a city may, on recommendation of the mayor, transfer within the last 2 months of any fiscal year any amount appropriated for the use of any department to the appropriation for any other department. In a town, the selectmen or town council, with the concurrence of the finance committee or other entity established under section 16 of chapter 39 of the General Laws, may transfer within the last 2 months of any fiscal year any amount appropriated for the use of any department to the appropriation for any other department. Transfers under this section may not exceed, in the aggregate, 3 per cent of the annual budget of the department which the transfer is made. A transfer under

this section shall not be made from any appropriation for a municipal light department under chapter 164 of the General Laws or for a school district as defined in section 2 of chapter 70 of the General Laws."

The amendment was **adopted**.

Mr. Creedon moved that the bill be amended by adding the following new section:

SECTION ___ Section 53G of Chapter 44, as appearing in the 2002 Official Edition, is hereby amended by striking the first sentence in lines 1 through 6 and inserting the following language:- "Notwithstanding the provisions of section fifty-three, any city or town that provides by rules promulgated under section 9 or 12 of chapter 40A, section 21 of chapter 40B, section 81Q of chapter 41 or section 31 of chapter 111, or by rules promulgated by a conservation commission established by a city or town under section 8C of chapter 40 when implementing the authority conferred under section 8C of chapter 40, section 40 of chapter 131, or under any local wetlands ordinance or bylaw, for the imposition of reasonable fees for the employment of outside consultants may deposit such fees in a special account."

After remarks, the amendment was *rejected*.

Ms. Menard in the Chair, Ms. Creem moved that the bill be amended by inserting after Section ___ the following new Section:-

SECTION ___. Chapter 40 of the General Laws as appearing in the Official Edition is hereby amended by striking out section 39J and inserting the following section:

"Section 39J. In any city or town which accepts the provisions of this section, either by a vote of the city council, board of selectmen, board of water commissioners, or by vote of said city or town in a general election or town meeting, said city or town shall for the purposes of water conservation, water resource management, water resource planning and comprehensive financial management, adopt a pricing system which includes the costs of the provision of water and sewer services to the residents and industrial and commercial users of said city or town receiving said services; and may include the costs of operation, construction and maintenance of storm drain facilities in said city or town. The definition of costs as used in this section shall include, but not be limited to, costs of pipe and related appurtenances, replacement stock for water and sewer, costs relating to the replacement and repair thereof including street work, maintenance of all equipment and services, all costs relating to the metering of water, all related costs of police and fire protection, all administrative costs relating to the collection of said water and sewer fees, all costs relating to the personnel of the departments, as well as any long term planning costs for the continues provision of said services, and any costs of land acquisition relating to long range planning and future water supply development or wastewater treatment facilities."

After remarks, the amendment was **adopted**.

Mr. Hedlund moved that the bill be amended by adding, after Section 109, the following new Section: -

SECTION 110. Notwithstanding clause 41A of section 5 of chapter 59 of the General Laws the town of Cohasset may, by vote of town meeting prior to the start of any fiscal year of the town after the effective date of this act as specified in section 3 hereof, adopt for such fiscal year a higher maximum qualifying gross receipts amounts for purposes of qualifying seniors for the exemption contained in said clause 41A of section 5 of chapter 59; provided however, such maximum gross qualifying receipts amount shall not exceed fifty thousand dollars in the first fiscal year to which this act applies as set forth in section 3 hereof. An amount equal to fifty thousand dollars plus the cumulative increase in the consumer price index as issued by the United States Department of Labor, Boston Metropolitan Area, all Urban Consumers, calculated using calendar year 2004 as the base year, may be adopted by the town in accordance with this section, for the town's fiscal year 2006 beginning July 1, 2005 and ending June 30, 2006 and similarly in subsequent fiscal years.

SECTION 2. Notwithstanding clause 41A of section 5 of chapter 59 of the General Laws, the rate of interest to be charged persons with unpaid taxes by reason of the use of said clause 41A shall be variable interest rate set once a year annually, not later than August 1 of each year, by majority vote of the board of selectmen of the town of Cohasset; provided however, such rate shall not be lower than the average prime rate charged by the 3 leading banks doing business in the Boston metropolitan area nor higher than the 8% rate set forth in said clause 41A.

SECTION 3. Section 1 of this act shall take effect upon passage and shall apply first on July 1 of the fiscal year of the town of Cohasset first occurring after the effective date of this act; section 2 of this act shall take effect upon passage as to interest calculations from the effective date going forward until the taxes are paid accordance with clause 41A of section 5 of chapter 59 of the General Laws to any taxpayer applicable to the period of time prior to the effective date of this act shall not be reduced or altered in any way section 2 of this act.

The amendment was *rejected*.

At five minutes past eight o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Ms. Menard) declared a recess; and, at six minutes past nine o'clock P.M., the Senate reassembled, Ms. Menard in the Chair.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading. **There being no objection, the following amendments were considered as one and adopted, to wit:**

Mr. Pacheco moved that the bill be amended by inserting the following new section:-

SECTION __. Section 3 of Chapter 150E of the General Laws is hereby amended by inserting at the end thereof the following new paragraph:-

"The appropriate bargaining unit in the case of employees of the committee for public counsel services created by chapter 211D of the General Laws, shall be a professional unit composed of attorneys and all non managerial and non confidential staff. The employer shall be the committee for public counsel services or any individual who is designated by the committee to represent the committee and act in its interests in dealing with such employees."

The amendment was **adopted**.

Mr. Nuciforo moved that the bill be amended, in Section 2, in item 0330-0410, by inserting after the words, "and probate courts;" the following:- "provided further, that not less than \$25,863 shall be expended for the Housing Services and Mediation Program operated by the Berkshire County Regional Housing Authority in Pittsfield; provided further, that not less than \$29,558 shall be expended for Berkshire Mediation Services Inc.;"

The amendment was **adopted**.

Mr. Brewer moved that the bill be amended, in Section 2, in item 0332-0100, by inserting at the end thereof the following words:- "provided further, that not less than \$10,000 shall be expended to the Pioneer Valley Transit Authority to provide transportation to residents of Ware to the District Court in Hadley;"

The amendment was **adopted**.

Mr. Pacheco moved that the bill be amended by inserting after Section __, the following new Section:-

"SECTION __. Chapter 7 of the General Laws is hereby amended by inserting after section 23A the following section:-

Section 23B. (a) Notwithstanding sections 22 to 23A, inclusive, and to the extent permitted by federal law, a state agency or a state authority may, when purchasing agricultural products, including but not limited to fruits, vegetables, eggs, dairy products and crops, make a preference for such products produced or harvested in the commonwealth, all other considerations being equal.

(b) Where a state agency or state authority makes a preference for agricultural products produced or harvested in the commonwealth, the state purchasing agent responsible for procuring such agricultural products on behalf of the state agency or state authority shall effectuate such preference unless the agent determines that:

- (1) procurement of agricultural products produced or harvested outside of the commonwealth is essential;
- (2) an agricultural product is not produced, harvested or otherwise available from any producer in the commonwealth at the time of the procurement; or
- (3) compliance with this section would eliminate the only bid or offer of an agricultural product or would result in inadequate competition.

SECTION 2. Chapter 30B of the General Laws is hereby amended by inserting after section 19 the following section:-

SECTION 20. (a) Notwithstanding sections 1 to 19, inclusive, and to the extent permitted by federal law, a government body may, by a majority vote, make a preference for agricultural products, including but not limited to fruits, vegetables, eggs, dairy products and crops, produced or harvested in the commonwealth when procuring such products pursuant to its authority, all other considerations being equal.

(b) Where a government body by a majority vote makes a preference for the procurement of agricultural products produced or harvested in the commonwealth, the chief procurement officer or procurement officer responsible for procuring such agricultural products on behalf of the government body shall effectuate such preference unless the officer determines that:

- 1) procurement of agricultural products produced or harvested outside of the commonwealth is essential;
- 2) an agricultural product is not produced, harvested or otherwise available from any producer in the commonwealth at the time of the procurement; or
- 3) compliance with this section would eliminate the only bid or offer of an agricultural product or would result in inadequate competition.

The amendment was **adopted**.

Ms. Resor moved that the bill be amended, in Section 2, in item 2800-0100 in line 25 by adding after the words "overtime costs" the words:- ";provided further, that the department shall, in collaboration with the department of environmental protection and the department of fish and game, establish and maintain a comprehensive inventory of all dams in Massachusetts, and develop a coordinated permitting and regulatory approach to dam removal for stream restoration and public safety."

The amendment was **adopted**.

Messrs. Pacheco, Creedon, and Joyce moved that the bill be amended, in Section 2, in item 2800-0101 by inserting the following:- "provided further, that not less than \$250,000 shall be expended for a comprehensive study, including a management plan, for the entire Taunton River watershed, in accordance with the Executive Office of Environmental Affairs "Proposal for Watershed work Affecting Water Quality-Wastewater Quality-Wastewater Discharges and Stormwater Discharges" dated 2/11/03 to be conducted in partnership by the Old Colony Planning Council, the Southeastern Regional Planning & Economic Development District, and the Watershed Access Lab at Bridgewater State College."

The amendment was **adopted**.

Messrs. Tarr, Brown and Brewer moved that the bill be amended, in Section 2, in item 2820-0100 by inserting, following the words "Red Rock park on Lynn Shore drive, in the city of Lynn" the following: - "provided further, that \$60,000 shall be expanded for funding of current employees of the Bureau of Forest Fire Control under their new reclassification Firefighter Services;"

The amendment was **adopted**.

Ms. Walsh moved that the bill amended, in Section 2, in item 2820-0100, by inserting after the word "recreation" the following: "provided further, that not less than \$40,000 shall be expended for the completion of a comprehensive cost study of a master plan for the maintenance and improvement of all property under the care, custody and control of the division in the West Roxbury section of the city of Boston including such measures but not limited to the planting, pruning, reforestation, enhancement of pedestrian access walks and the removal of leaves, snow and debris in said property"; and in said line item by striking out the figures "\$22,718,929" and inserting in place thereof the figures "\$22,758,929."

The amendment was **adopted**.

Messrs. Lees, Tarr, Hedlund, Knapik and Brown moved that the bill be amended, in Section 104, by inserting after the words "speaker of the house" in line 19 the following words:- ", 1 of whom shall be the house minority leader or his designee" and further moved to amend the bill, in said Section, by insert after the words "senate president in line 20 the following words:- ", 1 of whom shall be the senate minority leader of his designee."

The amendment was **adopted**.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended, in Section 105, by inserting after the words "speaker of the house" in lines 6 and 7 the following words:- ", 1 of whom shall be the house minority leader or his designee" and further moved to amend the bill, in said Section, by insert after the words "senate president" in line 8 the following words:- ", 1 of whom shall be the senate minority leader of his designee"

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended in section 47, in line 2, by adding after the words "appropriated herein" the following:- "for recreational rink projects but excluding any bathhouse project".

The amendment was **adopted**.

Mr. Brewer and Ms. Resor moved that the bill be amended, in Section 2, in item 2030-1000, by inserting at the end the following:- "provided that \$100,000 shall be expended for the cost of patrols performed by environmental law enforcement officers within properties controlled by the division of state parks and recreation" And further amended the item by striking the figure "9,913,746" and inserting in place thereof the following figure:- "10,013,746".

The amendment was **adopted**.

Mr. Montigny moved that the bill be amended, in Section 2, by striking out item 2030-1004 and inserting in place thereof the following new item:-

2030-1004 For environmental police private details; provided that the office may expend revenues of up to \$250,000 collected from fees charged for private details; provided further that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system
.....\$250,000.

The amendment was **adopted**.

Messrs. Montigny and Pacheco, and Ms. Menard moved that the bill be amended, in Section 2, by inserting after item 2260-8881 the following item:-

"2260-8882

For expenses associated with the pilot watershed wetlands mitigation bank in the Taunton River watershed, established by section 80 of chapter 291 of the acts of 2004; provided, however, that the funds expended shall be repaid to the General Fund within 6 months after credits valued in excess of the amounts expended have been sold and paid\$140,000"
The amendment was **adopted**.

Messrs. Moore and O'Leary moved that the bill be amended, in Section 2, in item 2310-0200, by striking the numbers "\$8,420,362" and inserting in place thereof the numbers "\$8,700,000."
The amendment was **adopted**.

Mr. Tarr moved that the bill be amended, in Section 2, in item 2330-0100 by inserting, after the words " Family Fishing Assistance Center in the city of New Bedford" the following: - "provided further, that \$50,000 shall be expended for the Family Fishing Assistance Center in the city of Gloucester."; and

In Section 2, in item 2330-0100 by striking out the figure \$3,910,725 and inserting in place thereof the following figure: - \$4,010,725.
The amendment was **adopted**.

Mr. Baddour moved that the bill be amended, in Section 2, in item 6000-0100 by inserting after words "June 30, 2006 and the last day of each subsequent fiscal year;" the following:-"provided further, that no less than \$25,000 shall be expended for costs associated with the special commission on transportation finance established pursuant to section 13 of chapter 196 of the acts of 2004."
The amendment was **adopted**.

Mr. Morrissey and Mr. Creedon moved that the bill be amended by inserting after section 105 the following new section:-

SECTION . Notwithstanding any general or special law to the contrary, every agency, commission, department, authority, and higher education facility of the Commonwealth, which has a retained revenue account, a revolving account or trust account, shall provide an itemized financial report on November 1 of each year to the House and Senate committees on ways and means, the House and Senate Clerk, and the Governor on expenditures made during the previous fiscal year from said accounts including the fiscal year balance; provided further that each commission, department, authority and higher education facility of the Commonwealth shall by January 1 of each year submit a proposal plan for the next fiscal year beginning the following July 1, which sets forth a spending plan for monies to be used from the retained revenue account, a revolving account or trust account, including the nature of the expense to be incurred and the amount of the fund used for programs and personnel costs.
The amendment was **adopted**.

Mr. Panagiotakos moved that the bill be amended, in Section 2, in item 1102-3206, by striking the word "convey" and inserting in place thereof the words "transfer care and control of ", ;and by striking the words "current occupant of the premises" and inserting in place thereof the words "Middlesex Sheriff."
The amendment was **adopted**.

Mr. Hedlund moved that the bill be amended by inserting, after Section 109, the following new section: -

SECTION 110. The division of capital asset management and maintenance is hereby authorized to transfer from the Massachusetts Highway Department to the town of Hingham, use of and responsibility for a parcel of land containing 15.73+ acres of land, located in the town of Hingham. The exact size and boundaries of the parcel to be so transferred shall be determined by the division of capital asset management and maintenance. Transfer of said parcel shall be without consideration and shall not be subject to the provisions of chapter 7 of the General Laws.
The amendment was **adopted**.

Messrs. Tarr, Lees, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by inserting, after section 109, the following new section: -

"Section ___. There is hereby established a commission to study revenue sharing by the Commonwealth to assist municipalities in the financing of services including but not limited to police and fire protection, education, the construction, repair and maintenance of non-school municipal buildings and the construction, repair and maintenance of municipal roads and bridges. Said commission shall identify the current mechanisms used to facilitate revenue sharing and their efficiency, effectiveness and sustainability. In addition, the commission shall investigate alternative mechanisms to provide cities and towns with adequate resources to provide municipal services. Moreover, the commission shall investigate and make recommendations as to the potential effect, if any, that reductions in the income tax rate may have on local property tax rates and receipts, and the interrelationship between state taxation and revenue sharing and local property taxes. Said commission shall consist of the Secretary of Administration and Finance or his designee, the Commissioner of the Department Revenue or his designee, three members of the Senate, one of which shall be a member of the minority party, three members of the House of Representatives, one of which shall be a member of the minority party, a representative of the Massachusetts Taxpayer's Foundation, a

representative of the Massachusetts Municipal Association, three members appointed by the Governor whom shall represent citizens of the Commonwealth, and three members appointed by the Governor whom shall be elected municipal officials representing geographically and demographically diverse areas of the state. Said commission shall report its findings, together with any legislative recommendations, to the Ways and Means Committees of the House and Senate no later than January 1, 2006."

The amendment was **adopted**.

Mr. Baddour moved that the bill be amended, in Section 2, in item 0900-0100, by striking out the figure "\$1,384,946" and inserting in place thereof the following figure:-"1,415,000".

The amendment was **adopted**.

Messrs. Timilty, McGee, Tarr and Ms. Fargo moved that the bill be amended, in Section 2, in item 1107-2400 by striking out the figure "\$605,280" and inserting in place thereof the following figure "\$730,280" provided further that said increase in item 1107-2400 shall represent increased funding for the Massachusetts Office on Disability to develop training materials for use with employees working in the State House on the Americans with Disability Act and how to assist people with disabilities within the building.

The amendment was **adopted**.

Messrs. Lees, Tarr, Knapik and Brown moved that the bill be amended, in Section 2, in item 1775-1100, by striking out the figures "\$250,000" and inserting in place thereof the figures "\$500,000".

The amendment was **adopted**.

As previously stated, the above amendments were considered as one, and were adopted.

There being no objection, the following amendments were considered as one, and rejected, to wit:

Mr. Creedon moved that the bill be amended, in Section 2, in item 0321-1510 be amended by striking it, in its entirety and inserting in place thereof the following:

0321-1510

For compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2006; and provided further, that the rate of compensation for homicide cases shall be \$100 per hour in fiscal year 2006, \$105 per hour in fiscal year 2007, and \$110 per hour in fiscal year 2008; for superior court non-homicide, including sexually dangerous person cases, the rate of compensation shall be \$60 per hour in fiscal year 2006, \$65 per hour in fiscal year 2007, and \$70 per hour in fiscal year 2008; for district court cases and children in need of services cases the rate of compensation shall be \$50 per hour in fiscal year 2006, \$53 per hour in fiscal year 2007, and \$55 per hour in fiscal year 2008; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases the rate of compensation shall be \$50 per hour in fiscal year 2006, \$55 per hour in fiscal year 2007 and \$60 per hour in fiscal year 2008.....\$119,146,675;

By striking it, in its entirety, and inserting in place thereof the following:

For additional costs of the public defender division including salary adjustments, provided, that no funds from this appropriation shall support existing costs associated with line item 0321-1500; provided further, that said committee shall submit a report to the house and senate committees on ways and means not later than January 31, 2006 on the efficiencies gained from the resources provided in this item; and provided further, that said report shall include, but not be limited to the following: (1) the number of assignment of counsel that this appropriation has shifted from private bar advocates to the public defender division since the effective date of this act; and (2) the savings the commonwealth has realized from this appropriation since the effective date of this act \$2,114,111;

By inserting the following new item:

0321-1506

Notwithstanding any special or general law to the contrary, there is hereby established two (2) pilot programs of the public defender division of the Committee for Public Counsel Services (CPCS). Said pilot programs shall be established in Hampden County and in Bristol County. CPCS shall hire 5 attorneys, 1 investigator and 1 support staff for each such pilot program and shall provide said attorneys and staff with sufficient office space and office resources. The chief counsel of CPCS shall assign said attorneys throughout the various district court division of the county in a manner that in his determination will result in the most effective and efficient representation of persons claiming indigency within said county. Said assignment procedure(s) may be amended by the chief counsel of CPCS as he sees fit. The chief counsel of CPCS shall provide quarterly reports to the House and Senate Committees on Ways and Means for a period of 3 years which shall include, but not be limited to, the following: the actual costs incurred in operating the pilot programs, including a detailed itemization of said costs; the number of cases handled by each attorney; the number of cases disposed of during each reporting period; the average time to dispose of said cases; a schedule detailing the court assignments of each attorney; and the rationale for said attorney assignments.....\$890,584; and

By inserting the following new item:

0321-1507

Notwithstanding any general or special law to the contrary, the chief counsel for the committee for public counsel services is authorized to hire twenty additional staff attorneys along with the necessary support staff to provide representation in children and family law cases, and in juvenile delinquency and youthful offender cases statewide.....\$1,971,000.
The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, in item 0321-1510 by striking it, in its entirety and inserting in place thereof the following:

0321-1510

For compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2006; and provided further, that the rate of compensation for homicide cases shall be \$100 per hour in fiscal year 2006, \$105 per hour in fiscal year 2007, and \$110 per hour in fiscal year 2008; for superior court non-homicide, including sexually dangerous person cases, the rate of compensation shall be \$60 per hour in fiscal year 2006, \$65 per hour in fiscal year 2007, and \$70 per hour in fiscal year 2008; for district court cases and children in need of services cases the rate of compensation shall be \$50 per hour in fiscal year 2006, \$53 per hour in fiscal year 2007, and \$55 per hour in fiscal year 2008; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases the rate of compensation shall be \$50 per hour in fiscal year 2006, \$55 per hour in fiscal year 2007 and \$60 per hour in fiscal year 2008.....119,146,675;

By inserting the following new items:

0321-1506

Notwithstanding any special or general law to the contrary, there is hereby established two (2) pilot programs of the public defender division of the Committee for Public Counsel Services (CPCS). Said pilot programs shall be established in Hampden County and in Bristol County. CPCS shall hire 15 attorneys, 1 investigator and 3 support staff for each such pilot program and shall provide said attorneys and staff with sufficient office space and office resources. The chief counsel of CPCS shall assign said attorneys throughout the various district court division of the county in a manner that in his determination will result in the most effective and efficient representation of persons claiming indigency within said county. Said assignment procedure(s) may be amended by the chief counsel of CPCS as he sees fit. The chief counsel of CPCS shall provide quarterly reports to the House and Senate Committees on Ways and Means for a period of 3 years which shall include, but not be limited to, the following: the actual costs incurred in operating the pilot programs, including a detailed itemization of said costs; the number of cases handled by each attorney; the number of cases disposed of during each reporting period; the average time to dispose of said cases; a schedule detailing the court assignments of each attorney; and the rationale for said attorney assignments.....2,400,000; and

0321-1507

Notwithstanding any general or special law to the contrary, the chief counsel for the committee for public counsel services is authorized to hire twenty additional staff attorneys along with the necessary support staff to provide representation in children and family law cases, and in juvenile delinquency and youthful offender cases statewide.....1,971,000
The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, by inserting after item 0321-2205 the following item:

"0321-2206

For the social law library to operate the electronic law database project\$300,000"
The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 0330-0410, by striking the wording "provided further, that not less than \$50,000 shall be expended for Quabbin Mediation in Athol;" and inserting in place thereof the following wording:-
"provided further, that not less than \$75,000 shall be expended for Quabbin Mediation in Athol;".
The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 0332-0100, by adding at the end thereof the following:-
"provided further, that not less than \$50,000 shall be expended to the Town of Ware for increased tenancy costs;"
The amendment was *rejected*.

Messrs. Buoniconti and Lees moved that the bill be amended, in Section 2, in item 0333-0002, by adding the following language:- "; provided further that not less than \$2,537,343 shall be expended for Hampden County Probate court." ; and by striking out the figure "\$20,119,876" and inserting the figure "\$20,746,046."
The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 0339-1001, by inserting the following language:- "; provided further that not less than \$70,080 be expended for an additional Probation Officer and Probation Officer CASE specialist at Chicopee District Court."
The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended by adding, at the end thereof, the following new section:-

"SECTION__ "Section 29C of Chapter 217 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- "Said deputy assistant registers shall receive a salary in an amount equal to 15 percent of the annual salary of the Barnstable County register of probate."
The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended by adding, at the end thereof, the following new section:-

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

Mr. O'Leary moved that the bill be amended by adding, at the end thereof, the following new section:-

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

Mr. Creedon moved that the bill be amended by inserting, after Section 109, the following new Section:-

SECTION__ Section 83 of chapter 4 of the Acts of 2003 is amended by adding the following new subsection:- (d) Notwithstanding section 2B of chapter 260 of the General laws or any other general or special law to the contrary, an action for tort arising out of the planning, design, management or construction of the project, shall be brought not later than 30 years from the date of the acceptance of the project.
The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 2511-0100, by striking out the wording "provided further, that funds may be expended for agricultural fair prizes and rehabilitation, including the expenses of the agricultural lands board;" and inserting in place thereof the following wording:- "provided further, that funds shall be expended for agricultural fair prizes and rehabilitation, including the expenses of the agricultural lands board, provided that \$4,000 shall be expended to the Town of Hardwick for its annual fair;"
The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 2800-0100, by inserting after the words "overtime costs" the following:- "; provided further, that \$1,000 be expended for a plaque commemorating Leslie B. Cutler for her service the longest serving woman in the Legislature serving 10 years in the House of Representatives (1938-1948) and 20 years in the Senate (1948-1968). The plaque shall be placed in Cutler Park in the town of Needham."
The amendment was *rejected*.

Ms. Walsh, Ms. Resor, Ms. Fargo and Ms. Creem move to amend the bill, in section 2, in item 2800-0100, by striking out at the end thereof the word "costs" and inserting in place thereof the following words:-"costs: and provided further that not less than \$100,000 shall be expended to complete the collaborative effort among the department, the Massachusetts highway department, the Massachusetts historic commission and the executive office of environmental affairs to complete and publish the historic parkways preservation treatment guidelines; and provided further that the department shall provide the house and senate committees on ways and means 30 days notice prior to conducting any inter subsidiary transfers or interagency service agreements along with the reasons for such transfers or agreements."
The amendment was *rejected*.

Ms. Resor and Ms. Creem, Messrs. Brewer, Nuciforo, Tarr, Barrios, and Ms. Fargo moved that the bill be amended, in Section 2, by inserting after item 2800-0400 the following new item:-

"2800-0401

For a program to provide stormwater management for all properties and roadways under the care, custody and control of the Department of Conservation and Recreation; provided, that the department shall develop and implement a stormwater

management program in compliance with federal and state stormwater management requirements; provided further, that the department shall inventory all existing stormwater infrastructure, assess its current stormwater practices, analyze long term capital and operational needs, and develop a stormwater management plan to comply with federal and state regulatory requirements; provided further, that in order to protect public safety and to protect water resources for water supply, recreational and ecosystem uses, the department will immediately implement interim stormwater management practices including but not limited to street sweeping, inspection and cleaning of catch basins, and emergency repairs to roadway drainage.....\$500,000"

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 2800-9004, by striking out the figure "\$375,000" and inserting in place thereof the following figure:- "\$535,000".

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 2810-0100 by inserting after the word " Lynn" with the following "provided further, that \$71,000 shall be paid to the Town of Canton for outstanding water bills for prior operation of the Blue Hills Ski Area".

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 2810-0100 by inserting after the word "Sutton," with the following: "provided further, that \$100,000 shall be expended for the construction of two DCR ballfields off High Street, near the Nike Missile Site, in the Town of Randolph."

The amendment was *rejected*.

Messrs. Tarr and Havern moved that the bill be amended, in Section 2, in item 2810-0100, by inserting at the end thereof the following: - "provided further that no less than \$250,000 shall be appropriated to the Middlesex Canal Commission."

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 2820-0100, by inserting after the words "true seasonal employees" the following: "Not less than \$25,000 shall be expended for improvements at Loker Park in Natick"; and in said item by striking out the figures "\$22,718,929" and inserting in place thereof the figures "22,743,929".

The amendment was *rejected*.

Ms. Walsh, Mr. Barrios and Ms. Resor moved to amend the bill, in section 2, in item 2820-0100, by striking out the figure "\$22,718,929," and inserting in place thereof the following figure "30,101,794."

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended, in Section 2, in item 2820-0100 by inserting after the words "Fellsmere pond;" the following words:- "provided further, that not less than \$100,000 shall be expended for the maintenance, security, improvement and staffing at Ames Nowell State Park;"

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, by striking out item 2820-4420 in its entirety."

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, by striking out section 2820-4421 in its entirety."

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION 110. Notwithstanding section 54 of Chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, on behalf of the department of conservation shall, notwithstanding sections 40E to 40I, inclusive, of said chapter 7 and using such competitive proposal process as the commissioner of said division deems necessary or appropriate, to lease and enter into other agreements, for terms not to exceed 20 years, to or with 1 or more offerors who participate in that process, for the Ponkapoag golf course and the Leo J. Martin golf course, so as to provide for the continued use, operation, maintenance, repair and improvement of the golf courses and facilities together with the land and appurtenances associated therewith. Proceeds from the leases shall be deposited into the General Fund."

The amendment was *rejected*.

Messrs. Joyce and Morrissey moved that the bill be amended by inserting at the end thereof, the following new Section:-

SECTION ____ . Notwithstanding the provisions of any general or special law to the contrary, Section 90C 3/4 of Chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the title and inserting in place thereof the following:- Increasing allowance of former state and metropolitan district police officers retired after at least twenty years of service.

SECTION 2. Section 90C 3/4 of Chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the text contained therein and inserting in place thereof the following:-- Section 90C 3/4. A former state or metropolitan district police officer, retired prior to July 1, 1992, who has been retired under any provision of this chapter or similar provision or earlier law on account of superannuation after having served in the state or metropolitan district police force for a period of not less than 20 years shall have his retirement allowance increased to an amount not exceeding one-half the rate of regular compensation payable to state police officers holding similar positions, at the time of increasing such allowance, in the comparable grade or classification occupied by such former officer at the time of his retirement.
The amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION ___. Subsection (b) of said section 279 of said chapter 149 is hereby amended by striking out the second paragraph and inserting in place thereof following paragraph:- No proposal to lease the Flynn rink in the city of Medford shall be considered responsive, nor shall it be accepted, without a proposal by the same offeror to lease the LoConti rink in the city of Medford, except that a proposal by the City of Melrose and Town of Winchester to lease the Flynn rink, without a proposal to lease the LoConti rink, shall be considered responsive and may be accepted.
The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 2000-0100, by inserting at the end thereof the following:-
"provided further, that \$75,000 shall be expended on an education and recreation pilot program in the Quaboag and Ware River Valley to be administered by the Massachusetts watershed coalition;"
The amendment was *rejected*.

Ms. Resor, Messrs. Brewer, Nuciforo and Tarr moved that the bill be amended, in Section 2, in item 2000-9900 by striking out the figures "\$280,944" and inserting in place thereof the figure:- "455,677".
The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended, in Section 2, in item 2030-1000, by adding, at the end thereof, the following:- "; provided further, that no less than \$50,000 shall be expended for the purposes of boat registration in the Towns of Hyannis and Fall River."
The amendment was *rejected*.

Messrs. Nuciforo, Barrios and Brewer moved that the bill be amended, in Section 2, in item 2200-0100, by striking out the figure "\$29,866,434" and inserting in place thereof the following figure - "\$31,820,112".
The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, in item 2260-8870 by adding the following: "; provided further, that no less than \$90,000 shall be provided for Brownfield redevelopment in the City of Lynn".
The amendment was *rejected*.

Messrs. Nuciforo, Brown, Barrios, Brewer and Tarr moved that the bill be amended, in Section 2, in item 2260-8870, by striking out the figure "\$14,311,075," and inserting in place thereof the following figure - "\$16,466,883".
The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended by inserting, after Section 103, the following new Section:-

"SECTION 104. The Department of Environmental Protection is directed to promulgate regulations establishing a procedure by which a municipality and the Department of Environmental Protection can exempt a food service business from certain Title V requirements. Said establishment shall employ a maximum of three and seat a maximum of ten."
The amendment was *rejected*.

Ms. Resor and Messrs. O'Leary, Brewer, Nuciforo, Brown and Tarr, and Ms. Fargo moved that the bill be amended, in Section 2, by inserting after item 2310-0301 the following new item:-

"2310-0500
For the operation of a natural heritage and endangered species program, in order to match and supplement funds collected through private voluntary contributions.....\$250,000"; and

By inserting at the end thereof the following new section:-

"SECTION XXX. Notwithstanding any general or special law to the contrary, amounts expended from the Natural Heritage and Endangered Species Fund, established by section 35D of chapter 10 of the General Laws, shall be exempt from indirect cost charges pursuant to chapter 29 of the General Laws."
The amendment was *rejected*.

Mr. Brewer and Ms. Resor moved that the bill be amended, in Section 2, in item 2320-0100, by striking out the figures "\$598,758" and inserting in place thereof the following figures:- "\$784,856".

The amendment was *rejected*.

Messrs. O'Leary, Montigny and Tarr moved that the bill be amended, in Section 2, in item 2330-0100, by striking out the figure "\$3,910,725" and inserting in place thereof the following figure:- "\$4,260,725."

The amendment was *rejected*.

Mr. Lees moved that the bill be amended by inserting at the end thereof the following section:-

Section 22 of said chapter 90B, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following:--

The director shall provide for, upon the sale of snow vehicles, recreation vehicles and vessels, the issuance of snow vehicle, recreation vehicle and vessel term registrations and the assistance with the issuance of snow vehicles and recreation vehicle registrations and vessel registrations and titles through new class 1 or 2 snow vehicle, recreation vehicle and vessel dealers registered pursuant to this section to residents and non-residents. The director shall also provide for the issuance of snow vehicle and recreation vehicle permanent registrations, the renewal or assistance with renewal of snow vehicle, recreation vehicle and vessel registrations and the issuance or assistance with the issuance of vessel titles through dealers registered pursuant to this section, as the case may be, to residents and non-residents. The fee for the registration of each vehicle shall be the same as the fee for an initial registration or renewal thereof pursuant to paragraph 3 and shall constitute payment of the registration fee or renewal thereof required by paragraph 3. Any dealer authorized to issue registration certificates for snow vehicles, recreation vehicles and registration certificates and titles for vessels, who are not employed by the commonwealth, may charge notwithstanding any provision of this chapter or any law to the contrary the applicant an administrative fee in addition to the required registration fee.

Notwithstanding any provision the preceding paragraph, this section or any other provision of this chapter or chapter 90 or any other law to the contrary, the director, the registrar of motor vehicles of the registry of motor vehicles, the commissioner of revenue, the secretary of administration and finance and their staffs shall all work cooperatively to fully utilize the existing registry of motor vehicles electronic vehicle registration program, which presently allows motor vehicle dealers including powersport dealers to issue motorcycle registrations and titles, to its fullest extent possible and as soon as possible but not later than 6 months from the effective date of this section. Notwithstanding any law to the contrary, the director of environmental law enforcement and the registrar of the registry of motor vehicles may negotiate with the vendor supporting and servicing the registry of motor vehicles electronic vehicle registration program and the vendor may negotiate with said officials or their senior staff to assume some or all of any or all of the costs attributed to the startup of this program, including but not limited to the conversion and integration of the snow vehicle, recreation vehicle and vessel data to the registry of motor vehicles data processing system. The division of environmental law enforcement and the registry of motor vehicles are hereby authorized to accept any and all such assistance in the startup of this program from said vendor if such is negotiated. Notwithstanding any law to the contrary, nothing contained in these sections or otherwise shall deem the registry of motor vehicles to be a boating law administrator and nothing contained in this act or otherwise shall cause federal gas tax monies to be diverted from the division of environmental law enforcement and recreational vehicles to the registry of motor vehicles.

SECTION 18B. Section 3 of said chapter 64H, as so appearing, is hereby amended by striking out in lines 9 through 19, inclusive, clause (c) in its entirety and inserting in place thereof the following clause:—

(c) The excise imposed by section two upon sales at retail of motor vehicles or trailers shall be paid by the purchaser to the registrar of motor vehicles, the director of the division of environmental law enforcement, or their agent, as the case may be, in the manner prescribed by the commissioner. The vendor thereof shall not add the tax to the sales price and shall not collect the tax from the purchaser. The vendor thereof shall, however, furnish to the purchaser, the registrar, the director, or their agent, as the case may be, and the commissioner a sworn statement of the sale upon a form prescribed by the commissioner, with the approval of the commissioner, giving such information as the commissioner may require for the determination of such tax; provided, however, said form shall require the vehicle identification number, also known as the VIN. For the purpose of this paragraph, the term "motor vehicle" means any self propelled vehicle designed for use and used primarily upon the highways. For the purpose of this section, the term "motor vehicle" shall also mean a "vessel" as defined in section 1 of chapter 90B, and a "snow vehicle" and a "recreation vehicle" as defined in section 20 of chapter 90B.

SECTION 18C. Section 4 of chapter 64I of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out in lines 16 through 39, inclusive, the second and third paragraphs and inserting in place thereof the following two paragraphs:—

Notwithstanding the provisions of this section, the excise imposed by section 2 upon the storage, use or other consumption of motor vehicles or trailers shall be paid by the purchaser to the registrar of motor vehicles or the director of the division of environmental law enforcement, or their agent, as the case may be, in the manner prescribed by the commissioner. The vendor

thereof shall not add the tax to the sales price and shall not collect the tax from the purchaser. The vendor thereof shall, however, furnish to the purchaser, the registrar or the director, or their agent, as the case may be, and the commissioner a sworn statement of the sale upon a form prescribed by the commissioner, giving such information as the commissioner may require for the determination of such tax; provided, however, said form shall require the vehicle identification number, also known as the VIN. For purposes of such determination, the sales price of any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be the actual amount paid by the purchaser to the vendor for said motor vehicle or the average value of said motor vehicle, whichever is greater. "Average value" for a motor vehicle shall mean the average trade in value listed in the National Automobile Dealers Association used car guide or other value guides or default values as determined jointly by the commissioner and registrar and director, or their agent, as the case may be. The commissioner may establish rules and regulations for accepting values below these values based on the condition of the vehicle at the time of sale or other factors as may be appropriate.

For the purpose of this section, the term "motor vehicle" means any self-propelled vehicle designed for use and used primarily upon the highways. For the purpose of this section, the term "motor vehicle" shall also mean a "vessel" as defined in section 1 of chapter 90B, and a "snow vehicle" and a "recreation vehicle" as defined in section 20 of chapter 90B.

The amendment was *rejected*.

Messrs. Nuciforo, Lees and Tolman moved that the bill be amended in section 4, by inserting after the words, "from a governmental agency,", the following words:- "from a camp for children in regard to an exchange visitor employed by under the United States department of state's J-1 visa program as defined in 22 CFR 62,".

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Knapik and Brown moved that the bill be amended, in Section 2, in item 8400-0001, by striking out the figure "\$46,598,649" and inserting in place thereof the figure:- "\$47,193,716".

The amendment was *rejected*.

Messrs. Rosenberg and Lees moved that the bill be amended by inserting after Section 16 the following four sections:-

"SECTION 16A. The definition of "Number plate" in Section 1 of chapter 90, as appearing in the 2002 Official Edition, is hereby amended by striking out in lines 172 and 173 on page 383, inclusive, the words "motor vehicle assigned to such motor vehicle" and inserting in place thereof the following words:- motor vehicle or trailer assigned to such motor vehicle or trailer.

SECTION 16B. Section 1 of chapter 90, as so appearing, is hereby amended by inserting after the definition of "Terminal" at the end of line 271 on page 385, the following new definition:--

"Truck camper", a portable slide-in unit constructed to provide temporary living quarters for recreational, camping, travel or other use, consisting of a roof, floor and sides, designed to be loaded onto and mounted on the bed of a pick-up truck and unloaded from the bed of a pick-up truck.

SECTION 16C. The definition of "Trailer" in Section 1 of chapter 90, as so appearing, is hereby amended by inserting at the end of line 290 on page 386, the following sentence:- Notwithstanding the foregoing, the definition of "Trailer" shall also mean a truck camper.

SECTION 16D. Section 2 of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle" in line 126 on page 392 the following words:- provided, however, if said trailer is also a truck camper, then the truck camper number plate shall be issued in the form of a number decal as permitted by the definition of number plate in section "; and by inserting after section 17 the following two sections:- "

SECTION 17A. Section 6 of said chapter 90, as so appearing, is hereby amended by inserting after the word "visible" in line 9 on page 414, the following words: ; provided, however, if said trailer is also a truck camper, then the number plate issued by the registrar in section two for truck campers in the form of a number decal shall be displayed on the outside of the driver's side rear wall on the truck camper so that it shall always be plainly visible.

SECTION 17B. The definition of "Trailer" in Section 1 of chapter 90D, as so appearing, is hereby amended by inserting at the end of line 59 on page 713, the following sentence and the following new definition:- Notwithstanding the foregoing, the definition of "Trailer" shall also mean a truck camper.

"Truck camper", a portable slide-in unit constructed to provide temporary living quarters for recreational, camping, travel or other use, consisting of a roof, floor and sides, designed to be loaded onto and mounted on the bed of a pick-up truck and unloaded from the bed of a pick-up truck."

The amendment was *rejected*.

Messrs. Lees, Hedlund, Tarr, and Brown moved that the bill be amended, in Section 2, by deleting item 1599-1970 in its entirety. The amendment was *rejected*.

Messrs. Nuciforo, Brown, Barrios, Brewer and Tarr moved that the bill be amended, in Section 2, in item 6005-0015, by striking out the figure "\$49,182,640" and inserting in place thereof the following figure - "\$51,682,640".
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 6005-0015 by inserting after the word "improvements," with the following:- "provided further, that \$50,000 shall be expended for a feasibility study of adding an MBTA station within the Town of West Bridgewater."
The amendment was *rejected*.

Messrs. Havern, Pacheco, Moore, Creedon and Brown, Ms. Tucker and Messrs. Montigny, Brewer, Tarr and Baddour moved that the bill be amended, in Section 2, in item 6005-0015 by striking out the figure "\$49,182,640" and inserting in place thereof the following figure:- "\$51,682,640".
The amendment was *rejected*.

Mr. Lees moved that the bill be amended in Section 29, by adding after the words "fixed route bus service may" the following words:- "subject to the approval of the secretary".
The amendment was *rejected*.

Mr. Lees moved that the bill be amended in Section 30 by adding after the words "legislative body, respectively" the following words:- "subject to the approval of the secretary, subsequent to the notification of the advisory board to such authority by the secretary."
The amendment was *rejected*.

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

"SECTION ___. Provided further that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond."
The amendment was *rejected*.

Messrs. Hedlund, Lees, Tarr, Tisei, Knapik and Brown moved that the bill be amended by adding, after Section 109, the following section: -

SECTION 110. Any commuter boat that receives a subsidy must hold a public hearing before any changes are made in scheduling and or rates.
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting, after Section 109, the following new Section: -

SECTION 110. Require the MBTA to use the minimum right away for all abutters along the Greenbush Line. Require the MBTA to locate fencing from Project STA 1254 to STA 1264. Require the MBTA to put solid wood fencing from STA 1254 to STA 1264 in lieu of the proposed six foot chain link fence. Require the MBTA to install a ballast mat from project STA 1259 to STA 2162.
The amendment was *rejected*.

Mr. Havern moved that the bill be amended by inserting the following new section at the end thereof:-

"SECTION ___. There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Underground Storage Tank Petroleum Cleanup Fund. There shall be credited to such fund: any fees, penalties, and other amounts collected pursuant to chapter twenty-one J; any appropriation, grant, gift, or other contribution explicitly made to such fund; and any interest earned on monies within the fund. Amounts credited to said fund shall be used, subject to appropriation, for the purposes set forth in chapter twenty-one J."
The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended, in Section 2, in item 1107-2501 by striking out the figure "1,746,915" and inserting in place thereof the following;- "1,750,037".
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting, after Section 109, the following new Section: -

SECTION 110. The town of Cohasset water department is hereby granted a permanent easement within the Massachusetts highway department's maintenance site and access easement on or near Crocker lane in the town of Cohasset, to allow the Cohasset water department vehicular and pedestrian access to the Scituate Hill water storage tank at all times. Said easement being shown on a plan entitled "Easement Plan of Land for Off Crocker Lane in Cohasset, Mass.," dated November 29, 2004,

Ross Engineering Company Inc., Professional Engineers - Land Surveyors.
The amendment was *rejected*.

Messrs. Lees and Tarr moved that the bill be amended, in Section 2, in item 1201-0100 by inserting at the end thereof the following:- "provided further, the department shall include on the Massachusetts Resident Income Tax Return form a check-off box that requires each taxpayer to certify that he or she has claimed all qualifying income from the sale of items sold through the use of the internet or other electronic media."
The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2D, in item 1201-0109, by inserting at the end thereof the following:- "; provided, that not less than \$50,000 shall be expended to enter into a contract with a Massachusetts non-profit organization, whose primary mission is the enhancement of contact between children and their non-custodial parents, in order to develop a pro-bono legal resource program to promote greater access and visitation for children of divorced, divorcing, and never-married parents. The recipient organization shall have a history of providing assistance to non-custodial parents regarding access and visitation issues by means of in-person and telephone counseling, as well as a referral network of family law attorneys."
The amendment was *rejected*.

Messrs. Tisei, Lees, Knapik, Tarr, Hedlund, and Brown moved that the bill be amended, in Section 2, in item 1108-5100, by striking out the figure "\$2,291,969" and inserting in place thereof the following figure:- "\$2,541,969";

By inserting, in line 3, after the words "General Laws" the following:- "provided further, that not less than \$250,000 shall be spent to administer a group purchasing pool separate from the state workforce pool for private sector human service agencies"; and

By inserting, after Section 108, the following new Section:-

SECTION ____. M.G.L. c. 32A, Section 2b, is amended effective January 1, 2006, by inserting after "United States" in line 2 the following: "and a person who is an employee of a vendor which provides human services and which is under contract with any agency within the Executive Office of Health and Human Services or Executive Office of Elder Affairs."

SECTION ____. M.G.L. c. 32A, Section 2c, is amended effective January 1, 2006, by inserting after " Massachusetts" in line 1 the following: "or employer of any employee, as defined in Subsection (b)."

SECTION ____. M.G.L. 32A is amended effective January 1, 2006, by adding "Section 10F Insurance for employees of human service vendor employers. The commission shall negotiate with and purchase on such terms as it deems to be in the best interest of the Commonwealth, the vendor employers covered under this section chapter, and the affected employees and their dependents, from one or more insurance companies or non-profit hospital, medical, or other service corporations, a policy or policies of group general or blanket insurance providing hospital, surgical, medical, and other health insurance benefits for said agency employees and their dependents. Such policy or policies shall consist of a schedule of hospital, surgical, medical, dental, and other health insurance benefits purchased by the Commonwealth under the provisions of section four, or the schedule of hospital, surgical, medical, dental, and other health insurance benefits purchased by counties, cities, towns, and districts under the provisions of section three chapter thirty-twoB.

- With respect to any period of insurance which is in effect for the vendor employees and their dependents, the full cost of the insurance shall be borne by the vendor employer and the participating employee. The Commonwealth will not be responsible for contributing to the cost of this insurance.
- The employee's per cent share of the premium shall be withheld by the appropriate employer from the employee's salary on a periodic basis, and shall be forwarded to the Group Insurance Commission, heretofore referred to as The Commission, in accordance with the rules and regulations set forth by The Commission.
- The Commission shall determine at least annually, or sooner, the amount of premiums for each health plan which shall be reimbursed to the Commonwealth by each contracting agency having employees insured under this section. The Commission shall also determine, at least annually, the portion of the commission's expense of administering this hospital, surgical, medical, and other health insurance coverage for the employees of vendor employer for this coverage. After such determinations, the commission shall assess each agency an administrative charge equal to their pro rata share of the cost of administering the program. The Commission may develop a methodology to garnish human service contracts from other state agencies for such participating providers to facilitate implementation of the plan an to recoup administrative and premium costs.
- Any dividend or refund accepted by the commission from any insurance carrier as a result of the contract negotiated under this section shall be deposited by the commission with the state treasurer as provided in section nine. The commission shall determine the amount of dividend or refund apportionable to the various vendor employers having employees insured hereunder, and shall reduce the administrative expenses in section (c) attributable to each such vendor employer by the amount of refund attributable thereto.

- Each employee of a vendor employer to whom this chapter applies shall furnish the commission, in such form as it shall prescribe, such information as is necessary to insure himself or himself and his dependents under the hospital, surgical, medical, and other health insurance herein provided, and shall authorize the withholding of the appropriate premium from his salary by the appropriate vendor employer.
- Participation in the health insurance program described in this section is voluntary for vendors which contract to provide human service with the following departments of the Commonwealth: the Commission for the Deaf and Hard of Hearing, the Department of Mental Health, the Department of Mental Retardation, the Department of Social Services, the Department of Transitional Assistance, the Department of Youth Services, the Disabled Persons Protection Commission, the Division of Employment & Training, the Division of Medical Assistance, the Executive Office for Elder Affairs, the Executive Office of Health and Human Services, the Massachusetts Commission for the Blind, the Massachusetts Rehabilitation Commission and the Office of Child Care Services. This section does not apply to individuals or families which contract directly with the Department of Social Services or the Office of Child Care Services to provide foster care or in-home family daycare. This section also does not apply to individuals who enter into contracts with said departments of the Commonwealth as consultants or independent contractors."

SECTION ____. The commission shall develop a report setting forth plan designs for plans established pursuant to chapter 32A, section 10F and appropriate administrative mechanisms for said plans, with the costs associated with both the benefits provided under said plans and administration, and shall file the report with the house and senate committees on ways and means no later than January 1, 2006. Said report will include an analysis of the demographic data of those to be insured, an actuarial analysis, and possible plan design. If in compiling this report, The Commission determines that the actual savings to provider agencies and their employees will be less than 5%, The Commission shall not move forward with said plan and shall notify the House and Senate Committees on Ways and Means in writing, including in said letter its methodology for determining cost savings.

SECTION ____. Enrollment in said program shall begin no later than July 1, 2006. If by December 31, 2006, agencies employing less than 1,000 cumulative workers have enrolled, The Commission shall not move forward with said plan and shall notify the House and Senate Committees on Ways and Means in writing.
The amendment was *rejected*.

Mr. Barrios moved that the bill be amended, in Section 2, in item moves to amend the bill, in section 2, in item 1108-5100, by striking out the figure "\$2,291,969" and inserting in place thereof the following figure:- "\$2,541,969";

and by inserting, in line 3, after the words "General Laws" the following:- "provided further, that not less than \$250,000 shall be spent to administer a group purchasing pool separate from the state workforce pool for private sector human service agencies";
and

By inserting, after Section 108, the following new Section:-

SECTION ____. M.G.L. c. 32A, Section 2b, is amended effective January 1, 2006, by inserting after "United States" in line 2 the following: "and a person who is an employee of a vendor which provides human services and which is under contract with any agency within the Executive Office of Health and Human Services or Executive Office of Elder Affairs."

SECTION ____. M.G.L. c. 32A, Section 2c, is amended effective January 1, 2006, by inserting after " Massachusetts" in line 1 the following: "or employer of any employee, as defined in Subsection (b)."

SECTION ____. M.G.L. 32A is amended effective January 1, 2006, by adding "Section 10F Insurance for employees of human service vendor employers. The commission shall negotiate with and purchase on such terms as it deems to be in the best interest of the Commonwealth, the vendor employers covered under this section chapter, and the affected employees and their dependents, from one or more insurance companies or non-profit hospital, medical, or other service corporations, a policy or policies of group general or blanket insurance providing hospital, surgical, medical, and other health insurance benefits for said agency employees and their dependents. Such policy or policies shall consist of a schedule of hospital, surgical, medical, dental, and other health insurance benefits purchased by the Commonwealth under the provisions of section four, or the schedule of hospital, surgical, medical, dental, and other health insurance benefits purchased by counties, cities, towns, and districts under the provisions of section three chapter thirty-twoB.

- With respect to any period of insurance which is in effect for the vendor employees and their dependents, the full cost of the insurance shall be borne by the vendor employer and the participating employee. The Commonwealth will not be responsible for contributing to the cost of this insurance.
- The employee's per cent share of the premium shall be withheld by the appropriate employer from the employee's salary on a periodic basis, and shall be forwarded to the Group Insurance Commission, heretofore referred to as The Commission, in accordance with the rules and regulations set forth by The Commission.
- The Commission shall determine at least annually, or sooner, the amount of premiums for each health plan which shall be reimbursed to the Commonwealth by each contracting agency having employees insured under this section. The Commission shall also determine, at least annually, the portion of the commission's expense of administering this

hospital, surgical, medical, and other health insurance coverage for the employees of vendor employer for this coverage. After such determinations, the commission shall assess each agency an administrative charge equal to their pro rata share of the cost of administering the program. The Commission may develop a methodology to garnish human service contracts from other state agencies for such participating providers to facilitate implementation of the plan and to recoup administrative and premium costs.

- Any dividend or refund accepted by the commission from any insurance carrier as a result of the contract negotiated under this section shall be deposited by the commission with the state treasurer as provided in section nine. The commission shall determine the amount of dividend or refund apportionable to the various vendor employers having employees insured hereunder, and shall reduce the administrative expenses in section (c) attributable to each such vendor employer by the amount of refund attributable thereto.
- Each employee of a vendor employer to whom this chapter applies shall furnish the commission, in such form as it shall prescribe, such information as is necessary to insure himself or himself and his dependents under the hospital, surgical, medical, and other health insurance herein provided, and shall authorize the withholding of the appropriate premium from his salary by the appropriate vendor employer.
- Participation in the health insurance program described in this section is voluntary for vendors which contract to provide human service with the following departments of the Commonwealth: the Commission for the Deaf and Hard of Hearing, the Department of Mental Health, the Department of Mental Retardation, the Department of Social Services, the Department of Transitional Assistance, the Department of Youth Services, the Disabled Persons Protection Commission, the Division of Employment & Training, the Division of Medical Assistance, the Executive Office for Elder Affairs, the Executive Office of Health and Human Services, the Massachusetts Commission for the Blind, the Massachusetts Rehabilitation Commission and the Office of Child Care Services. This section does not apply to individuals or families which contract directly with the Department of Social Services or the Office of Child Care Services to provide foster care or in-home family daycare. This section also does not apply to individuals who enter into contracts with said departments of the Commonwealth as consultants or independent contractors."

SECTION ___. The commission shall develop a report setting forth plan designs for plans established pursuant to chapter 32A, section 10F and appropriate administrative mechanisms for said plans, with the costs associated with both the benefits provided under said plans and administration, and shall file the report with the house and senate committees on ways and means no later than January 1, 2006. Said report will include an analysis of the demographic data of those to be insured, an actuarial analysis, and possible plan design. If in compiling this report, The Commission determines that the actual savings to provider agencies and their employees will be less than 5%, The Commission shall not move forward with said plan and shall notify the House and Senate Committees on Ways and Means in writing, including in said letter its methodology for determining cost savings.

SECTION ___. Enrollment in said program shall begin no later than July 1, 2006. If by December 31, 2006, agencies employing less than 1,000 cumulative workers have enrolled, The Commission shall not move forward with said plan and shall notify the House and Senate Committees on Ways and Means in writing.

The amendment was *rejected*.

Messrs. Lees, Knapik, and Brown moved that the bill be amended, in Section 2, in item 1790-0100 by striking the figure "\$4,242,721" and inserting in place thereof the figure "\$5,242,721".

The amendment was *rejected*.

Mr. Joyce, Ms. Fargo and Mr. Montigny moved that the bill be amended, in Section 2, in item 1107-2400, by striking out the figure "\$605,280" and inserting in place thereof the following figure:- "\$670,000".

The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 4120-4000, by inserting at the end thereof the following words:- "provided that \$50,000 shall be expended to the Massachusetts Citizen Advocacy Program;" and further amended the item by striking the figure "\$8,040,597" and inserting in place thereof the following figure:- "\$8,090,597".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 1599-3384, by inserting after the word "Massachusetts" the following:- "; provided, that \$3,000,000 shall be expended as reimbursement for actual costs of environmental cleanup at the property located in the Town of Norfolk, formerly known as the Department of Public Health Pondville Hospital as identified in chapter 519 of the acts of 1980 upon satisfactory presentation to and approval by the secretary of administration and finance of actual costs expended and the execution and delivery of a mutually agreeable general release to the commonwealth, and provided further that the reimbursement hereunder shall be in lieu of and not in addition to any responsibilities or expenditures provided for in any general or special law or regulation and provided further that line item 1102-3233 of section 2 of Chapter 149 of the acts of 2004, section 679 of chapter 26 of the acts of 2003, and section 70 of chapter 140 the acts of 2003 are hereby repealed." and in said item by striking out the figure "\$4,837,211" and inserting in place thereof the following figures:- "7,837,211."

The amendment was *rejected*.

Mr. Barrios moved that the bill be amended, in Section 2, in item 1599-6901, by adding, in line 5, after the words "of elder affairs" the following:- "and Medicaid funded and Medicaid managed care funded agencies" And in item 1599-6901, by striking, in line 23, after the words "for child care services" the following:- "or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D".
The amendment was *rejected*.

Ms. Spilka and Mr. Brown moved that the bill be amended, in Section 2, in item 1410-0012 by striking out the figure "\$15,000" and inserting in place thereof the following figure:- "\$30,000".
The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 1410-0012, by inserting at the end thereof the following words:- "provided further, that not less than \$100,000 shall be expended for the transportation program administered by the Disabled American Veterans;"
The amendment was *rejected*.

Mr. Pacheco moved that the bill be amended, in Section 2, in item 1410-0012 by adding at the end thereof:- ", provided that not less than \$50,000 shall be appropriated for the Middleboro Veterans Outreach Center."
The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik, and Brown moved that the bill be amended, in Section 2, in item 1410-0300 striking out "\$12,339,263" and inserting in place thereof the following "\$12,357,263"; by inserting after line item 1599-0050 the following new line item:-

1599-0061

For payment of a state death benefit to survivors of members of the Massachusetts national guard pursuant to section 111 of this act \$400,000;

By inserting after line item 8700-0001 the following line item:-

8700-0004 For the costs of serviceman's group life insurance premiums while Massachusetts national guard members are Federally activated, pursuant to section 112 of this act \$438,016; and

By inserting at the end the following new sections:-

SECTION 110. Said paragraph (h) of said subsection (1) of said section 4 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 146, the word:- Massachusetts.

SECTION 111. Section 88 of chapter 33 of the General Laws, as appearing in the 2002 Official Edition is hereby amended by striking lines 30 through 47 inclusive and replacing it with the following paragraph:-

In the case of the death of a member of the Massachusetts national guard resulting from injury, sickness, or disease received while in the line of duty pursuant to orders under titles 10 and 32 of the United States Code or chapter 33 of the General Laws, and that injury, sickness or disease resulting in such death were not the result of fault or neglect on the part of the decedent, a single payment of \$100,000 shall be paid to the surviving spouse. If there is no surviving spouse said amount shall be paid to the child, or children in equal shares, of the decedent. If there is no surviving spouse and no child or children, the surviving mother and father of the decedent, if such father and mother were dependent on the decedent for support at the time of his death each shall each receive \$50,000. If only one parent survived the decedent or only one parent was dependent on the decedent for support, that parent shall receive \$100,000. The standard for dependency shall be determined in accordance with clause (3) of section one and section 32 of chapter 152. All claims presented under the provision of this section shall be made in accordance with the procedure provided for under section 90 of this chapter.

SECTION 112. Chapter 33 of the General Laws, as so appearing, is hereby amended by adding the following new section:-

Section 88A. All monthly premiums for any coverage held in the serviceman's group life insurance program administered by the Veterans Administration for a member of the Massachusetts national guard who is ordered to active federal service pursuant to title 10 of the United State Code, shall be borne by the commonwealth for the duration of the member's active duty period.

SECTION 113. Section 6B of said chapter 115 of the General Laws, as appearing in the 2002 Official Edition is hereby amended by inserting at the end thereof the following paragraph:-

The surviving spouse, currently not married, of a veteran whose death occurred as a result of injury sustained or disease contracted during active service in the armed forces of the United States, shall be paid the sum of \$1,500 annually in two

payments on August 1 and February 1. Such payments shall be due and payable from the date of receipt of said surviving spouse's completed application.

SECTION 114. Section 6B of said chapter 115, as so appearing, is hereby further amended by inserting at the end thereof the following paragraph:-

The surviving spouse, currently not married, who is in receipt of Dependency Indemnity Compensation from the Veterans Administration, and whose veteran-spouse served in active service of the armed forces of the United States, shall also be paid the sum of \$1,500 annually in two payments on August 1 and February 1. Such payments shall be due and payable from the date of receipt of said surviving spouse's completed application.

SECTION 115. Section 6B of said chapter 115, as so appearing, is hereby further amended by inserting at the end thereof the following paragraph:-

Any payment made on August 1 pursuant to this section shall be for the period beginning January 1 and ending June 30 of that same year; any payment made on February 1 pursuant to this section shall be for the period beginning July 1 and ending December 31 of the previous year. The commissioner shall prorate initial annuity payments from the date of receipt of the completed application to ensure that the total payments in any fiscal year shall not exceed the amounts appropriated.

SECTION 116. Section 111 shall take effect as of October 7, 2001.

SECTION 117. Section 114 shall take effect on January 1, 2006.

The amendment was *rejected*.

As previously stated, the above amendments were considered as one, and were rejected .

Messrs. Lees and Knapik moved that the bill be amended, in Section 2, in item 0330-0300 by inserting at the end thereof the following:- "provided further, that the chief justice for administration and management shall expend funds for the purposes of acquiring, through a lease agreement, suitable space in the town of Belchertown for the district court of eastern Hampshire by June 15, 2006; provided further, that funds from this item or any other item shall not be expended for the cost associated with the district court of eastern Hampshire, unless said division is located in the town of Belchertown as of said date; provided further, notwithstanding any general or special law to the contrary, all criminal and civil business within the eastern Hampshire district court jurisdiction shall be conducted in the town of Belchertown as of said date; provided further, that said chief justice shall submit a report to the house and senate committees on ways and means not later than September 17, 2005 detailing the status of said lease agreement"

The amendment was **adopted**.

Mr. Rosenberg moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. (a) This chapter shall be known as the bail lien and restitution collection act. Where the provisions of this chapter relating to the return of bail posted by or on behalf of a defendant in a criminal matter conflict with the provisions relating to the return of bail in any other general law, special law, rule or regulation, the provisions of this chapter shall control.

(b) For the purposes of this chapter, the following terms shall have the following meanings:

"bail discharge docket" shall be the docket created in section four;

"bail lien" shall be the lien created by section three; provided, that such lien shall be created and perfected automatically and immediately upon imposition of a financial obligation on the defendant;

"bail lien discharge order" shall be the order proscribed in section four;

"clerk" shall mean a clerk or assistant clerk of the superior court department, a clerk or assistant clerk of the district court department, a clerk or assistant clerk of the Boston municipal court department, a clerk or assistant clerk of the juvenile court department, or a clerk or assistant clerk of the housing court department;

"financial obligation" shall mean any order by the court to pay any monies;

"justice" shall mean a justice or associate justice of the trial court department;

"office of the district attorney" shall mean the office of the district attorney having jurisdiction over the criminal matter; provided, that if the prosecution has been brought by the attorney general, then the term office of the district attorney shall also be construed to mean the office of the attorney general; provided further, that the district attorney or attorney general, as the case may be, may designate the person or persons in his office authorized to accept service provided for in section four.

(c) When a court imposes on the defendant a financial obligation, the clerk of the court shall immediately place a bail lien in the amount of such obligation on any bail posted by or on behalf of said defendant. Said clerk shall not thereafter return any bail to the defendant or the person who posted the bail on behalf of the defendant until: (i) the financial obligation has been fully satisfied, or (ii) the matter has been terminated and the defendant has been discharged by the court, or (iii) a justice of the court by written order that complies with the form proscribed in section four directs the clerk to return the bail to the defendant or the person who posted bail on behalf of the defendant. Except by order of the court, a matter shall not be considered terminated until all financial obligations imposed thereon have been satisfied. Persons authorized to admit a defendant to bail shall inform the defendant or the person posting bail on behalf of the defendant that, in the event that the court imposes any financial obligation on the defendant, a bail lien shall be placed on any bail posted by the defendant or on behalf of the defendant; provided, that it shall be a rebuttable presumption that the defendant or the person posting bail on behalf of the defendant was so informed.

(d) A justice may, after a hearing as proscribed herein, order the clerk to discharge in whole or in part a bail lien; provided, that said clerk shall not discharge a bail lien unless he is presented with a written bail lien discharge order bearing the name and signature of said justice which conforms to the format herein proscribed. In addition to the printed name and signature of the ordering justice, the bail lien discharge order shall contain the following information: (i) the name of the defendant; (ii) the case number; (iii) the amount of bail to be returned; (iv) the reasons supporting the order for return of bail; (v) an itemized list of the financial obligations previously imposed on the defendant; (vi) a copy of the motion for the bail lien discharge order; and (vii) a copy of the affidavit in support of such motion. If the justice approves the bail lien discharge order, the original order shall be placed in the case file. One copy of the order shall be placed in the bail discharge docket and shall be a public record open to public inspection. The bail discharge docket may be maintained in printed book form or by electronic means and may be made available for public inspection on the internet.

The clerk shall maintain a bail discharge docket. The clerk shall file in said docket a copy of every bail lien discharge order approved by a justice sitting in his court. There shall be a separate bail discharge docket for each calendar year. The clerk shall annually, not later than February first, cause to be filed with the house and senate committees on ways and means and the joint committee on the judiciary the following information extracted from all bail lien discharge orders filed during the previous twelve months: (i) the name of the defendant; (ii) the amount of bail returned; (iii) the name of the justice ordering the bail returned.

A defendant who posted bail on his own behalf, or the person who posted bail on behalf of the defendant may, by written motion, apply to the court for the issuance of a bail lien discharge order; provided, that such motion shall be accompanied by an affidavit stating the reasons why the court should approve the motion for a bail lien discharge order; provided further, that said affidavit shall not be accepted for filing by the clerk unless it is signed under the pains and penalties of perjury by the moving party; and provided further, that said motion shall not be accepted for filing by the clerk unless accompanied by said affidavit. The motion and accompanying affidavit shall be filed with the clerk and a copy served upon the office of the district attorney not less than three business days prior to any court hearing on the motion; provided, that if the motion involves a case where the court has ordered restitution paid to a victim of a crime, said motion and affidavit shall be filed with the clerk and a copy served upon the office of the district attorney not less than thirty business days prior to any court hearing on the motion. The clerk shall, in accordance with the aforementioned time standards, schedule a hearing on the motion on a date and time that is convenient for the moving party, the victim, if any, the office of the district attorney, and the court. The district attorney shall inform said victim of the motion as well as the date and time proposed for a court hearing on the motion. The victim shall have standing to be heard in opposition or support of the motion. Failure of said victim to appear in court shall not, without more, constitute grounds for approval of the motion. The incarceration of the defendant or the person who posted bail on behalf of the defendant shall not, without more, constitute grounds for approval of the motion. After the hearing, the justice shall have seven business days to consider and take action on the motion.

(5) A justice shall not waive, vacate, remit or reduce the financial obligations of a defendant who is incarcerated solely because of the defendant's incarcerated status. The clerk shall note on the mittimus ordering the commitment of the defendant the financial obligations imposed on the defendant, if any. If the defendant is committed to a house of correction, the sheriff shall be responsible for collecting all financial obligations owed by the defendant while in his custody and may attach any monies deposited in or due to be deposited in the canteen fund, so-called, or any other financial account maintained by the defendant or on behalf of the defendant. If the defendant is committed to a facility of the department of correction or a facility of the department of youth services, the commissioner of the department having custody of the defendant shall be responsible for collecting all financial obligations owed by the defendant while in custody of said department and may attach any monies deposited in or due to be deposited in the canteen fund, so-called, or any other financial account maintained by or on behalf of the defendant. Funds collected shall be remitted to the clerk of the court from which the defendant was sentenced. Funds remitted under the provisions of this section shall be applied first toward any restitution owed by the defendant. After the order of restitution is satisfied, funds remitted under this section shall be deposited into the fund proscribed by the general or special law establishing the obligation; provided, that if a fund is not so proscribed, the funds so collected shall be deposited in the general fund.

(6) The clerk of each court shall maintain a separate interest bearing account for the receipt of bail and other monies received by the court. Interest accruing on account of funds deposited in said account shall be remitted to the state treasurer and deposited not

less than once per month in the general fund. Bail that has been ordered forfeited shall, not later than thirty days after the order of forfeiture, be remitted to the treasurer and deposited in the general fund.

The amendment was **adopted**.

Mr. McGee moved that the bill be amended, in Section 2, in item 2810-0300 by adding the following: "; provided further, that no less than \$35,000 shall be expended for the cleanup of Pilayella algae on the Nahant Beach Reservation".

The amendment was **adopted**.

Mr. Hart moved that the bill be amended, in Section 2, in item 2820-0100, by inserting, after the words "Curley Recreation Center in the city of Boston;" the following: "provided further, that not less than \$250,000 shall be expended for Camp Meigs located in the Readville section of the city of Boston; provided further that not less than \$250,000 shall be expended for a study on the Neponset River Master plan".

The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, by striking item 2820-1000, and inserting in place the following item:
2820-1000 The division of urban parks and recreation may expend an amount not to exceed \$325,000 from revenue generated pursuant to section 34B of chapter 92 of the General Laws and proceeds derived from the lease agreement entered into for the management of Nahant Beach Reservation Parking Lot, provided not less than \$125,000, in addition to other amounts budgeted for the upkeep and maintenance of said Reservation, shall be expended for the upkeep and maintenance of said Reservation beginning March 1, and ending not later than July 1\$325,000

The amendment was *rejected*.

Messrs. Lees, Hedlund and Knapik moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION __. Section 7 of Chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the second sentence of clause eighteenth and inserting in place thereof the following:- "Legal holiday" shall also include, with respect to Suffolk county only, March seventeenth, or the day following when said days occur on Sunday; provided, however, that the words "legal holiday" as used in section forty-five of chapter one hundred and forty-nine shall not include March seventeenth, or the day following when said day occurs on a Sunday."

After debate, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-three minutes past nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 14 - nays 24) **[Yeas and Nays 29]**:

YEAS.

Baddour, Steven A.	Lees, Brian P.
Brewer, Stephen M.	Montigny, Mark C.
Brown, Scott P.	Moore, Richard T.
Buoniconti, Stephen J.	O'Leary, Robert A.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — 14.

NAYS.

Antonioni, Robert A.	Morrissey, Michael W.
Augustus, Edward M., Jr.	Murray, Therese
Barrios, Jarrett T.	Nuciforo, Andrea F., Jr.
Berry, Frederick E.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tolman, Steven A.
McGee, Thomas M.	Walsh, Marian

Menard, Joan M. Wilkerson, Dianne —
24.

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

Messrs. Lees, Hedlund and Knapik moved that the bill be amended by inserting, after Section ____, the following new Section:-
"SECTION ____. Section 7 of Chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the second sentence of clause eighteenth and inserting in place thereof the following:- "Legal holiday" shall also include, with respect to Suffolk county only, June seventeenth, or the day following when said days occur on Sunday."
The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. Section 7 of Chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the following words contained in lines 88 and 89 of clause eighteenth:- ", with respect to Suffolk county only,"

The question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-eight minutes past nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 19 - nays 19) [**Yeas and Nays 30**]:

YEAS.

Antonioni, Robert A. Creem, Cynthia Stone
Augustus, Edward M., Hart, John A., Jr.
Jr.
Berry, Frederick E. Knapik, Michael R.
Brewer, Stephen M. Menard, Joan M.
Buoniconti, Stephen J. Nuciforo, Andrea F., Jr.
Chandler, Harriette L. Pacheco, Marc R.
Panagiotakos, Steven C. Timilty, James E.
Rosenberg, Stanley C. Tisei, Richard R.
Spilka, Karen E. Tolman, Steven A. —
19.
Tarr, Bruce E.

NAYS.

Baddour, Steven A. Montigny, Mark C.
Barrios, Jarrett T. Moore, Richard T.
Brown, Scott P. Morrissey, Michael W.
Creedon, Robert S., Jr. Murray, Therese
Fargo, Susan C. O'Leary, Robert A.
Havern, Robert A. Resor, Pamela
Hedlund, Robert L. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian
Lees, Brian P. Wilkerson, Dianne —
19.
McGee, Thomas M.

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

Ms. Walsh moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION ____. That for the purpose of discharging a moral obligation of the commonwealth, and after an appropriation has been made thereof, there shall be allowed and paid out of the state treasury to Colonel William J. Gormley, III, Massachusetts National Guard, the sum of \$44,983.12 for legal expenses incurred by him in defending himself against a civil complaint initiated by former Adjunct General Raymond A. Vezina. Said civil complaint having been subsequently withdrawn after evidence

demonstrated that Colonel Gormley acted properly and in good faith in executing his duties and responsibilities as a member of the Massachusetts Militia.

The amendment was **adopted**.

Ms. Creem and Mr. Tolman moved that the bill be amended in Section 86 by adding at the end thereof the following new paragraph:-

"(q) Notwithstanding paragraph (p) not less than 50 per cent of the net cash proceeds derived from the sale, lease, sublease, granting of easements or other conveyances related to any state mental health facility or state mental retardation facility declared to be surplus by the department of capital asset management and maintenance shall be deposited into the State Mental Health Facilities Disposition Fund or the State Mental Retardation Facilities Disposition Fund as established by section 2 NNN of chapter 29 of the General Laws. The remainder of such net cash proceeds shall be allocated in accordance with paragraph (p), provided that the city or town in which the property is located shall receive from such remaining net cash proceeds, to the extent possible, the full amount it would have received notwithstanding this paragraph.; and

By inserting, after Section ____, the following new Section:- SECTION ____. Chapter 29 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 2 MMM the following section: -

"Section 2 NNN. There shall be established and set up on the books of the commonwealth two separate funds to be known as the State Mental Health Facilities Disposition Fund and the State Mental Retardation Facilities Disposition Fund to be expended, subject to appropriation, by the department of mental health and the department of mental retardation respectively. Notwithstanding section 548 of chapter 28 of the acts of 2003 or any other law or act to the contrary, the funds shall consist of not less than 50 per cent of monies derived from the sale, lease, sublease, granting of easements or other conveyances related to any state mental health facility or state mental retardation facility declared to be a surplus by the department of capital asset management and maintenance. Monies deposited into the funds shall be expended exclusively by the department of mental health and the department of mental retardation respectively to provide, develop and support housing for individuals who are clients of the department of mental health and the department of mental retardation. The books and records of the State Mental Health Facilities Disposition Fund and State Mental Retardation Disposition Fund shall be subject to a biennial audit by the state auditor. No expenditure from said funds shall cause said funds to be in deficiency at the close of a fiscal year."

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, in item 1410-0250 by inserting after the words " New Bedford;" the following:- "provided further, that not less than \$44,888 shall be obligated for a contract with the Mansion located in the city of Haverhill."

The amendment was **adopted**.

Ms. Chandler, Messrs. Augustus and Brewer moved that the bill be amended, in Section 2, in item 1410-0250, by striking out the figure "\$453,966" and inserting in place thereof the following figure:- "\$475,105" and moved to further amend the bill, in Section 2, in item 1410-0250, by striking out the figure "\$1,947,291" and inserting in place thereof the following figure:- "\$1,968,430".

The amendment was **adopted**.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION _____. Clause twenty-second of section 5 of chapter 59 of the General Laws, as appearing in the 2002 official edition, is hereby amended by striking the words "two thousand dollars" in line 555 and inserting in place thereof the following words:- "ten thousand dollars", and further moved that the bill be amended by striking the figure "\$250" in line 556 and inserting in place thereof the following figure:- "\$1,000" .

The amendment was **adopted**.

Mr. Hart moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION ___. Section 210 of Chapter 184 of the Statutes of 2002 is hereby amended by striking the period at the end of the second sentence and adding the following: "; and until the University and the Commission mutually agree to such compensation the Commission shall remain the right to possession of the taken parcel."

The amendment was **adopted**.

The President in the Chair, Mr. Lees moved that the bill be amended by inserting, after Section ____, the following new Section:-

"Notwithstanding any general or special law to the contrary, all subterranean thoroughfares, including portions of the Central Artery/Tunnel Project shall have signage posted indicating to motorists, "Please 'TRAV'-el Safely!" After debate, the amendment was *rejected*.

Ms. Wilkerson moved that the bill be amended, in Section 2, by inserting the following new line item:

9700-XXXX

For the Hynes Convention Center and Parking Garage Commission to complete the task of Section 299 of Chapter 149 in the Acts of 2004\$80,000

The amendment was **adopted**.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik, Brown and Buoniconti moved that the bill be amended, in Section 2, in item 0511-0000 by inserting at the end thereof the following:- "provided further, each register of deeds using electronic record books shall record all instruments electronically and each register shall note any changes or amendments made to the recorded instrument after the initial entry of the instrument in the electronic record book and shall ensure that all methods of electronically recording instruments conform to any federal law requirement; provided further, each register shall make duplicate copies, which may be in electronic format, of all books in his registry in which deeds, certificates and other instruments have been electronically recorded or entered."

The amendment was **adopted**.

Messrs. Tarr, Lees, Tisei, Knapik, Hedlund, Brown and Brewer moved that the bill be amended by inserting, after section 109, the following new section: -

"The department of education is hereby authorized and directed to investigate the potential positive and negative fiscal and educational impacts, as well as the potential interaction with any applicable federal laws of amending section 5A of chapter 71B to set eligibility for at reimbursement for in-district placement of special education students at 3 times state average per pupil foundation budget."

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended by striking section 109 and inserting in place thereof the following:-

"SECTION ____ . The executive office of transportation shall perform a comprehensive study of student transportation, in cooperation with the department of education, to determine a more cost-effective approach to transporting students to and from school and other school-related activities including, but not limited to, examining ways to improve coordination of bus routes and other methods of transport within and among school districts, evaluating the feasibility of establishing a school transportation authority to oversee educational transportation, a review of the current level of state and local payments for transportation, an analysis of the need for changes in the laws and regulations relative to school transportation, and the feasibility of charging user fees to all users including students eligible for free or reduced cost lunch in order to diminish the costs currently borne by municipalities and the impact any such fees may have on low-income students.

The amendment was **adopted**.

Messrs. Berry, Rosenberg and Antonioni moved that the bill be amended, in Section 2, in item 3000-1000, by inserting in the second line after the word "licensing;" the following:- "provided further, that funds from this item shall be expended to hire a deputy commissioner of workforce development who shall have responsibility for developing and implementing the workforce development plan pursuant to section 5 of chapter 15D of the General Laws; provided further said deputy commissioner shall coordinate with the board of higher education and the university of Massachusetts board of trustees in developing said workforce development plan as it relates to programs and services to be delivered through public higher education institutions."

The amendment was *rejected*.

Mr. Antonioni, Ms. Fargo, Messrs. Tarr and Barrios moved that the bill be amended, in Section 2, in item 7516-0100 the following item:-

"7516-0200

For the Bay State Reading Institute, to provide literacy-based intervention in Massachusetts schools; provided, that the program shall be administered under contract to Middlesex Community College, in collaboration with Fitchburg State College; provided further, that the preponderance of funds should go to schools with a high percentage of minority and/or low-income students, provided further, that such school-wide literacy-based intervention programs shall be based on effective, research-based instruction in reading, as called for in Reading First, and shall provide for the evaluation and tracking of all students' reading and writing skills at least annually; provided further, that such programs shall include measurable goals and benchmarks, shall be lead by a school-based planning team which includes teaching faculty and the school principal, shall provide for the training of teachers in effective strategies for reading instruction and shall include a school-wide literacy coordinator who shall be responsible for the coordination and training of other school staff; provided further, that said initiative shall require that participating schools engage in frequent assessment of the progress of individual students, including diagnostics to determine the source of difficulty for struggling students, use small-group, student-centered instruction for a substantial part of the school day, and focus on literacy instruction, including writing, across the curriculum.....\$1,000,000".

The amendment was *rejected*.

Messrs Tarr, Lees, Tisei, Knapik, Hedlund and Brown moved that the bill be amended, in Section 2, in item 8000-0010 by inserting following the words "shall receive 100 per cent of the amount so earmarked in fiscal year 2006" the following: - "provided further, that no community shall receive a grant in fiscal year 2006 which is less than that received in fiscal year 2003; provided further, that \$250,000 shall be made available to municipalities specified under item 8100-0000 to curb gang-related activities; provided further, that the secretary of public safety shall distribute the monies from the preceding clause through a competitive grant program that gives preference to applications that demonstrate a commitment to multi-jurisdictional collaborative strategies to deal with curbing gang-related activities"; and

In section 2, in item 8000-0010, by striking out "\$20,267,596" and inserting thereof the following:-"\$20,750,715".
The amendment was **adopted**.

Messrs. Rosenberg, Brewer, and Nuciforo moved that the bill be amended, in Section 2, in item 8910-0188, by striking out the words:- "provided further that \$300,000 from the reimbursements shall not be available for expenditure and shall be deposited in the General Fund at a rate of the first \$75,000 of each quarter before the retention by the department of any reimbursements; provided further, that the quarterly payments shall total \$300,000 in fiscal year 2006";
The amendment was **adopted**.

Messrs. Morrissey, Hart, Hedlund and Tolman moved that the bill be amended, in Section 2, in item 2810-2040 by inserting after the words "recreation system;" the following;- ", for the expense, upkeep, maintenance and improvement of the division's waterways including, but not limited to, the waterway, waterfront, piers, public access, floats and moorings, located on and near properties permitted or leased from the division to a yacht club".; and

By inserting in said item after the words "full time equivalent personal;" the following:- "provided further that the division shall expend at least spend an amount equal to the proportion of the fees collected from the permits or lease monies from yacht clubs permitted or leasing on division property in relation to all fees collected to be spent on waterways, waterways improvements, and public access."
The amendment was *rejected*.

Mr. Berry moved that the bill be amended in Section 79 by adding the following words:-

"The Owners of Spectacle Island Park (hereinafter the "Park") are hereby authorized, notwithstanding any general or special law to the contrary, to enter into an agreement for the purposes of management, maintenance and operation of the Park, including the delivery of programs, activities and events for the educational, scientific, recreation and conservation benefit of the public, with Island Alliance, Inc., to provide the public with opportunities for recreation, education and other activities and purposes consistent and compatible with the protection, preservation, use and enjoyment of the Island Park by the public, and the cooperative operation by the Owners and Island Alliance, Inc., of the Park within the National Park Area. Nothing in the lease hereby authorized shall interfere with the public's right to access the Park without charge during the Park's operating hours To support such expenditures, the lessee may, as approved annually by the Owners under the lease agreement and subject to audit, charge and collect reasonable fees for participation in or access to programs, events, equipment and services planned or provided by the lessee, and may generate income and raise revenue through such means or through receipt of grants, donations, gifts, services or otherwise. All amounts collected by the lessee at or for the Park shall be held in trust for the benefit of the public, shall not be commingled with other monies held by the lessee for other purposes, and shall be directed to management, improvement, maintenance, operation and programming of and for the Park. Any amounts collected in excess of the expenditures therefor, which expenditures may include a reasonable return on investment approved in advance by Owners, shall be applied to a reserve account for the benefit of the Park or may be assigned to the National Park Area as approved by Owners.

The Owners are each authorized, in accordance with this act, to grant a lease for a period of up to thirty years to Island Alliance, Inc.

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended by inserting at the end thereof, the following new section:-

SECTION __. Notwithstanding section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, is hereby authorized, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws and using such competitive proposal process as the commissioner of said division deems necessary or appropriate, to lease and enter into other agreements, for terms not to exceed 20 years, to or with 1 or more offerors who participate in that process, The Max Ulin Rink in the Town of Milton, so as to provide for the continued use, operation, maintenance, repair and improvement of the Max Ulin Rink and facilities together with the land and appurtenances associated therewith.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. Such renewal or extension shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the state. All leases must

contain a provision that requires the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the commonwealth against all personal injury or property damage within the rink or on the land during the term of the lease. Such leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding any general or special law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any such leases or other arrangements requiring capital improvements to be made to any buildings or surface areas shall include a description of the required capital improvements and, at a minimum, performance specifications. Such leases and other agreements shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties provided by the tenants or the recipients of the properties shall be taken into account as part of the consideration for such leases or other agreements. The division, in consultation with the department, shall structure each lease or other agreement to minimize disturbance of the current rights of any tenants who may currently use any part of the rink or adjoining facilities, whether under a written lease or other arrangement. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the General Fund. The lessees of said properties shall bear all costs deemed necessary or appropriate by the commissioner of the division of capital asset management and maintenance for the transaction, including without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

(b) The division of capital asset management and maintenance, in consultation with and on behalf of the department of conservation and recreation, shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to (1) a comprehensive list of all rinks operated by the responsive bidder or offeror in the last four years, (2) other facilities management or experience of the responsive bidder or offeror, (3) other skating or hockey management experience of the responsive bidder or offeror, (4) a residential discount program, (5) reservation policies, (6) proposed reasonable rates that will ensure continued public access, (7) required financial audits, (8) policies to encourage use of the rink by persons of all races and nationalities, (9) safety and security plans, (10) seasonal opening and closing dates, (11) hours of operation and (12) how the operator will satisfy the following ice time allocation guidelines. Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to user groups in the following priority order: general public skating; non-profit youth groups; school hockey; youth groups other than non-profit youth groups; and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator, provided that general public skating shall be booked at a minimum of 12 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender.

(c) It shall be a mandatory term of any request for proposals issued by the commissioner and of any contract entered into by the commonwealth with any party regarding the subject matter of this section that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the rinks and to preserve the safety and environmental conditions of those rinks, that all employees currently working on the operation and maintenance of the rinks be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall reassign or relocate those employees who do not accept employment with the lessor, to comparable positions within the department subject to applicable collective bargaining agreements.

(d) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this section, except as provided in this section.

SECTION 2. The inspector general shall review and approve any request for proposal issued by the division before issuance.

The Town of Milton shall have the right of first refusal to lease and enter into agreements authorized by this section in connection with the Max Ulin Rink at a cost of \$1 per year for up to 25 years.

The amendment was **adopted**.

Messrs. Morrissey, Hart, Hedlund and Tolman moved that the bill be amended by inserting after Section 17 the following new section:-

SECTION. Chapter 92 of the General Laws is hereby amended by inserting after section 120 the following new section:- Section 121. The department of conservation and recreation shall establish a formula by which the fee or lease monies to be collected from yacht clubs in exchange for a permit or lease on the department's properties are to be determined; provided that the department shall consider, but is not limited to, the following factors; the actual revenue generated by the yacht club, the yacht club's service to the community, the number of years the yacht club has been at that location, the size of the yacht club's dues-paying membership, the capital improvements and maintenance on the department's properties, future capital improvements and the fees and taxes paid by the yacht club to the municipality. Nothing in this section shall prohibit the yacht club and the department on negotiating a mutually acceptable permit, permit fee or lease agreement; provided further that any dispute

regarding the permit, the lease, or negotiation process, that either party should have shall be subject to chapter 30A of the General Laws.

The amendment was **adopted**.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item, 7003-0701, in line 4, by adding the following: "; provided that \$150,000 shall be expended as a planning grant for the Springfield Health Careers Partnership Program, UMASS/Amherst School of Public Health and Health Sciences."

The amendment was *rejected*.

Ms. Chandler moved that the bill be amended, in Section 2, by striking out item 7007-0515 and inserting in place thereof the following item:-

"7007-0515

For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; provided further, that not less than \$250,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998; provided further, that \$350,000 shall be expended for a grant to the Massachusetts Alliance for Economic Development for the purpose of enhancing economic development related services, including but not limited to implementation of a statewide online site finder to assist business growth; and provided further, that not less than \$2,000,000 shall be expended for grants to community development corporations, community development financial institutions or other private, not-for-profit community-based organizations, for the purpose of providing technical assistance or training to very small businesses with 20 employees or less; provided, that grants shall be awarded to those community development corporations, community development financial institutions or other private, not-for-profit community-based organizations with a track record of success in providing technical assistance or training to such businesses.....\$2,950,000".

The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended, in Section 2, in item 7007-1200, by adding at the end, thereof the following:-

"provided that the Massachusetts Technology Collaborative shall work in conjunction with the Massachusetts eHealth Collaborative to provide Outer Cape Health Services with the resources necessary to match a Federal grant for development of an electronic medical records system."

The amendment was **adopted**.

Mr. Tolman moves that the bill be amended, in Section 2, by adding in line item 4590-0250 the following: "Provided further, that not more than \$150,000 shall be expended to create the Childhood Obesity - School Nutrition Pilot Project, within the Commonwealth's Department of Public Health. The purpose of this pilot program is to initiate or maintain school lunch programs focused on diminishing the epidemic of childhood obesity. Public schools wishing to institute or maintain a school nutrition program designed to reduce childhood obesity, as part of their school lunch program, may submit application to the Department of Public Health for a grant, not to exceed \$10,000 per school per annum. The application will indicate the various nutritional and educational steps the school will follow as part of their plan, as well as a method for measuring results. Grant applications and other appropriate criteria will be determined and reviewed by the Department of Public Health and striking out the figure "\$14,568,309" and inserting in place thereof the following figure- "\$14,718,309".

The amendment was **adopted**.

Messrs. Montigny, Tisei, Brown, Tarr and Ms. Spilka moved that the bill be amended, in Section 2, by inserting, after item 4513-1115 the following item:-

"4513-1121

For a statewide STOP stroke program; provided, that this program shall expend funds to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel and out-patient facilities intake and discharge personnel about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment; provided further, that this program shall expend funds, as appropriate, to support initiatives related to primary stroke services regulations throughout all regions of Massachusetts, such as telemedicine infrastructure, community education efforts, or other needed supports; provided further, that the department shall coordinate such program with any ongoing federally-funded statewide efforts, including any program funded by federal cardiovascular health initiative grants; and provided further, that the program shall seek to maximize, through grant development or public-private partnerships, available sources of funding to accomplish the goals of the program..... \$300,000"

The question on adoption of the amendment was determined by a call of the yeas and the nays at eleven minutes before ten o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 31**]:

YEAS.

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

38.

NAYS — 0.

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

Mr. Tarr moved that the bill be amended, in Section 2, in item 4800-1400, at the end thereof by inserting the following: - "provided further, that not less than \$10,000 shall be expended for the purposes of the domestic abuse response team which serves the Ipswich District Court."

By striking out the figure "\$20,430,496" and inserting in place thereof the following: - "\$20,440,496".
The amendment was **adopted**.

Ms. Walsh moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION ____. That for the purpose of discharging a moral obligation of the commonwealth, and after an appropriation has been made thereof, there shall be allowed and paid out of the state treasury to Colonel William J. Gormley, III, Massachusetts National Guard, the sum of \$44,983.12 for legal expenses incurred by him in defending himself against a civil complaint initiated by former Adjunct General Raymond A. Vezina. Said civil complaint having been subsequently withdrawn after evidence demonstrated that Colonel Gormley acted properly and in good faith in executing his duties and responsibilities as a member of the Massachusetts Militia.

The amendment was **adopted**.

At five minutes before ten o'clock P.M. , the President declared a recess until the following day at a half past eleven o'clock A.M.

of Monday, May 23, 2005]

At a quarter before twelve o'clock noon, the Senate reassembled, the President in the Chair.

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

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Mr. Buoniconti moved that the bill be amended by inserting the following outside section:

(A) Section 3 of Chapter 32 of the General Law, as so appearing is hereby amended by inserting in line 301 as appearing in the 2002 official edition, after the words "fire marshal" the following words:- "and employees."

(B) Section 3 of Chapter 32 of the General Laws, as so appearing is hereby amended by inserting in line 306 after the words "firefighting academy" the following words:- "employees of the Department of Fire Services shall have previously held employment in a group 4 position."

(C) Employees of the Department of Fire Services shall not be eligible for retirement under the provisions of part B of this act for eighteen months from the date of the enactment of this act.

The amendment was **adopted**.

Mr. McGee moved that the bill be amended, in Section 2, in item 7030-1002 by striking out the figure "\$23,000,000" and inserting in place thereof the following figure:- "\$25,000,000".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twelve minutes before twelve o'clock noon, on motion of Mr. McGee, as follows, to wit (yeas 36 - nays 0) [**Yeas and Nays 32**]:

YEAS.

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

36.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Havern, Robert A. — **2.**

The yeas and nays having been completed at eight minutes before twelve o'clock noon, the amendment was **adopted**.

Mr. Pacheco moved that the bill be amended by inserting the following new section:-

Section __ The third paragraph of Section 3 of 150E of the General Laws as appearing in the 2002 Official Edition is amended by striking out the first sentence and adding in place thereof the following sentence: "The appropriate bargaining unit in the case of the uniformed members of the state police shall be a public safety professional unit composed of all such uniformed members in

the titles below that of Major and above that of Sergeant and a unit composed of all such uniformed members in titles below that of Lieutenant."

The amendment was **adopted**.

Mr. Barrios moved that the bill be amended, in Section 2, in item 7003-0702, by striking out the words "provided further, that not less than \$90,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea" and inserting in place thereof the following words:- "provided further, that not less than \$200,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services, and other transitional services in the city of Chelsea;"

The amendment was **adopted**.

Mr. Pacheco moved that the bill be amended, in Section 2, in item 4510-0600 by striking "\$30,000" and inserting "\$100,000." After remarks, the amendment was **adopted**.

Ms. Fargo moved that the bill be amended, in Section 2, in item 4512-0200, by inserting after the words "Orange Recovery House" the following: - "provided further, that not less than \$50,000 shall be expended to REACH, formerly known as the Waltham Support Committee for Battered women".

The amendment was **adopted**.

Ms. Wilkerson and Mr. Tolman moved that the bill be amended, in Section 2, in item 4512-0200 by striking the following language: "provided further, that not less than \$99,925 shall be expended for Latinas Y Ninos to provide a full-time child advocate parent educator specialist to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents, and mothers recently reunified with their children" and inserting in place thereof the following: "provided further, that not less than \$99,925 shall be expended for Latinas Y Ninos for women in recovery, including children's services."

After remarks, the amendment was **adopted**.

Mr. Lees moved that the bill be amended, in Section 2, in item 4530-9000 by inserting at the end thereof the following:- "provided further, that not less than \$100,000 shall be expended for teen pregnancy prevention services in the city of Springfield".

The amendment was **adopted**.

Messrs. Hart and Joyce moved that the bill be amended, in Section 2, in item 4590-0250, by inserting, after the words "department of education" the following:- "provided further that \$99,000 shall be expended to the H.E.L.P. program so-called, for black males health;"

After remarks, the amendment was **adopted**.

Messrs. Tisei, Havern, Lees, Barrios, Joyce, Augustus, Knapik and Tolman, Ms. Fargo, Messrs. Antonioni and O'Leary, Ms. Wilkerson, Mr. Montigny, Ms. Spilka, and Mr. McGee moved that the bill be amended, in Section 2, in item 4590-0250, by striking out the following:- "; provided further, that not more than \$250,000 shall be expended for the Governor's Commission on Gay and Lesbian Youth;" and insert in place thereof the following:- "provided further, that not less than \$350,000 shall be expended for the Governor's Commission on Gay and Lesbian Youth;"

After remarks, the amendment was **adopted**.

Messrs. Tolman and McGee moved that the bill be amended by inserting, after Section ____, the following new section:-

Section ____ . Section 12DD of Chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph: "Every physician attending or treating a case of heroin or other opioid overdose shall report such case to the department of public health within twenty-four hours. Whenever any such case is treated in a hospital, clinic or other institution, the administrator, manager, or other person in charge thereof shall report such case to the commissioner of public health within twenty-four hours. The reports made pursuant to this section shall be confidential and shall not be a public record as defined by Section 7 of Chapter 4. The department of public health shall promulgate regulations to carry out the provisions of this section. Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars or more than one hundred dollars."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at sixteen minutes past twelve o'clock noon, on motion of Mr. McGee, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 33**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Augustus, Edward M., Jr.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.

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

38.

NAYS — 0.

The yeas and nays having been completed at twenty-two minutes past twelve o'clock noon, the amendment was **adopted**.

Mr. Baddour moved that the bill be amended, in Section 2, in item 4000-0112 by inserting after the words "Girls Incorporated of Holyoke Drop-In Center;" the following:- "provided further, that not less than \$100,000 shall be expended for the programs and improvements at the YWCA of Haverhill."

The amendment was **adopted**.

Mr. Moore and Ms Fargo moved that the bill be amended, in Section 2, in item 4000-0300, by inserting at the end thereof the following:- provided further, that in determining the inpatient and outpatient non- acute hospital rates of payment, the executive office and its contractors shall utilize the same payment methodology in effect during fiscal year 2005 so that rates of payment are not less than those in effect during fiscal year 2005.

After remarks, the amendment was **adopted**.

Mr. Pacheco moved that the bill be amended in outside section 75, by striking paragraph 4 and inserting in place thereof the following:- (4) effective July 1, 2005, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to publicly operated, urban and/or geographically isolated nursing homes as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the executive office of health and human services in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the executive office of health and human services in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings and to the extent that an annual amount of \$17 million in this paragraph is not fully allocated, the division shall first provide operating or capital rate adjustments for publicly operated, urban and/or geographically isolated nursing homes;"

Ms. Walsh in the Chair, after remarks, the amendment was **adopted**.

Mr. Montigny moved that the bill be amended by striking section 5, and further moves to amend the bill by inserting the following section:-

"SECTION __. Notwithstanding any general or special law to the contrary, the Secretary of the Executive Office of Health and Human Services shall take all steps necessary to implement section 271 of chapter 127 of the Acts of 1999 no later than February 1, 2006. The Secretary shall submit reports detailing the Executive Office's progress in implementing this section on the last day of every month between August 31, 2005 and March 31, 2006 to the clerks of the House and Senate, the chairs of the House and Senate Committees on Ways and Means, the Chairs of the Joint Committee on Health Care Finance and the Chairs of the Joint Committee on Elder Affairs.

After remarks, the amendment was **adopted**.

Mr. Rosenberg moved that the bill be amended, in Section 2, in item 4100-0060, by adding the following words:-"; provided further, that the division shall transfer its existing contract with Hampshire Community Action Commission for the demonstration project Hampshire Health Access to Hampshire HealthConnect, a program of Cooley Dickinson Hospital, effective May 1, 2005".

The amendment was **adopted**.

Mr. Rosenberg moved that the bill be amended, in Section 2, in item 4000-0600 by adding the following words:- "and provided further, that notwithstanding any general or special law to the contrary, medicaid rates paid by the commonwealth through the office of medicaid or its third party agents to cover the cost of care provided by the only mentally involved/medically involved (MIMI) nursing facility in the commonwealth shall be sufficient to cover the cost of care provided by such a facility, and in no event shall be less than fifteen percent more than the fiscal year 2005 medicaid reimbursement per patient day received by such a facility".

After remarks, the amendment was **adopted**.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Sections:-

"SECTION _____. Clause Forty-first of section 5 of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subclause (B), beginning in line 865, and inserting in place thereof the following subclause:-

(B) that such person's income does not exceed that required to qualify under section 5 subsection (a) of chapter 62.

SECTION _____. Said clause Forty-first is hereby further amended by striking out the words "five hundred dollars", in line 849, and inserting in place thereof the following figure:- \$1,000.

SECTION _____. Clause Forty-first B of said section 5 is hereby amended by striking out the words "five hundred dollars", in line 1035, and inserting in place thereof the following figure:- \$1,000."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-one minutes before one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 34**]:

YEAS.

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

38.

NAYS — 0.

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

Mr. Brewer moved that the bill be amended, in Section 2, in item 2310-0200, by striking the wording "provided further, that not less than \$15,000 shall be expended to the Town of Orange for maintenance of culverts and other necessary repairs resulting from beaver related flooding in the Town of Orange;"; and

In item 6010-0001, by inserting the following wording:- "provided further, that not less than \$15,000 shall be expended to the Town of Orange for maintenance of culverts and other necessary repairs resulting from beaver related flooding in the Town of Orange;"

The amendment was **adopted**.

Messrs. Brown, Lees, Tisei, Tarr, Hedlund, Knapik, and Ms. Tucker moved that the bill be amended by inserting after Section __, the following new Section:-

"SECTION __. Notwithstanding any law to the contrary the School Building Assistance Authority shall submit a list of school projects consisting of: (i) all projects approved in accordance with chapter 645 of the acts of 1948 for which the state has outstanding liability as of January 1, 2005 ; (ii) all approved school projects that were approved by the board of education in accord with section 6 of chapter 70B of the General Laws on or before December 31, 2004 , for which the state has outstanding liability as of January 1, 2005 ; (iii) all projects on the school building assistance priority list maintained by the department of education as May 1, 2004 ; (iv) applications submitted to the authority subsequent to July 1, 2007 for major repair projects which were formerly accepted by the board to have been necessary to avoid future and more costly renovations of the same project and if the authority determines that funding of such repair projects does not adversely impact the full funding of bonded liabilities and indebtedness under the school modernization and reconstruction trust; and (v) projects in Quincy and Swampscott which, prior to the effective date of this act, were eligible for funding under section 668 of chapter 26 of the acts of 2003. The list shall identify for each project: (i) total estimated construction costs; (ii) total estimated short-term and long-term interest costs; (iii) reimbursement rate pursuant to chapter 70B of the General Laws as in effect prior to the effective date of this act, section 329 of chapter 159 of the acts of 2000 as in effect prior to the effective date of this act, and section 668 of chapter 26 of the acts of 2003 as in effect prior to the effective date of this act; (iv) year of application; (v) year of approval, if approved; (vi) rank order on the waiting list; and (vii) other information upon the request of the authority.

The amendment was **adopted**.

Messrs. Tisei, Lees, Knapik, Tarr, Hedlund, and Brown moved that the bill be amended by inserting, after Section 109, the following new Section:-

"SECTION __. The secretary of the executive office of health and human services shall conduct a study to determine the costs of allowing MassHealth participants who care for elderly parents to obtain additional benefits to offset the expenses paid for caring for elderly parents. The secretary shall submit this report no later than March 1, 2006 and shall submit said report to the senate president, senate minority leader, chairman of senate ways and means committee, speaker of the house of representatives, house minority leader and chairman of the house ways and means committee."

The amendment was **adopted**.

Ms. Fargo, Messrs. Knapik, Tolman, McGee, Nuciforo, Barrios, O'Leary, Montigny, and Moore moved that the bill be amended, in Section 2, in item 4530-9000, by striking out the figure "\$1,492,643" and inserting in place thereof the following figure: - "2,000,000".

The amendment was **adopted**.

Mr. Moore moved that the bill be amended, in Section 2, in item 4580-1000, by striking the figure "\$27,052,068" and inserting in place thereof the figure "29,071,508.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at three minutes before one o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 35**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Augustus, Edward M., Jr.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.
Barrios, Jarrett T.	Lees, Brian P.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.

Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Resor, Pamela	Tisei, Richard R.
Rosenberg, Stanley C.	Tolman, Steven A.
Spilka, Karen E.	Tucker, Susan C.
Tarr, Bruce E.	Walsh, Marian
Timilty, James E.	Wilkerson, Dianne —

38.

NAYS — 0.

The yeas and nays having been completed at one o'clock P.M., the amendment was **adopted**.

Ms. Chandler, Mr. Tarr, Ms. Fargo, Mr. Moore, Ms. Spilka, Ms. Resor and Ms. Creem moved that the bill be amended, in Section 2, by striking out item 4590-0300 and inserting in place thereof the following item:-

"4590-0300 For youth smoking prevention and tobacco control programs, including enforcement of illegal sales to children laws by local boards of health and coordinated treatment resources including the Tobacco Free Helpline and QuitWorks; provided, that no funds shall be expended in the AA subsidiary, so-called, for any personnel-related costs 4,250,000" .

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at five minutes past one o'clock P.M., on motion of Ms. Chandler, as follows, to wit (yeas 38 - nays 0) **[Yeas and Nays 36]:**

YEAS.

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

Timilty, James E. Wilkerson, Dianne —
38.
NAYS — 0.

The President in the Chair, the yeas and nays having been completed at eight minutes past one o'clock P.M., the amendment was **adopted**.

Distinguished Guests.

There being no objection, during the consideration of the Orders of the Day, several guests were recognized, as follows:

The President handed the gavel to Mr. Baddour for the purpose of introducing the members of Team Kate Bike Ride. They were led by Steve Smith of Methuen and included members, Joe Crowley, Kevin Friel, Brian Caldwell and Jessica Coveillo. The team raises funds to grant wishes to children with cancer. The team was the guest of Senators Baddour, Morrissey and Walsh.

The President then handed the gavel to Mr. Knapik for the purpose of introducing, seated at the rear of the Chamber, Mrs. Marion Armstrong and Mrs. Jean Dudas, members of the board of directors of the Westfield Council on Aging. They were accompanied by Representative Donald Humason of Westfield.

The President then handed the gavel to Mr. Joyce for the purpose of introducing, in the rear of the Chamber, The Fontbone Academy Chorus. The chorus, led by Carol Emma Fortier, performed a song and then withdrew from the Chamber.

The President then handed the gavel to Mr. O'Leary for the purpose of introducing, in the rear of the Chamber, students from Massachusetts Maritime Academy.

Orders of the Day.

The President in the Chair, the Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Mr. Montigny moved that the bill be amended in Section 62 by adding at the end the following wording:- "The Executive Office of Elder Affairs shall report quarterly, beginning no later than September 30, 2005, to the chairs of the house and senate ways and means committees, the joint committee on health care finance, and the joint committee on elder affairs on the number of Prescription Advantage members by income categories; the Prescription Advantage costs to date; the projected Prescription Advantage costs for the remainder of the fiscal year; and the Prescription Advantage member's out-of-pocket costs for formulary and non-formulary drugs. In addition, starting March 2006, the Executive Office of Elder Affairs shall also report the number of Prescription Advantage members enrolled in a Part D plan; the names of the Part D plans in which said members are enrolled, including the number of members enrolled in each; and the cost savings to Prescription Advantage specifically related to Part D involvement."

After debate, the amendment was **adopted**.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4800-1400, by striking the figure "\$500,000," and inserting the figure "\$1,037,000."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-nine minutes before two o'clock P.M., on motion of Mr. Buoniconti, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 37**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Augustus, Edward M., Jr.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.
Barrios, Jarrett T.	Lees, Brian P.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Richard T.

Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Resor, Pamela	Tisei, Richard R.
Rosenberg, Stanley C.	Tolman, Steven A.
Spilka, Karen E.	Tucker, Susan C.
Tarr, Bruce E.	Walsh, Marian
Timilty, James E.	Wilkerson, Dianne —

38.

NAYS — 0.

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

At twenty-six minutes before two 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 before three o'clock P.M., the Senate reassembled, the President the Chair.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Messrs. Baddour, Tisei, Hart, Barrios, O'Leary, McGee and Augustus, Ms. Chandler, Ms. Tucker, Messrs. Hedlund, Joyce and Creedon, Ms. Resor, Ms. Walsh, and Mr. Tarr moved that the bill be amended, in Section 2, in item 1599-0042, by striking out the figure "\$10,000,000" and inserting in place thereof the following figure:-"\$12,500,000"

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-two minutes before three o'clock P.M., on motion of Mr. Baddour, as follows, to wit (yeas 38 - nays 0) [**Yeas and Nays 38**]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Augustus, Edward M., Jr.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.
Barrios, Jarrett T.	Lees, Brian P.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Resor, Pamela	Tisei, Richard R.
Rosenberg, Stanley C.	Tolman, Steven A.

Spilka, Karen E. Tucker, Susan C.
Tarr, Bruce E. Walsh, Marian
Timilty, James E. Wilkerson, Dianne —
38.

NAYS — 0.

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

Mr. Joyce moved that the bill be amended by inserting, after Section __, the following new Section:-

SECTION __. The commission of the division of capital asset management and maintenance shall convey to the town of Stoughton, for nominal consideration, notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws, or any other general or special law or rule or regulation to the contrary, by deed, a parcel of state owned land located in the town, formerly under the care and control of the armory commission. The parcel is shown as parcel 42 on town assessor's map 81. The amendment was **adopted**.

Mr. Lees moved that the bill be amended by inserting after Section __ the following Section:-

Notwithstanding any general or special law to the contrary, the chairwoman of the senate ways and means committee shall be required to have on her person at all times a wireless communication device, a Blackberry so-called, so that the chairwoman can enjoy the benefits of being in constant communication with the agencies from which she consistently requests information so that she can craft a thorough and complete fiscal plan for the commonwealth.

Pending the question on adoption of the amendment, Ms. Murray moved that the amendment be amended by adding at the end thereof the following sentence: "Funds for such wireless communications device shall be paid from the Senate minority leader's office funds within item number 9500-0000."

After remarks, the further amendment was *rejected*.

After remarks, the pending the amendment (Lees) was *rejected*.

Mr. Morrissey moved that the bill be amended by inserting after section 105 the following new section:-

SECTION . Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement commission is authorized and directed to permit any member of any retirement system, who retired between June 30, 2004 and December 31 under chapter 32 of the General Laws, 2004 and made an election of retirement benefits pursuant to subdivision (1) of section 12 of said chapter 32, to make one change of such an election following receipt of information concerning the effect of the new table of mortality **adopted** on or about December 22, 2004 that was made retroactive to June 30, 2004 by the public employee retirement administration commission pursuant to section 336 of chapter 149 of the acts of 2004; provided further that the retiree shall make said change under the provisions of this section within 180 days of the effective date of this act. The amendment was **adopted**.

Ms. Resor and Ms. Creem moved that the bill be amended, in Section 2, in item 7061-0012 be amended by striking the words "\$100,000 may be expended for the purposes of training teachers and students;" and inserting in place thereof the following:- "200,000 shall be made available for the purposes of training teachers and students and \$25,000 shall be expended for a pilot program for Recording for the Blind and Dyslexic to provide the 10th grade Math and English language arts MCAS tests in audio digital format for the fall and spring of the 2005-2006 school year." The amendment was *rejected*.

Ms. Walsh and Mr. Barrios move that the bill be amended, in Section 2, in item 7061-0029, by striking out the figure "\$3,049,470" and inserting in place thereof the following figure: - "\$3,269,470." After remarks, the amendment was **adopted**.

Mr. Lees moved that the bill be amended by inserting after Section __, a new Section :-

"SECTION ____ That the board of higher education establish a commission to study the costs associated with expanding the John and Abigail Adams Scholarship by establishing and funding a scholarship program to provide an additional scholarship of up to \$2000 for students who score in the top 1% or 2% in the state on the Massachusetts Comprehensive Assessment System (MCAS); provided further, that the commission shall study the costs associated with making this scholarship retroactive to any students currently enrolled in a full time program at public higher education institutions."

Pending the question on adoption of the amendment, Messrs. Antonioni and Barrios moved that the amendment be amended by adding the following sentence:- "The commission shall also study the Adams Scholarship as it relates to gender, different socio-economic backgrounds, and how any expansion of the scholarship would affect those relationships."
The further amendment was **adopted**.

The pending amendment (Lees), as amended (Antonioni - Barrios) was then **adopted**.

Mr. Hart moved that the bill be amended, in Section 2, in item 7007-1200 by inserting after the words "by January 15, 2006;" the following:- "provided further, that funds shall be expended on a grant to study the creation, operation, and evaluation of a pilot wireless student learning initiative at the New Boston Pilot School in the City of Boston, and the results reported to the house and senate committees on ways and means by January 15, 2006."
After remarks, the amendment was **adopted**.

Mr. Havern moved that the bill be amended, in Section 2, in item 7061-0011 by inserting after section 8 the following new section:- "(9) Meet extraordinary legal costs in excess of \$100,000 arising from successful appeals of decisions rendered by the Bureau of Special Education Appeals; provided further, that any such awards shall be limited to 50% of eligible costs incurred, and in no instance shall exceed \$250,000."
The amendment was **adopted**.

Mr. O'Leary moved that the bill be amended, in Section 2, in item 7070-0065, by inserting after the words "pursuing a bachelor's degree at a public", the following:- "or independent."
The amendment was **adopted**.

Messrs. Nuciforo, Joyce and Barrios moves to amend the bill in Section 2, by inserting after item 7113-0100 the following item:- "7113-0105 For the Massachusetts College of Liberal Arts for capacity building at the Massachusetts College of Liberal Arts in conjunction with a pilot wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; provided, that not less than \$100,000 shall be expended for the assessment and evaluation of the higher education resources available to residents of Berkshire County \$350,000"
The amendment was *rejected*.

Messrs. Tarr, Lees, Tisei, Knapik, Hedlund, Brown, Joyce, Fargo and Chandler moved that the bill be amended, in Section 2, in item 7061-0008 by inserting, after the words "No Child Left Behind Act;" the following: - "provided further, that not less than \$75,747,745 be used for equalization aid, so-called, for school aid to cities, towns, regional school districts, counties maintaining agricultural schools, independent vocational schools and independent agricultural and technical schools to be distributed in such amounts as necessary in order to ensure that no school districts funded by this item shall be funded at an amount less than the amounts prescribed in the disbursement contained in section 3 of chapter 149 of the acts of 2004, plus 50% of the difference, if any, between the amounts prescribed in the disbursement contained in section 3 of chapter 149 of the acts of 2004 and the amounts prescribed in the disbursement contained in section 3 of chapter 177 of the acts of 2001.";
and

By striking out the figure "\$3,288,931,062" and inserting in place thereof the following figure: - "\$3,364,678,807."
After remarks, the amendment was *rejected*.

Report of Committees.

There being no objection, during consideration of the Orders of the Day, by Ms. Menard, for the committees on Rules of the two branches, acting concurrently, on petition, a Bill expanding legislative oversight of agency regulations (Senate, No. 2066).

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

Pending the question on ordering the bill to a third reading, Ms. Wilkerson offered an amendment, inserting before the enacting clause the following emergency preamble:-

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to expand legislative oversight of agency regulations, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was **adopted**.

The bill (Senate, No. 2066, amended) was then ordered to a third reading, and was read a third time.

Ms. Menard in the Chair, after debate, the question on passing the bill to be engrossed was determined by a call of the yeas and the nays at twelve minutes past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 - nays 6) **[Yeas and Nays 39]:**

YEAS.

Antonioni, Robert A.	Creedon, Robert S., Jr.
Augustus, Edward M., Jr.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Hart, John A., Jr.
Berry, Frederick E.	Havern, Robert A.
Brewer, Stephen M.	Joyce, Brian A.
Buoniconti, Stephen J.	McGee, Thomas M.
Chandler, Harriette L.	Menard, Joan M.
Montigny, Mark C.	Resor, Pamela
Moore, Richard T.	Rosenberg, Stanley C.
Morrissey, Michael W.	Spilka, Karen E.
Murray, Therese	Timilty, James E.
Nuciforo, Andrea F., Jr.	Tolman, Steven A.
O’Leary, Robert A.	Tucker, Susan C.
Pacheco, Marc R.	Walsh, Marian
Panagiotakos, Steven C.	Wilkerson, Dianne —

32.

NAYS.

Brown, Scott P	Lees, Brian P.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 6.

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

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Messrs. Tarr, Lees, Tisei, Knapik, Hedlund and Brown moved that the bill be amended, in Section 2, in item 7061-0008 by striking out the figure "\$3,288,931,061" and inserting in place thereof the following figures:— "\$3,312,821,436";

By striking the figure in Section 2, in item 1599-7061 by striking the figure "\$55,000,000" and inserting in place thereof the following figure: - "\$31,109,625"; and

By adding after section 3 the following new section:

"Notwithstanding section 3 of this act or any general or special law to the contrary, for the fiscal year ending June 30, 2006, there shall be an additional Chapter 70 school aid distribution to cities, towns and regional school districts in the amount of \$23,890,375 to ensure that each municipal and regional school district receives an Increase of \$25 per student above the amount of Chapter 70 aid the contained in section 3 of this act and that this distribution shall be apportioned in accordance with this section:

ABINGTON	\$58,400
ACTON	\$60,350
ACUSHNET	\$37,550
ADAMS	\$0

AGAWAM	\$109,800
ALFORD	\$0
AMESBURY	\$66,375
AMHERST	\$36,700
ANDOVER	\$144,225
ARLINGTON	\$108,575
ASHBURNHAM	\$0
ASHBY	\$0
ASHFIELD	\$225
ASHLAND	\$61,025
ATHOL	\$0
ATTLEBORO	\$157,650
AUBURN	\$57,925
AVON	\$14,200
AYER	\$25,900
BARNSTABLE	\$157,525
BARRE	\$50
BECKET	\$125
BEDFORD	\$59,050
BELCHERTOWN	\$63,300
BELLINGHAM	\$67,000
BELMONT	\$89,200
BERKLEY	\$27,225
BERLIN	\$5,550
BERNARDSTON	\$0
BEVERLY	\$112,600
BILLERICA	\$155,975
BLACKSTONE	\$200
BLANDFORD	\$125
BOLTON	\$25
BOSTON	\$1,568,775
BOURNE	\$61,250
BOXBOROUGH	\$13,950
BOXFORD	\$22,700
BOYLSTON	\$8,875
BRAINTREE	\$124,375
BREWSTER	\$13,475
BRIDGEWATER	\$225
BRIMFIELD	\$7,450
BROCKTON	\$402,225
BROOKFIELD	\$6,950
BROOKLINE	\$146,125
BUCKLAND	\$0
BURLINGTON	\$89,850
CAMBRIDGE	\$165,550
CANTON	\$72,975

CARLISLE	\$19,475
CARVER	\$50,450
CHARLEMONT	\$200
CHARLTON	\$25
CHATHAM	\$14,550
CHELMSFORD	\$141,725
CHELSEA	\$136,150
CHESHIRE	\$950
CHESTER	\$325
CHESTERFIELD	\$325
CHICOPEE	\$187,875
CHILMARK	\$0
CLARKSBURG	\$6,900
CLINTON	\$49,750
COHASSET	\$36,675
COLRAIN	\$0
CONCORD	\$48,150
CONWAY	\$3,150
CUMMINGTON	\$125
DALTON	\$375
DANVERS	\$91,625
DARTMOUTH	\$104,775
DEDHAM	\$67,550
DEERFIELD	\$9,425
DENNIS	\$0
DIGHTON	\$0
DOUGLAS	\$38,075
DOVER	\$15,775
DRACUT	\$104,050
DUDLEY	\$0
DUNSTABLE	\$0
DUXBURY	\$79,625
EAST BRIDGEWATER	\$60,300
EAST BROOKFIELD	\$400
EASTHAM	\$5,325
EASTHAMPTON	\$46,625
EAST LONGMEADOW	\$68,675
EASTON	\$93,350
EDGARTOWN	\$10,025
EGREMONT	\$0
ERVING	\$6,025
ESSEX	\$0
EVERETT	\$134,550
FAIRHAVEN	\$53,700
FALL RIVER	\$300,225
FALMOUTH	\$104,300

FITCHBURG	\$144,275
FLORIDA	\$2,575
FOXBOROUGH	\$74,100
FRAMINGHAM	\$199,325
FRANKLIN	\$156,625
FREETOWN	\$13,975
GARDNER	\$77,250
GAY HEAD	\$0
GEORGETOWN	\$35,525
GILL	\$0
GLOUCESTER	\$101,575
GOSHEN	\$275
GOSNOLD	\$175
GRAFTON	\$60,650
GRANBY	\$25,950
GRANVILLE	\$7,325
GREAT BARRINGTON	\$0
GREENFIELD	\$53,725
GROTON	\$0
GROVELAND	\$0
HADLEY	\$15,675
HALIFAX	\$17,575
HAMILTON	\$0
HAMPDEN	\$0
HANCOCK	\$3,000
HANOVER	\$67,475
HANSON	\$75
HARDWICK	\$0
HARVARD	\$31,075
HARWICH	\$38,875
HATFIELD	\$12,125
HAVERHILL	\$193,050
HAWLEY	\$125
HEATH	\$0
HINGHAM	\$89,075
HINSDALE	\$225
HOLBROOK	\$34,150
HOLDEN	\$0
HOLLAND	\$4,750
HOLLISTON	\$71,050
HOLYOKE	\$182,225
HOPEDALE	\$26,275
HOPKINTON	\$82,475
HUBBARDSTON	\$25
HUDSON	\$64,100
HULL	\$38,875

HUNTINGTON	\$275
IPSWICH	\$48,800
KINGSTON	\$28,725
LAKEVILLE	\$17,600
LANCASTER	\$0
LANESBOROUGH	\$6,625
LAWRENCE	\$329,775
LEE	\$19,150
LEICESTER	\$47,150
LENOX	\$19,150
LEOMINSTER	\$154,200
LEVERETT	\$2,875
LEXINGTON	\$150,750
LEYDEN	\$0
LINCOLN	\$17,300
LITTLETON	\$38,300
LONGMEADOW	\$81,100
LOWELL	\$379,325
LUDLOW	\$77,225
LUNENBURG	\$41,600
LYNN	\$345,150
LYNNFIELD	\$50,300
MALDEN	\$165,950
MANCHESTER	\$0
MANSFIELD	\$117,875
MARBLEHEAD	\$78,350
MARION	\$10,475
MARLBOROUGH	\$117,800
MARSHFIELD	\$112,950
MASHPEE	\$54,100
MATTAPOISETT	\$12,050
MAYNARD	\$32,875
MEDFIELD	\$74,625
MEDFORD	\$127,475
MEDWAY	\$69,500
MELROSE	\$87,475
MENDON	\$0
MERRIMAC	\$0
METHUEN	\$183,775
MIDDLEBOROUGH	\$90,425
MIDDLEFIELD	\$0
MIDDLETON	\$18,400
MILFORD	\$99,725
MILLBURY	\$49,550
MILLIS	\$31,450
MILLVILLE	\$0

MILTON	\$87,700
MONROE	\$575
MONSON	\$38,725
MONTAGUE	\$0
MONTEREY	\$0
MONTGOMERY	\$100
MOUNT WASHINGTON	\$375
NAHANT	\$10,175
NANTUCKET	\$29,975
NATICK	\$115,650
NEEDHAM	\$117,475
NEW ASHFORD	\$1,175
NEW BEDFORD	\$352,100
NEW BRAINTREE	\$0
NEWBURY	\$0
NEWBURYPORT	\$57,075
NEW MARLBOROUGH	\$0
NEW SALEM	\$0
NEWTON	\$286,150
NORFOLK	\$27,000
NORTH ADAMS	\$49,300
NORTHAMPTON	\$74,050
NORTH ANDOVER	\$109,225
NORTH ATTLEBOROUGH	\$116,500
NORTHBOROUGH	\$46,675
NORTHBRIDGE	\$64,500
NORTH BROOKFIELD	\$21,850
NORTHFIELD	\$0
NORTH READING	\$65,325
NORTON	\$80,025
NORWELL	\$51,075
NORWOOD	\$92,250
OAK BLUFFS	\$11,600
OAKHAM	\$225
ORANGE	\$17,950
ORLEANS	\$5,800
OTIS	\$0
OXFORD	\$53,425
PALMER	\$51,750
PAXTON	\$450
PEABODY	\$167,150
PELHAM	\$2,575
PEMBROKE	\$78,725
PEPPERELL	\$25
PERU	\$125
PETERSHAM	\$2,925

PHILLIPSTON	\$0
PITTSFIELD	\$162,825
PLAINFIELD	\$50
PLAINVILLE	\$20,275
PLYMOUTH	\$213,875
PLYMPTON	\$5,875
PRINCETON	\$0
PROVINCETOWN	\$4,250
QUINCY	\$214,375
RANDOLPH	\$90,025
RAYNHAM	\$0
READING	\$104,025
REHOBOTH	\$0
REVERE	\$138,225
RICHMOND	\$6,400
ROCHESTER	\$13,575
ROCKLAND	\$64,700
ROCKPORT	\$25,950
ROWE	\$1,425
ROWLEY	\$0
ROYALSTON	\$0
RUSSELL	\$575
RUTLAND	\$25
SALEM	\$122,800
SALISBURY	\$0
SANDSFIELD	\$0
SANDWICH	\$99,150
SAUGUS	\$78,400
SAVOY	\$2,800
SCITUATE	\$77,825
SEEKONK	\$56,400
SHARON	\$87,300
SHEFFIELD	\$0
SHELBURNE	\$0
SHERBORN	\$12,200
SHIRLEY	\$22,475
SHREWSBURY	\$139,275
SHUTESBURY	\$3,625
SOMERSET	\$66,200
SOMERVILLE	\$141,775
SOUTHAMPTON	\$13,425
SOUTHBOROUGH	\$38,300
SOUTHBRIDGE	\$62,200
SOUTH HADLEY	\$57,075
SOUTHWICK	\$0
SPENCER	\$1,475

SPRINGFIELD	\$710,300
STERLING	\$0
STOCKBRIDGE	\$0
STONEHAM	\$70,525
STOUGHTON	\$101,425
STOW	\$0
STURBRIDGE	\$19,625
SUDBURY	\$75,800
SUNDERLAND	\$5,175
SUTTON	\$40,925
SWAMPSCOTT	\$53,575
SWANSEA	\$50,925
TAUNTON	\$204,850
TEMPLETON	\$0
TEWKSBURY	\$115,400
TISBURY	\$8,275
TOLLAND	\$0
TOPSFIELD	\$16,850
TOWNSEND	\$25
TRURO	\$5,950
TYNGSBOROUGH	\$53,700
TYRINGHAM	\$800
UPTON	\$25
UXBRIDGE	\$54,600
WAKEFIELD	\$85,800
WALES	\$3,625
WALPOLE	\$92,750
WALTHAM	\$119,300
WARE	\$33,600
WAREHAM	\$83,375
WARREN	\$1,275
WARWICK	\$0
WASHINGTON	\$75
WATERTOWN	\$62,275
WAYLAND	\$71,625
WEBSTER	\$48,150
WELLESLEY	\$110,300
WELLFLEET	\$3,725
WENDELL	\$0
WENHAM	\$0
WESTBOROUGH	\$87,025
WEST BOYLSTON	\$25,950
WEST BRIDGEWATER	\$25,950
WEST BROOKFIELD	\$600
WESTFIELD	\$158,000
WESTFORD	\$124,025

WESTHAMPTON	\$3,825
WESTMINSTER	\$0
WEST NEWBURY	\$0
WESTON	\$56,800
WESTPORT	\$44,575
WEST SPRINGFIELD	\$99,375
WEST STOCKBRIDGE	\$0
WEST TISBURY	\$0
WESTWOOD	\$71,150
WEYMOUTH	\$167,250
WHATELY	\$3,300
WHITMAN	\$250
WILBRAHAM	\$0
WILLIAMSBURG	\$4,475
WILLIAMSTOWN	\$100,000
WILMINGTON	\$92,775
WINCHENDON	\$45,525
WINCHESTER	\$88,850
WINDSOR	\$50
WINTHROP	\$48,050
WOBURN	\$115,650
WORCESTER	\$659,225
WORTHINGTON	\$350
WRENTHAM	\$29,600
YARMOUTH	\$0
NORTHAMPTON SMITH	\$3,100
ACTON BOXBOROUGH	\$68,050
ADAMS CHESHIRE	\$42,850
AMHERST PELHAM	\$49,450
ASHBURNHAM	
WESTMINSTER	\$58,825
ATHOL ROYALSTON	\$56,100
BERKSHIRE HILLS	\$29,025
BERLIN BOYLSTON	\$10,075
BLACKSTONE MILLVILLE	\$53,675
BRIDGEWATER	
RAYNHAM	\$145,025
CHESTERFIELD GOSHEN	\$4,075
CENTRAL BERKSHIRE	\$55,850
CONCORD CARLISLE	\$32,475
DENNIS YARMOUTH	\$101,950
DIGHTON REHOBOTH	\$81,550
DOVER SHERBORN	\$26,550
DUDLEY CHARLTON	\$107,675
NAUSET	\$44,825
FARMINGTON RIVER	\$7,350

FREETOWN LAKEVILLE	\$47,025
FRONTIER	\$18,550
GATEWAY	\$34,950
GROTON DUNSTABLE	\$71,400
GILL MONTAGUE	\$30,650
HAMILTON WENHAM	\$51,350
HAMPDEN WILBRAHAM	\$95,925
HAMPSHIRE	\$21,525
HAWLEMONT	\$3,475
KING PHILIP	\$51,975
LINCOLN SUDBURY	\$37,850
MANCHESTER ESSEX	\$29,350
MARTHAS VINEYARD	\$21,200
MASCONOMET	\$52,900
MENDON UPTON	\$62,325
MOUNT GREYLOCK	\$15,675
MOHAWK TRAIL	\$33,800
NARRAGANSETT	\$40,325
NASHOBA	\$75,625
NEW SALEM WENDELL	\$3,400
NORTHBORO SOUTHBORO	\$32,075
NORTH MIDDLESEX	\$113,150
OLD ROCHESTER	\$30,300
PENTUCKET	\$81,275
PIONEER	\$24,475
QUABBIN	\$74,600
RALPH C MAHAR	\$20,425
SILVER LAKE	\$43,725
SOUTHERN BERKSHIRE	\$23,100
SOUTHWICK TOLLAND	\$43,625
SPENCER EAST	
BROOKFIELD	\$56,025
TANTASQUA	\$43,400
TRITON	\$85,850
UPISLAND	\$10,250
WACHUSETT	\$172,825
QUABOAG	\$37,600
WHITMAN HANSON	\$106,650
ASSABET VALLEY	\$18,075
BLACKSTONE VALLEY	\$21,250
BLUE HILLS	\$19,200
BRISTOL PLYMOUTH	\$25,300
CAPE COD	\$18,175
FRANKLIN COUNTY	\$12,375
GREATER FALL RIVER	\$31,650
GREATER LAWRENCE	\$43,750

GREATER NEW BEDFORD	\$47,525
GREATER LOWELL	\$51,575
SOUTH MIDDLESEX	\$17,725
MINUTEMAN	\$12,925
MONTACHUSETT	\$30,650
NORTHERN BERKSHIRE	\$10,575
NASHOBA VALLEY	\$11,075
NORTHEAST	
METROPOLITAN	\$29,300
NORTH SHORE	\$11,475
OLD COLONY	\$11,275
PATHFINDER	\$13,450
SHAWSHEEN VALLEY	\$30,800
SOUTHEASTERN	\$32,625
SOUTH SHORE	\$12,525
SOUTHERN WORCESTER	\$21,300
TRI COUNTY	\$20,325
UPPER CAPE COD	\$16,375
WHITTIER	\$25,125
BRISTOL COUNTY	\$9,375
ESSEX COUNTY	\$10,600
NORFOLK COUNTY	\$5,775

The amendment was *rejected*.

Messrs. Tisei, Tarr, Lees, Knapik, Hedlund, and Brown moved that the bill be amended, in Section 2, in item 7061-0008 by striking out the figures:- "\$3,288,931,062" and inserting in place thereof the following figures:- "\$3,330,407,021"; and

By adding after Section 3 the following new section:- "Notwithstanding Section 3 of this act or any other general or special law to the contrary, for the fiscal year ending June 30, 2006, there shall be an additional Chapter 70 school aid distribution to cities, town, and regional school districts in the amount of \$41,475,959 to be apportioned in accordance with this section.

DISTRICT TARGET AID

ABINGTON
ACTON \$20,514
ACUSHNET
ADAMS
AGAWAM \$528,741
ALFORD
AMESBURY
AMHERST \$316,008
ANDOVER \$154,666
ARLINGTON \$330,237

ASHBURNHAM
ASHBY
ASHFIELD
ASHLAND \$186,141
ATHOL
ATTLEBORO
AUBURN \$371,139
AVON \$53,726
AYER
BARNSTABLE \$593,880
BARRE
BECKET
BEDFORD \$75,710
BELCHERTOWN
BELLINGHAM
BELMONT \$188,959
BERKLEY
BERLIN
BERNARDSTON
BEVERLY \$620,941
BILLERICA
BLACKSTONE
BLANDFORD
BOLTON
BOSTON \$6,967,488
BOURNE \$133,037
BOXBOROUGH
BOXFORD
BOYLSTON \$27,743
BRAintree \$495,058
BREWSTER
BRIDGEWATER
BRIMFIELD \$5,352

BROCKTON
BROOKFIELD
BROOKLINE \$391,325
BUCKLAND
BURLINGTON \$122,222
CAMBRIDGE \$792,878
CANTON \$249,417
CARLISLE
CARVER
CHARLEMONT
CHARLTON
CHATHAM
CHELMSFORD \$359,446
CHELSEA
CHESHIRE
CHESTER
CHESTERFIELD
CHICOPEE \$686,837
CHILMARK
CLARKSBURG
CLINTON \$32,217
COHASSET \$35,717
COLRAIN
CONCORD \$16,647
CONWAY
CUMMINGTON
DALTON
DANVERS \$319,535
DARTMOUTH \$274,866
DEDHAM \$217,646
DEERFIELD \$41,830
DENNIS
DIGHTON

DOUGLAS
DOVER \$11,259
DRACUT
DUDLEY
DUNSTABLE
DUXBURY \$75,684
EAST BRIDGEWATER
EAST BROOKFIELD
EASTHAM \$2,049
EASTHAMPTON \$130,451
EAST LONGMEADOW \$222,228
EASTON
EDGARTOWN
EGREMONT
ERVING
ESSEX
EVERETT \$342,694
FAIRHAVEN \$148,112
FALL RIVER
FALMOUTH \$265,672
FITCHBURG
FLORIDA
FOXBOROUGH
FRAMINGHAM \$1,676,930
FRANKLIN
FREETOWN \$47,513
GARDNER
GAY HEAD
GEORGETOWN
GILL
GLOUCESTER \$640,915
GOSHEN
GOSNOLD

GRAFTON \$98,705
GRANBY
GRANVILLE
GREAT BARRINGTON
GREENFIELD \$422,689
GROTON
GROVELAND
HADLEY \$78,136
HALIFAX
HAMILTON
HAMPDEN
HANCOCK \$4,386
HANOVER
HANSON
HARDWICK
HARVARD \$12,739
HARWICH \$94,023
HATFIELD \$59,100
HAVERHILL
HAWLEY
HEATH
HINGHAM \$110,076
HINSDALE
HOLBROOK \$36,983
HOLDEN
HOLLAND
HOLLISTON
HOLYOKE
HOPEDALE
HOPKINTON
HUBBARDSTON
HUDSON \$116,731
HULL \$36,412

HUNTINGTON
IPSWICH \$170,019
KINGSTON
LAKEVILLE
LANCASTER
LANESBOROUGH \$26,434
LAWRENCE
LEE \$110,530
LEICESTER
LENOX \$29,019
LEOMINSTER
LEVERETT
LEXINGTON \$125,452
LEYDEN
LINCOLN \$45,716
LITTLETON \$113,595
LONGMEADOW \$188,324
LOWELL
LUDLOW \$326,454
LUNENBURG \$38,011
LYNN
LYNNFIELD \$98,802
MALDEN
MANCHESTER
MANSFIELD
MARBLEHEAD \$152,329
MARION \$30,216
MARLBOROUGH \$688,778
MARSHFIELD
MASHPEE
MATTAPOISETT \$35,479
MAYNARD \$139,245
MEDFIELD

MEDFORD \$690,100
MEDWAY
MELROSE \$192,245
MENDON
MERRIMAC
METHUEN
MIDDLEBOROUGH
MIDDLEFIELD
MIDDLETON \$4,958
MILFORD \$438,169
MILLBURY \$139,936
MILLIS \$71,028
MILLVILLE
MILTON \$238,142
MONROE
MONSON
MONTAGUE
MONTEREY
MONTGOMERY
MOUNT WASHINGTON
NAHANT \$30,640
NANTUCKET \$3,314
NATICK \$343,200
NEEDHAM \$181,596
NEW ASHFORD
NEW BEDFORD
NEW BRAINTREE
NEWBURY
NEWBURYPORT \$116,545
NEW MARLBOROUGH
NEW SALEM
NEWTON \$460,527
NORFOLK

NORTH ADAMS
NORTHAMPTON \$682,690
NORTH ANDOVER \$291,676
NORTH ATTLEBOROUGH
NORTHBOROUGH
NORTHBRIDGE
NORTH BROOKFIELD
NORTHFIELD
NORTH READING \$16,618
NORTON
NORWELL \$46,652
NORWOOD \$476,291
OAK BLUFFS
OAKHAM
ORANGE
ORLEANS
OTIS
OXFORD
PALMER
PAXTON
PEABODY
PELHAM \$20,650
PEMBROKE
PEPPERELL
PERU
PETERSHAM \$2,549
PHILLIPSTON
PITTSFIELD \$783,531
PLAINFIELD
PLAINVILLE
PLYMOUTH \$322,882
PLYMPTON
PRINCETON

PROVINCETOWN
QUINCY \$2,858,240
RANDOLPH \$293,872
RAYNHAM
READING
REHOBOTH
REVERE \$684,876
RICHMOND \$6,237
ROCHESTER
ROCKLAND
ROCKPORT \$59,707
ROWE \$148
ROWLEY
ROYALSTON
RUSSELL
RUTLAND
SALEM \$1,252,995
SALISBURY
SANDSFIELD
SANDWICH \$112,500
SAUGUS \$324,900
SAVOY
SCITUATE \$147,789
SEEKONK \$179,526
SHARON
SHEFFIELD
SHELBURNE
SHERBORN \$1,157
SHIRLEY
SHREWSBURY
SHUTESBURY
SOMERSET \$474,946
SOMERVILLE \$1,075,462

SOUTHAMPTON
SOUTHBOROUGH
SOUTHBRIDGE
SOUTH HADLEY \$473,097
SOUTHWICK
SPENCER
SPRINGFIELD
STERLING
STOCKBRIDGE
STONEHAM \$406,739
STOUGHTON \$217,081
STOW
STURBRIDGE \$91,584
SUDBURY
SUNDERLAND \$14,322
SUTTON
SWAMPSCOTT \$153,342
SWANSEA \$250,188
TAUNTON
TEMPLETON
TEWKSBURY
TISBURY \$7,663
TOLLAND
TOPSFIELD \$19,067
TOWNSEND
TRURO
TYNGSBOROUGH
TYRINGHAM
UPTON
UXBRIDGE
WAKEFIELD \$211,677
WALES
WALPOLE \$134,743

WALTHAM \$521,027
WARE
WAREHAM \$101,870
WARREN
WARWICK
WASHINGTON
WATERTOWN \$301,408
WAYLAND \$58,400
WEBSTER \$272,358
WELLESLEY \$45,427
WELLFLEET
WENDELL
WENHAM
WESTBOROUGH \$255,162
WEST BOYLSTON \$72,332
WEST BRIDGEWATER \$13,631
WEST BROOKFIELD
WESTFIELD
WESTFORD
WESTHAMPTON \$6,381
WESTMINSTER
WEST NEWBURY
WESTON \$28,777
WESTPORT
WEST SPRINGFIELD \$541,907
WEST STOCKBRIDGE
WEST TISBURY
WESTWOOD \$91,865
WEYMOUTH \$224,621
WHATELY \$11,321
WHITMAN
WILBRAHAM
WILLIAMSBURG \$28,938

WILLIAMSTOWN \$37,545
WILMINGTON \$296,781
WINCHENDON
WINCHESTER \$71,084
WINDSOR
WINTHROP \$284,663
WOBURN \$573,181
WORCESTER \$257,786
WORTHINGTON
WRENTHAM
YARMOUTH
NORTHAMPTON SMITH \$1,259
ACTON BOXBOROUGH \$60,014
ADAMS CHESHIRE
AMHERST PELHAM
ASHBURNHAM WESTMINSTER
ATHOL ROYALSTON
BERKSHIRE HILLS
BERLIN BOYLSTON
BLACKSTONE MILLVILLE
BRIDGEWATER RAYNHAM
CHESTERFIELD GOSHEN
CENTRAL BERKSHIRE
CONCORD CARLISLE
DENNIS YARMOUTH \$159,897
DIGHTON REHOBOTH
DOVER SHERBORN
DUDLEY CHARLTON
NAUSET
FARMINGTON RIVER
FREETOWN LAKEVILLE
FRONTIER
GATEWAY

GROTON DUNSTABLE
GILL MONTAGUE \$7,700
HAMILTON WENHAM
HAMPDEN WILBRAHAM
HAMPSHIRE
HAWLEMONT
KING PHILIP
LINCOLN SUDBURY
MANCHESTER ESSEX
MARTHAS VINEYARD
MASCONOMET
MENDON UPTON
MOUNT GREYLOCK \$13,895
MOHAWK TRAIL
NARRAGANSETT
NASHOBA
NEW SALEM WENDELL
NORTHBORO SOUTHBORO
NORTH MIDDLESEX
OLD ROCHESTER \$44,953
PENTUCKET
PIONEER
QUABBIN
RALPH C MAHAR
SILVER LAKE
SOUTHERN BERKSHIRE
SOUTHWICK TOLLAND
SPENCER EAST BROOKFIELD
TANTASQUA
TRITON
UPISLAND
WACHUSETT
QUABOAG

WHITMAN HANSON
ASSABET VALLEY
BLACKSTONE VALLEY
BLUE HILLS
BRISTOL PLYMOUTH
CAPE COD
FRANKLIN COUNTY \$60,319
GREATER FALL RIVER
GREATER LAWRENCE
GREATER NEW BEDFORD
GREATER LOWELL
SOUTH MIDDLESEX
MINUTEMAN
MONTACHUSETT
NORTHERN BERKSHIRE
NASHOBA VALLEY
NORTHEAST METROPOLITAN \$175,111
NORTH SHORE
OLD COLONY
PATHFINDER \$74,774
SHAWSHEEN VALLEY
SOUTHEASTERN
SOUTH SHORE
SOUTHERN WORCESTER
TRI COUNTY
UPPER CAPE COD
WHITTIER \$115,987
BRISTOL COUNTY \$97,975
ESSEX COUNTY
NORFOLK COUNTY

STATE TOTAL \$41,475,959

After debate, the amendment was *rejected*.

Mr. Brown, Ms. Fargo, Messrs. Baddour, Lees, Tisei, Hedlund, Tarr and Knapik, moved that the bill be amended by inserting, after Section ____, the following new Section:-

SECTION ____. There shall be a commission to study proposed physical restrictions on the residency, workplace and movement of level 3 sex offenders convicted of a crime that involved a minor. The commission shall consist of the Director of the Sex Offender Registry Board or his designee, the Commissioner of the Massachusetts Parole Board or his designee, the Commissioner of Probation or his designee, three members of the Senate to be appointed by the Senate President, one of whom shall be a member of the minority party, and three members of the House of Representatives to be appointed by the Speaker, one of whom shall be a member of the minority party. The commission shall recommend legislation to prohibit level 3 sex offenders convicted of a crime against a minor from knowingly establishing a home address or other living accommodation or accepting employment within a proximity to be determined by the commission of any public or private elementary or secondary school, any daycare facility or any other childcare facility or the victim's residence. The commission shall also recommend legislation prohibiting such offenders from knowingly approaching their victim or their victim's immediate family members within a proximity to be determined by the commission. Said commission shall file its findings and recommendations, as well as any proposed legislation, with the Joint Committee on the Judiciary no later than December 31, 2005.

The amendment was **adopted**.

Mr. Lees, Tarr, Knapik, Brown and Barrios moved that the bill be amended, in Section 2, in item 8315-1000, by striking out the figure "\$4,507,803" and inserting in place thereof the figure:- "\$5,062,854."

After debate, the amendment was *rejected*.

Mr. Lees moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. There shall be a special commission to study the effectiveness of reporting cases of child abuse to law enforcement officials. The study shall include the actions taken by the Department of Social Services to handle cases of suspected child abuse, including sexual abuse. Said study shall also include an analysis of the appropriations for law enforcement agencies and shall include any recommended increases or reallocation of funding in order to effectively and promptly investigate cases of suspected child abuse

The commission shall consist of 2 members appointed by the senate president, 1 member appointed by the senate minority leader, 2 members appointed by the speaker of the house of representatives, 1 member appointed by the house minority leader, and the secretary of public safety. The commission shall make a report and file it with the clerks of the house of representatives and senate no later than December 1, 2005"

The amendment was **adopted**.

Messrs. Brown, Lees, Tisei, Tarr, Hedlund and Knapik moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION _____. Paragraph (b) of subsection (2) of section 178K of chapter 6 of the General Laws, as most recently amended by section 20 of chapter 77 of the acts of 2003, is hereby further amended by inserting after the first sentence the following 2 sentences:- If an offender designated as a level 2 offender was convicted of a sex offense involving a child, such offender shall be given a level 2(a) designation and shall be subject to the level 3 community notification plan. If an offender designated as a level 2 offender committed any offense other than a sex offense involving a child, such offender shall be given a level 2(b) designation and shall be subject to the requirements of a level 2 offender.

SECTION 2. Said chapter 6 is hereby amended by adding the following section:-

Section 178R. (a) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex offense involving a child shall knowingly establish a home address or intended home address or any other living accommodation within 1000 feet of the property on which any public or private school, licensed day care center, or any other child care facility is located. Nor shall any level 2(a) or level 3 sex offender knowingly establish a home address or intended home address or any other living accommodation within 1000 feet of the property on which the offender's former victim or victims, or said victim's immediate family members reside, nor shall such offender knowingly and willfully come within 100 feet of any of the offender's former victims. Violations of this paragraph shall be punished in accordance with a violation of the conditions of probation or parole.

(b) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex offense involving a child shall knowingly accept employment within 1000 feet of the property on which any public or private school, licensed day care center or any other child care facility is located. No sex offender designated as a level 2(a) or level 3 sex offender shall knowingly accept employment within 1000 feet of the property on which the offender's former victim or victims, or the victim's immediate family members reside. Violations of the provisions of this paragraph shall be punished in accordance with a violation of the conditions of probation or parole.

(c) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex offense involving a child shall establish living conditions within, be placed in, or be transferred to any state-owned, operated or funded housing or any facility contracted

with the state within 1 ½ miles of the property on which any public or private school, licensed day care center, or any other child care facility is located, or any residence occupied by at least one minor.

SECTION 3. Subsection (e) of section 178E of chapter 6 of the General Laws, as most recently amended by section 20 of chapter 77 of the acts of 2003, is hereby further amended by striking out the subsection in its entirety.

SECTION 4. Paragraph (b) of subsection (2) of section 178K of chapter 6 of the General Laws, as most recently amended by section 20 of chapter 77 of the Acts of 2003, is hereby further amended by inserting the in the fourth paragraph after the words "dangerousness posed to the public" the following words:- ", however if the offender is convicted for a crime against a minor the offender shall receive a mandatory minimum of a level three classification".
The amendment was *rejected*.

Messrs. Rosenberg, Brewer, and Nuciforo moved that the bill be amended, in Section 2, in item 0330-0410, by striking out the figure "\$25,863" and inserting in place thereof the following figure:- "\$50,000".
After remarks, the amendment was **adopted**.

Messr. Buoniconti and Lees moved that the bill be amended, in Section 2, in item 0330-0410, by adding the following language:- "; provided further that not less than \$42,737 shall be expended for Dispute Resolution Services, Inc. in the city of Springfield," and by striking out the figure "\$800,000" and inserting the figure "\$842,737".
The amendment was **adopted**.

Mr. Buoniconti moved reconsideration on Amendment No. 284, relative to you employment in Western Massachusetts; and after debate, this motion prevailed.

On the recurring question of adoption of the amendment, Messrs. Buoniconti and Lees moved that the bill be amended by adding the following outside section: Section 66 of Chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out section 66, as so appearing, and inserting in place thereof the following section:

Section 66- No person shall employ a boy or a girl under eighteen or permit such boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty before six o'clock in the morning, or after ten o'clock in the evening; provided, that boys or girls under eighteen may be employed as operators in regular service telephone exchanges or telegraph offices until, but not after, eleven o'clock in the evening; and provided further, that boys or girls between the ages of sixteen and eighteen may be employed in restaurants and race tracks until, but not after, twelve o'clock in the evening on Fridays and Saturdays and during school vacation periods, excepting the last day of such vacation period, and provided further that boys or girls between the ages of sixteen and eighteen may be employed at Six Flags New England until, but not after, eleven o'clock in the evening, during the 2005 school summer vacation period, excepting the last day of such vacation period.
The amendment was then **adopted**.

Ms. Chandler moved that the bill be amended, in Section 2, in item 0330-0410, by inserting at the end thereof the following wording:- "; and provided further, than not less than 50,000 shall be expended for Community Mediation of Worcester."
After remarks, the amendment was **adopted**.

Messrs. Creedon and McGee, Ms. Chandler, Messrs. Joyce, Buoniconti, Baddour, Brewer, Moore, Antonioni, Knapik, O'Leary, Ms. Walsh and Messrs. Montigny and Hart moved that the bill be amended, in Section 2, in item 0339-1001 by striking out the figure "\$116,890,795" and inserting in place thereof the figure:-"\$117,89,795".
The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, in item 0339-1001 by adding at the end thereof the following language:- "; provided further, that the Office of the commissioner of Probation shall expend not more than \$30,000 for a consultant who shall be responsible to research the effectiveness and cost of using global positioning satellite systems in the supervision of domestic violence cases and juvenile cases".

The amendment was *rejected*.

Messrs. Creedon, McGee, Ms. Chandler, Messrs. Joyce, Buoniconti, Baddour, Brewer, Moore, Antonioni, Knapik, O'Leary, Ms. Walsh, Messrs. Montigny and Hart moved that the bill be amended, in Section 2, in item 0339-1003 by striking out the figure "\$4,280,617" and inserting in place thereof the figure:- "\$5,100,000".
The amendment was *rejected*.

Messrs. Tolman and Barrios moved that the bill be amended, in Section 2, in item 7004-0099 after the phrase "purposes of tenant services" to include:- provided further that no less than \$50,000 shall be expended for the Cambridge Housing Authority Work Force Program; and in said item by striking out the figures "\$7,791,299" and inserting in place thereof the figures "\$7,841,299".
After debate, the amendment was **adopted**.

Ms. Creem moved that the bill be amended, in Section 2, in item 7007-0300, by inserting after the word "industries;" the following wording:- "provided, that the office shall establish a Massachusetts Film Office that shall be the primary service provider for film production and development in the commonwealth;"
The amendment was **adopted**.

Mr. Hart moved that the bill be amended, in Section 2, in item by striking line item 7007-1200 and inserting in place thereof the following:-

7007-1200

For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that such clusters may be characterized by technological or market focus, geographic proximity or other shared interests; provided further, that cluster activities shall be deemed to be the exercise of an essential governmental function intended to: (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the commonwealth through 1 or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that not less than \$100,000, to be matched dollar for dollar, shall be expended to organize a collaborative framework to formulate an action plan to address strategic challenges to the competitiveness of the Massachusetts Life Sciences Super Cluster; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; provided further, that the executive director shall file a report with the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 16, 2006; and provided further, that the Massachusetts department of business and technology shall submit quarterly reports to the house and senate committees on ways and means detailing the amounts awarded and the purposes for said grants\$600,000

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended, in Section 2, in item 7007-1200, by inserting at the end thereof, the following:- "provided further, that said corporation shall assist the North Central Chamber of Commerce in the development of the Plastics/Medical Device Connections Initiative."

The President in the Chair, after remarks, the amendment was **adopted**.

Mr. Morrissey moved to amend the bill in Section 91 by inserting, in line 7, after the words, 'in the community.' the following:- 'The secretary of health and human services shall provide a \$350,000 one-time grant from the fund to Manet Community Health Center located in the City of Quincy.'

The amendment was *rejected*.

Mr. Hart moved that the bill be amended, in Section 2, in item 4512-0103 by inserting after the words "expended from this item" the following: " ; provided further that funds shall be expended for the HIV/AIDS Case Management Program at the Haitian Multi-Service Center in Dorchester ."

After remarks, the amendment was **adopted**.

Mr. Montigny moved that the bill be amended by inserting after section 100 the following section:-

"SECTION 100A. The department of public health, in consultation with the board of registration of pharmacy, shall promulgate regulations requiring the licensing of all pharmaceutical representatives. As a prerequisite to such licensing, pharmaceutical representatives shall complete such training as may be deemed appropriate by the department. As a prerequisite to the renewal of such license, pharmaceutical representatives shall complete continuing education as may be deemed appropriate by the department. The fee for such license shall be \$500."

The amendment was *rejected*.

Messrs. McGee and Baddour, Ms. Tucker and Ms. Spilka moved that the bill be amended, in Section 2, in item 4000-0300, by inserting after the words "June 30, 2006" the following: "provided further that, pursuant to the Foster Care Independence Act of 1999, Public Law 106-109, MassHealth coverage shall be provided to otherwise eligible youths less than age 21 who were in the custody of the department of social services on their eighteenth birthday; provided further, that the division of health care financing and policy shall study the cost implications of expanding MassHealth eligibility to all children and adolescents below 21 years of age, including estimates of population affected by eligibility expansion, estimates of Medicaid enrollment rates for eligible population ages 19 and 20, estimated per member per month costs for eligible populations ages 19 and 20, and costs implications of this Medicaid eligibility expansion; provided further that said study and all accompanying recommendations shall be submitted to the house and senate committees on ways and means no later than October 1, 2005."

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended in Section 5 by striking out the words from line 3 to line 12 in its entirety and inserting in place of the following:- "Section 16B1/2. (a) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary of administration and finance and the secretary of public safety shall develop a coordinated, aggregate prescription drug procurement plan to manage and administer the disbursement, payment and reimbursement of prescription drugs, including claims processing, adjudication and client services for all pharmacy benefit plans funded or subsidized, in whole or in part by the commonwealth except for programs subject to Section 1927(a)(1) of the Social Security Act, Title XIX. This plan shall maximize cost savings, efficiencies, enhance affordable access to prescriptions and be designed to improve health outcomes, benefits and coverage in the pharmacy benefit plans."

The amendment was *rejected*.

Mr. Berry moved that the bill be amended in section 75 by striking the last paragraph and inserting in place thereof the following:- "The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the division of health care finance and policy and the executive office of health and human services to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Health Care Quality Improvement Trust Fund due to decreased Medicaid utilization shall first fund a per-diem rate add-on for large Medicaid providers as specified in 114.2 CMR 6.06 (10) (a), as in effect on September 1, 2003 and then fund further enhanced rates to nursing homes."

The amendment was **adopted**.

Mr. Moore and Ms. Chandler, Mr. Knapik, Ms Resor, Mr. O'Leary moved that the bill be amended by adding at the end thereof the following new Section:-

Section xxx. That the executive office shall seek a waiver under Titles XIX and XXI of the Social Security Act to expand MassHealth comprehensive family planning services for individuals and families whose incomes are at least up to 200% of the federal poverty line. Said waiver shall include those services currently covered as comprehensive family planning services, including comprehensive medical and gynecological examinations, contraceptive counseling and methods, sexually transmitted disease testing and treatment, screening for breast and cervical cancer, related laboratory screenings, non-directive counseling and referral for pregnancy and prenatal care, infertility and other health related issues. Said office shall notify the house and senate ways and means committee and the health care financing committee within ten days of the filing of the waiver with the Centers for Medicare and Medicaid Services and shall notify said committees within ten days of a decision on the waiver."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at seven minutes before four o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 38 - nays 0) **[Yeas and Nays 40]**:

YEAS.

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

Timilty, James E. Wilkerson, Dianne —
38.
NAYS — 0.

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

Ms. Wilkerson, Messrs. McGee and O'Leary and Ms. Tucker moved that the bill be amended, after Section 109, the following new Section 110:

"SECTION 110. Notwithstanding any general or special law to the contrary, through fiscal year 2006, the division of health care finance and policy shall allocate \$750,000 for the Forsyth Institute's Center for Children's Oral Health to fund a school based demonstration project to offer preventive oral health care to children in high need areas including Boston, Lynn and Hyannis under subsection (d) of section 18 of chapter 118G of the General Laws; provided, however, that such demonstration project otherwise meets the requirements of said subsection (d)."

Mr. Havern in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-three minutes past four o'clock P.M., on motion of Mr. McGee, as follows, to wit (yeas 37 - nays 0) [**Yeas and Nays 41**]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. — **1.**

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

Mr. Rosenberg moved that the bill be amended by striking out section 102 and inserting in place thereof the following section:-

"SECTION 102. (a) The jury commissioner shall establish an administrative records list of all residents 17 years and older for the purpose of testing the feasibility of using such a list for the creation of jury pools. All State agencies, including but not limited to, the state secretary, registry of motor vehicles, department of revenue, board of higher education, department of transitional assistance, office of medicaid, department of public health and division of unemployment assistance possessing an electronic

database which contains information relative to said persons shall provide in electronic form, a copy of said database in a format acceptable to the commissioner. In addition, any city or town that conducts an annual census shall provide such data to the commissioner, and all public and private colleges and universities shall provide such data from enrollment records. To the extent possible, the data shall include the name, residential address, mailing address, race, gender, social security number, if appropriate, and date of birth of each person. In those cases where a federal or state waiver or authorization is necessary to provide this information, each agency or entity shall take all necessary steps to obtain such authorization or waiver which may not be unreasonably withheld. No information shall be provided to the jury commissioner beyond that required to create the administrative records list. The jury commissioner shall treat all of the data he receives confidentially and said data and any record created, received or maintained from said data as part of this legislation shall not be a public record and shall not be disclosed except as provided herein. Nothing shall be included in a printed administrative records list that would indicate from which source list the information on an individual resident was derived. The commissioner may secure and use additional lists from nongovernmental institutions and sources in order to create the administrative records list. The commissioner shall provide in electronic form, a copy of the administrative records list to the state secretary only for purposes of testing its use to maintain voter registration lists and testing its use as a source for street lists for cities and towns and to the Massachusetts State Data Center housed at the University of Massachusetts Donahue Institute for the purposes of testing the administrative records list and supporting efforts to improve United States Census Bureau population estimates for Massachusetts only. Testing of the administrative records list shall not replace or alter any requirement of current law for creating jury pools, maintaining voting lists or establishing street lists, until further act of the general court. The jury commissioner and the state secretary shall report their findings and recommendations based on the testing required by this section to the clerks of the senate and house of representatives not later than June 30, 2009.

(b) For the purposes of establishing an administrative records list, the commissioner of revenue shall disclose to the office of the jury commissioner the names, social security numbers and addresses of residents filing personal income tax returns but such information shall not be disclosed if the IV-D agency has been provided with reasonable evidence of a risk of harm pursuant to section 5A of chapter 119A of the General Laws. The office of the jury commissioner shall treat such information as confidential to the extent required by law and any record created, received or maintained as part of this legislation shall not be a public record and shall not be disclosed except as provided herein.

(c) For the purposes of this section, the information contained in the wage reporting match system may be disclosed to the office of the jury commissioner for the purpose of establishing an administrative records list, but the office of the jury commissioner shall treat such information as confidential and any record created, received or maintained as part of this legislation shall not be public record and shall not be disclosed except as provided herein. Only information required to create the administrative records list shall be provided to the office of the jury commissioner including, but not limited to, the name and social security number of each individual listed.

The amendment was **adopted**.

Mr. Tolman moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION ____. Section 17 of Chapter 118E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph: Notwithstanding the first paragraph no requirements for prior authorization or other restrictions on medications used to treat mental illness such as schizophrenia, depression or bipolar disorder may be imposed on Medicaid recipients. Medications that will be available under the state Medicaid plan without restriction for persons with mental illnesses shall include atypical antipsychotic medications, conventional antipsychotic medications, antidepressant medications, anticonvulsant medications, and any other medications used for the treatment of mental illnesses."

The amendment was *rejected*.

Messrs. Brewer and Buoniconti, Ms. Spilka and Messrs. Joyce and McGee moved that the bill be amended, in Section 2, in item 4800-1400, by inserting after the word "housing", in

line 8, the following words:- "; provided further, that the department shall continue to provide any match funding required by federal program regulations;"

The amendment was **adopted**.

Ms. Wilkerson, Mr. Barrios and Ms. Creem moved that the bill be amended, in Section 2, in item, 4800-0038 by inserting the following words:- "and provided further that not less than \$100,000 shall be expended for a family re-unification program operated by Aid to Incarcerated Mothers to maintain strong parent-child relationships during a mother's incarceration"; and

By striking the figure: "\$271,559,996" and inserting in place thereof the following figure: "\$271,659,996".

The amendment was **adopted**.

Ms. Fargo moved that the bill be amended by inserting, after Section 109, the following new Section: -

"SECTION __. Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law or rule or regulation to the contrary, the commissioner of the division of capital asset management and maintenance shall transfer the custody, care and control of a parcel of state-owned land known as Lot 1 formerly under the care and control of the Middlesex County Hospital to the department of conservation and recreation for natural resource purposes. The parcel, as shown on a deed as 53.953 acres and dated April 22, 1997 and recorded in the Middlesex County Registry of Deeds book 5351 pages 199 and 202, was conveyed by Middlesex County to the commonwealth. Said department may enter into an agreement with the town of Lexington, city of Waltham, or private non-profit conservation organizations for restoring and maintaining the parcel as public open space."

The amendment was *rejected*.

Ms. Walsh, Messrs. Joyce, Morrissey, McGee, and Brown moved that the bill be amended by inserting , after Section __, the following new section: -

"SECTION __. Notwithstanding the provisions of any general or special law to the contrary, beginning on July 1, 2006, the commonwealth shall pay from the federal subsidy, which it receives under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Pub. L. No. 108-173) and payments to qualified sponsors of retiree prescription drug plans thereunder, to any person, who is insured under said chapter 32A and required to pay the Medicare part B premium, a refund of said Medicare part B premium payments, or portion thereof subject to the total amount of said subsidy."

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended by inserting, after Section __, the following new section:-

SECTION __. "Notwithstanding any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the North Randolph Little League for property currently under the care and control of the department the land adjacent to the existing North Randolph Little League field off High Street near the former Nike Missile site in the town of Randolph. The term of any such lease agreement shall be for not less than 10 years, with an option to renew for up to 10 additional years. The North Randolph Little League shall pay a nominal consideration for said lease. Any such lease agreement shall require that all costs, fees and expenses relating to the care and maintenance of such property shall be paid in full by the lessee and other such terms and conditions as the department may require."

The amendment was *rejected*.

Ms. Creem and Mr. Tolman moved that the bill be amended, in Section 2, in item 2820-0100 by adding at the end thereof the following:- " provided further, that a traffic study administered by the commissioner of the department of conservation and recreation shall be commissioned to improve public safety along Nonantum Road and adjacent parklands, including developing alternatives for narrowing the parkway cross-section, alternatives for safety improvements at the intersections of Charlesbank Road and Maple Street, alternatives for landscape, pathway, lighting, and drainage improvements, and a schedule and cost estimate for the design and construction of the recommendation; provided further, that the Commissioner shall report progress to the Stewardship Council at each meeting until the study reaches completion; provided further, that the Commissioner shall ensure public input through two public hearings held in Newton and Watertown during the study - one prior to the initial recommendation, one after release of the initial recommendation but prior to the final recommendation; provided further, that the Commissioner shall ensure public awareness by publishing quarterly progress reports on the Department of Conservation and Recreation website's press release section; provided further, that upon completion of the study, the Commissioner shall deliver the recommendation of the study along with a report addressing public opinion not reflected in the recommendation to the Stewardship Council;"

The amendment was **adopted**.

Mr. Joyce moved that the bill be amended, in Section 2, in item 8324-0000 by adding the following: "; and provided further, that \$200,000 shall be expended to Norfolk County for the purpose of the establishment of the Norfolk County dispatch center at the Massachusetts Hospital School in Canton". Mr. Joyce further moved that the bill be amended, in section 2, in item 8324-0000, by striking out the figure "\$10,223,098" and inserting in place thereof "\$10,423,098".

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 6010-0001 by inserting the following: - "provided further, that not less than \$200,000 shall be expended for the demolition of abandoned buildings located on property of the department of highways adjacent to Bare Cove Park in the town of Hingham."

After remarks, the amendment was *rejected*.

Messrs. Lees, O'Leary, Menard, Montigny, Knapik, Panagiotakos, Morrissey, Creedon and Rosenberg moved that the bill be amended by striking out section 96, and inserting in place thereof, the following section:-

SECTION 96. Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the President of the University shall retain all tuition for out-of-state students at the Amherst campus only. The board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Amherst campus to retain all

tuition paid by students who are not residents of Massachusetts. The regulations shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention program. The board shall issue a report on the progress of this initiative no later than February 1, 2006 to the house and senate chairs of the joint committee on higher education and the chairs of the house and senate ways and means committees and the executive office of administration and finance. The report shall include the number of out-of-state students attending the school, the amount of tuition revenue retained under the program and any programs or initiatives funded with the retained revenue.(b) All tuition and fees received by the board of trustees at the Massachusetts College of Art shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(c) All tuition and fees received by the board of trustees at the Massachusetts Maritime Academy shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(d) Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained under this section, section 633 of chapter 26 of the acts of 2003, or section 160 of chapter 352 of the acts of 2004, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations.

(e) This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the respective boards of trustees for the University of Massachusetts at Amherst, the Massachusetts College of Art, and the Massachusetts Maritime Academy, as a direct result of the implementation of this section.

The amendment was **adopted**.

Messrs. Brown, Lees, Tisei, Tarr, Hedlund, Knapik, Baddour and Ms. Wilkerson moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. Notwithstanding any general or special law to the contrary the state shall prohibit all surgical or medical procedures or hormonal therapy for the purposes of gender reassignment for persons incarcerated in any state or county correctional facility. Nothing herein shall be construed to prohibit the continuation of hormonal therapy initiated before incarceration.

The amendment was **adopted**.

Ms. Creem and Mr. McGee moved that the bill be amended, in Section 2, in item 4512-0200 by striking the words "that not less than \$90,000 shall be expended for the Russian Teens-at Risk program" and inserting in place thereof the following words: "that not less than \$100,000 shall be expended for the Russian Teens-at Risk program".

The amendment was **adopted**.

Mr. Lees moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION ____. There shall be a special commission to study the appropriations for each sheriff's department. Said study shall include a detailed analysis of the number of inmates housed in the department for the past five years. The analysis shall include a monthly census of the number of inmates housed and approximate budget per month for the entire facility, and per inmate. Any source of revenue expended by the department, in addition to the amount appropriated from the general fund, shall be listed within the study so to provide an accurate accounting of all sources of revenue at each facility.

The commission shall consist of 2 members appointed by the senate president, 1 member appointed by the senate minority leader, 2 members appointed by the speaker of the house of representatives, 1 member appointed by the house minority leader, and 1 appointee of each sheriff. The commission shall make a report and file it with the clerks of the house of representatives and senate no later than December 1, 2005"

The amendment was **adopted**.

Mr. Brewer moved that the bill be amended, in Section 2, in item 8315-1000, by striking the figure "\$4,507,803" and inserting in place thereof the following figure:- "\$5,062,854"

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at thirteen minutes before five o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 38 - nays 0) **[Yeas and Nays 42]:**

YEAS.

Antonioni, Robert A. Hedlund, Robert L.
Augustus, Edward M., Joyce, Brian A.
Jr.

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

38.

NAYS — 0.

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

There being no objection, the following amendments were considered as one, and rejected, to wit:

Messrs. Tisei, Lees, Knapik, Tarr, Hedlund, and Brown moved that the bill be amended, in Section 2, in item 7030-1002, by striking out the figure:- "\$23,000,000" and inserting in place thereof the following figure:- "\$25,000,000"
The amendment was *rejected*.

Mr. Lees, Augustus, Morrissey, Tisei, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new section:-

"SECTION ____. Section 5 of said Chapter 775 is hereby amended by striking out clauses (h) and (i) and inserting in place thereof the following new clauses (h) and (i):

(h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein, with or without consideration and notwithstanding whether such real or personal property is needed or useful by the corporation all upon such terms and conditions as the corporation shall determine;

(i) to pledge or assign any money, fees, charges, or other revenues of the agency, or any real or personal property and any proceeds derived by the corporation from the sale of energy or property, insurance or condemnation awards or the purchase of any insurance .

SECTION ____. Said Section 5 of Chapter 775 is hereby further amended by inserting after clause (t) the following clause: (u) to enter into contracts determined by the corporation to be necessary or for the prudent management of the corporation's assets, funds, debts, or fuels including without limitation, interest rate swaps, option contracts, futures contracts, hedging contracts, leases, or other risk management techniques and forward purchase contracts.

SECTION ____. Section 9 of said Chapter 775 is hereby amended by striking out clause (a) and inserting in place thereof the following new clause (a):

(a) The corporation may, subject to the approval of the department under this act, borrow money by the issues of its bonds for any of its corporate purposes. Bonds may be issued hereunder as mortgage bonds, as general obligations of the corporation or a special obligation payable solely from particular funds. Without limiting the generality of the foregoing, such bonds may be issued for project costs, prepayment of fuel, transmission or transportation of fuel, or the corporation's share of project costs of electric power facilities or long-term purchases or rights to use electric power facilities which may include interest prior to and during the carrying out of any project and for a reasonable period thereafter, prepayments under contracts for the purchase of energy, or services related thereto, stranded investment cost, early termination costs of any electric project, decommissioning

costs, such reserves for debt service or other capital of current expenses as may be required by a trust agreement or resolution securing bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation."
The amendment was *rejected*.

Messrs. Hart and Rosenberg moved that the bill be amended in Section 55 by adding the following words:-

(a) It is in the best public interest of the commonwealth to promote the prosperity and general welfare of all citizens by enhancing the attractiveness of all regions of the commonwealth for cultural activities and tourism-related activities by partially financing the construction, expansion, renovation or repair of cultural, entertainment, public venues or other regional tourism facilities which may stimulate further investment in the arts, entertainment, humanities and interpretive sciences and may result in increased employment or entrepreneurial opportunities for the citizens of the commonwealth or increased tourism to the region where the facility is located, including tourism from outside the commonwealth.

(b)(1) There is hereby established and placed under the control of the Agency the Regional Tourism Facilities Fund, in this section referred to as the fund, to which shall be credited, subject to appropriation, for any fiscal year in which revenues deposited into the Massachusetts Tourism Fund, as set forth in section 35J of chapter 10 of the General Laws, exceed the amounts deposited into said Massachusetts Tourism Fund in the previous fiscal year, 50 per cent of the increase in revenues beyond amounts received in the prior fiscal year received by said Massachusetts Tourism Fund from the tax imposed by section 3 of chapter 64G, section 22 of chapter 546 of the acts of 1969 or any appropriation made pursuant to section 35J of chapter 10. In addition to the funds set forth in the preceding sentence, the fund shall be credited, subject to appropriation, in each fiscal year after the first appropriation to the fund, an amount equal to the previous fiscal year's appropriation. Notwithstanding the provisions of the previous two sentences, the fund shall also be credited with all bond proceeds, federal funds, private contributions, loans or other monies lawfully made available to said fund. The purpose of said fund shall be to make loans or grants for infrastructure projects and eligible projects. Applicants may apply for assistance from the fund for a feasibility and technical assistance grant, grant or loan for the construction, expansion, renovation or repair of cultural, entertainment, public venues, regional tourism facilities or other commercial facilities hereinafter referred to as a project, and the Agency may make a qualified investment in a project upon its finding that: (i) the project is an eligible project or infrastructure project; (ii) there is a demonstrated need for the project; (iii) the project will benefit tourism in the local area; and (iv) there is local support for the project. The Agency shall hold said fund in a separate account, segregated from all other Agency funds. The Agency may invest and reinvest said fund and the income therefrom, except as hereinafter provided, only (i) in the making of qualified investments; (ii) in the investment of funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (iii) for the payment of binding obligations which are secured by said fund as the same became payable; and (iv) for the payment of principal and interest on obligations secured by said fund or the payments of any redemption premium required to be paid when such obligations are redeemed prior to maturity.

(2) At the request of the Council established by section 43, the Agency may issue bonds on behalf of the fund. Proceeds from issued bonds shall be used for the purposes authorized by this section. Such bonds shall be issued as "revenue" bonds and shall be recourse only to the funds appropriated under this section 42 and such reserve funds as may be expressly created to guarantee the same. Such bonds shall not be general obligations of either the Agency or the commonwealth.

(3) The Agency shall adopt bylaws and/or rules necessary to establish a minimum reserve to be maintained by the fund for the purpose of ensuring the fulfillment of any obligations incurred as a result of any bonds issued by the Agency on behalf of the fund. No grant may be made where said grant would reduce the fund's assets to an amount below the minimum reserve. The ability to make loans shall not be affected.

(4) The Agency shall be reimbursed from fund proceeds for all reasonable and necessary costs and expenses incurred in any fiscal year associated with its administration of the fund and its administrative support for the Council, including, without limitation, staff time and out-of-pocket expenses. Such reimbursement shall not exceed 10 percent of the amounts held in the fund for the fiscal year in which the costs and expenses are incurred.

(c) As used in this section, the terms "construction", "costs of the project" and "federal agency", shall, unless the context requires otherwise, have the meanings set forth in section 1. As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:--

"Applicant", a public agency or private organization exempt from income taxation pursuant to Section 501(c)3 of Title 28 of the Internal Revenue Code.

"Commercial facilities", a building or structure, or site owned or used by a public, private, civic, educational or professional organization or educational foundation concerned with the arts, humanities, interpretive sciences or local arts and exempt from income taxation pursuant to Section 501(c)3 of Title 28 of the Internal Revenue Code, which is accessible to the public including, but not limited to, museums, historical sites, zoos, aquariums, theaters, concert halls, exhibition spaces, classrooms, auditoriums

suitable for presentation of performing or visual arts. This definition does not include public or private educational institutions of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Cultural organization", a nonprofit organization, public or private, which is primarily concerned with the arts, humanities, interpretive sciences or local arts which is exempt from income taxation. This definition does not include public or private educational institutions of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Council", the members of the regional tourism facility fund advisory council, established pursuant to section 43.

"Director", the executive director of the Agency.

"Eligible project", a project for the acquisition, design, construction, repair, renovation or deferred maintenance of a regional tourism facility which furthers the purposes of this section.

"Feasibility and technical assistance grant", a direct grant of monies from the fund, subject to matching grant requirements to an applicant for payment of the costs and expenses related to the undertaking and completion of a planning and feasibility study for a proposed project. No such grant shall exceed \$50,000. The agency may award a feasibility and technical assistance grant upon its findings that: (i) there is a likelihood that the proposed project will qualify as an eligible project; and (ii) there is local support for the proposed project.

"Fund", the Regional Tourism Facilities Fund created by this section.

"Grant", a direct grant of monies from the fund to an applicant for payment of the costs of a project.

"Infrastructure", repairs to the roof, mechanical systems including heating and cooling systems, physical plant, plumbing, electrical, or foundation of an existing facility and improvements to an existing facility which are necessary to meet life and safety code requirements, so-called, or improvements to an existing facility in order to comply with the Americans with Disabilities Act, or improvements needed to amenities including, but not limited to, light and sound systems, theater seating, expansion or renovation of revenue generating equipment typical for the venue such as concession stands and new projection equipment.

"Loan", a direct loan to an applicant from the fund for payment of up to 40 per cent of the cost of a project for an eligible project, except that the amount of any single loan awarded from the fund shall not exceed \$5,000,000.

"Public body", the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision thereof or any consortium of any contiguous subdivisions and any federal agency.

"Qualified investment", a grant, including a feasibility grant, loan, loan insurance or reinsurance, equity investment, guarantee or other financing or credit enhancement device provided under said fund for an eligible project.

"Regional tourism facility", a building, structure or site owned or used by a public or private organization, exempt from income taxation pursuant to Section 501(c)3 of Title 28 of the Internal Revenue Code, which is accessible to the public and constitutes a regional tourism attraction including, but not limited to, museums, historical sites, zoos, aquariums and facilities for the performing or visual arts.

(d) The fund may make grants to applicants; provided, that the amount of any single grant awarded from the fund shall not exceed \$5,000,000; provided further, that grants for a total value less than \$1,000,000 shall be subject to a matching funding requirement of dollar for dollar of the amount of the grant; provided further, that grants for a total value in excess of \$1,000,000 and less than \$2,000,000 shall require a matching funding requirement of at least twice the amount as provided through the grant; provided further, that grants for a total value in excess of \$2,000,000 but less than \$3,000,000 shall be subject to a matching fund requirement of at least three times the amount; \$3,000,000 and less than \$5,000,000 shall be subject to a matching funding requirement of at least four times the amount of the grant. Notwithstanding the provisions of any general or special law to the contrary, as a condition of accepting a grant from the fund, an applicant shall agree that, whenever ownership of any property which was purchased or improved with a grant from the fund is transferred to another party, such grant shall be repaid immediately to the fund. The amount of such repayment shall be in the full amount of the grant.

(e) The Agency shall establish rules relative to the fund. Copies of such rules, and any modifications or amendments thereto, shall be delivered to the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on tourism, arts, and cultural development, and the clerks of the house and senate.

(f) There shall be established a regional tourism facilities advisory council, in this section called the Council. The functions of the Council shall be strictly advisory. The Council shall be comprised of 15 members, to be appointed by the governor, one of whom shall be the director of the Massachusetts cultural council or his or her designee, one of whom shall be the director of the office of travel and tourism or his or her designee, one of whom shall be the director of the Agency or his or her designee, and six of

whom shall reside outside of the metropolitan Boston area, of whom at least three shall reside in western and central Massachusetts. All members shall be appointed for a period of five years. Members of the Council shall serve without compensation, but may be reimbursed from the fund for ordinary in-state travel expenses. The Council may establish a technical advisory panel to assist in reviewing applications. The Agency shall provide administrative support for the Council, including, without limitation, staff time for fund administration and other out-of-pocket expenses, the costs of which support shall be reimbursed from the fund pursuant to section 42(b)(5) above. The provisions of subsections (d), (f) to (i), inclusive, and subsection (l) of section 2 shall apply to the members and affairs of the Council created pursuant to this section. All applications for grants or loans shall be reviewed by the Council and only those recommended by the Council may receive consideration by the Agency for final approval. Within 30 days, the Agency shall provide the applicant with a written explanation for any proposals denied final approval.

(g) The Massachusetts Cultural council may establish a panel made up of individuals with appropriate experience and expertise to assist the Council and Agency in reviewing proposals for feasibility and technical assistance grants and grants and loans for construction to help ensure among other things applicant viability and need for the project.

The amendment was *rejected*.

Ms. Chandler and Mr. Augustus moved that the bill be amended, in Section 2, in item 4510-0110, by inserting at the end thereof following wording:- "; and provided further, that not less than \$650,000 shall be expended for the Great Brook Valley Health Center in Worcester."

The amendment was *rejected*.

Ms. Fargo, Messrs. Joyce, Brown, Knapik, Tisei, Montigny, Ms. Resor, and Mr. Brewer moved that the bill be amended, in Section 2, in item 4510-0790, by striking out the figure "\$1,246,896" and inserting in place thereof the following figure: - "\$1,446,896".

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4512-0103, by inserting in line 16, after the word "provided," the following language: "; provided further that not less than \$300,000 shall be expended for the Springfield Public Health Department."

The amendment was *rejected*.

Ms. Fargo, Messrs. Montigny, Knapik, Moore, McGee, Tisei, Barrios, O'Leary, Ms. Tucker and Mr. Augustus moved that the bill be amended, in Section 2, in item 4512-0103, by striking out the figure "\$35,453,770" and inserting in place thereof the following figure: - "\$36,753,770".

The amendment was *rejected*.

Ms. Spilka moved that the bill be amended, in Section 2, in item 4512-0200, by adding the following: "; and provided further, that not less than \$50,000 be expended for teens through programs provided by the Ashland Recreational Department".

The amendment was *rejected*.

Ms. Spilka and Ms. Resor moved that the bill be amended, in Section 2, in item 4512-0200, by adding the following:- "; and provided further, that not less than \$1,000,000 shall be expended for the operation of a detox center in the MetroWest area."

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 4512-0200, by striking out the language "that not less than \$150,000 shall be expended for the Northern Educational Services, Inc (NES)" and inserting the following language:- "that not less than \$250,000 shall be expended for the Northern Educational Services, Inc. (NES) of Springfield."

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended, in Section 2, in item 4512-0200, by striking out the following:-"that not less than \$100,000 shall be expended for the Link House, Inc. in the town of Salisbury for the purposes of establishing transitional housing for women in recovery from substance abuse;" and inserting in place thereof the following:-" that not less than \$200,000 shall be expended for the Link House, Inc. in the town of Salisbury for the purposes of establishing transitional housing for women in recovery from substance abuse."

The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 4512-0200, by inserting at the end thereof the following words:- "provided further, that \$50,000 shall be expended for the Cougar's Den After School Program administered by the Hampshire Educational Collaborative;"

The amendment was *rejected*.

Mr. Brewer moved that the bill be amended, in Section 2, in item 4512-0200, by adding at the end thereof the following:- "provided further that \$50,000 shall be expended to the Massachusetts Partners in Prevention;"

The amendment was *rejected*.

Mr. Tisei moved that the bill be amended, in Section 2, in item 4512-0200 by inserting in line 6 after the words "demographic groups;" the following:- "provided further, that \$75,000 be expended to establish an Opiate Abuse Prevention and Intervention Program for Youth in the City of Melrose."

The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, in item 4512-0200, by adding the following: "provided further, that \$75,000 be expended to establish an Opiate Abuse Prevention and Intervention Program for Youth in the City of Melrose".

The amendment was *rejected*.

Ms. Fargo, Messrs. McGee, and Barrios moved that the bill be amended, in Section 2, in item 4513-1000, by striking out the figure "\$800,000" and inserting in place thereof the following figure: - "\$1,100,000", and moved to further amend said item by striking the figure "\$8,570,196" and inserting in place thereof the following figure: - "\$8,870,196".

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended, in Section 2, in item 4513-1112 by striking out the figure "1,004,469" and inserting in place thereof the following:- "1,300,000".

The amendment was *rejected*.

Mr. Montigny, Ms. Fargo and Ms. Creem moved that the bill be amended, in Section 2, in item 4513-1114, by striking the figure "\$562,876" and inserting in place thereof the following figure:- "\$2,500,000".

The amendment was *rejected*.

Ms. Fargo, Messrs. Moore, Tarr, Joyce, and Tisei moved that the bill be amended, in Section 2, in item 4516-1000, by striking out the figure "\$10,037,658" and inserting in place thereof the following figure: - "\$12,839,839".

The amendment was *rejected*.

Mr. Lees moved that the bill be amended, in Section 2, in item 4530-9000 by striking out the words "provided further, that \$100,000 shall be expended for teen pregnancy prevention services in the town of Orange;" and inserting in place thereof the following:- "provided further, that \$50,000 shall be expended for teen pregnancy prevention services in the town of Orange;"

The amendment was *rejected*.

Messrs. Moore, Tarr and Montigny, Ms Fargo, Messrs. McGee, Tarr, Antonioni and O'Leary moved that the bill be amended, in Section 2, in item 4590-0250, by inserting after the word "youth", the following: "provided further, that not less than \$16,000,000 shall be expended for school nurses and school based health centers"; and in said item by striking out the figure "\$14,568,309 and inserting in place thereof the figure "\$18,568,309.

The amendment was *rejected*.

Mr. Montigny moved that the bill be amended, in Section 2, by striking out item 4590-0300 and inserting in place thereof the following item:-

"4590-0300 For youth smoking prevention and tobacco control programs, including enforcement of illegal sales to children laws by local boards of health and coordinated treatment resources including the Tobacco Free Helpline and QuitWorks; provided, that no funds shall be expended in the AA subsidiary, so-called, for any personnel-related costs, and provided further that, notwithstanding the provisions of chapter 29D of the general laws or the provisions of any other general or special law to the contrary, funds, may be expended for the Health Care Security Trust for the purposes of this item.....\$11,000,000";

The amendment was *rejected*.

Mr Montigny and Ms. Fargo moved that the bill be further amended, in Section 2, by inserting after item 4590-0300 the following wording:-

"Health Care Security Trust.....\$100%".

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Knapik and Brown moved that the bill be amended by inserting, after Section ____, the following new Section:-

"Section ____. Chapter 64C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 10 the following new section:-

Section 10A. Online Cigarette Sales.

It is unlawful for any public or private postal or package delivery service to knowingly deliver a tobacco product to a person under the age of 18 years. A tobacco product shall not be accepted for delivery by such a package delivery service if the package does not have affixed thereto a label which plainly and visibly states that the package contains tobacco and that it is not for delivery to any person under age 18. Any public or private postal or package delivery service that knowingly delivers a tobacco product directly to a purchaser shall:

- (a). Deliver solely to the purchaser at the address given by the purchaser as specified on a valid Massachusetts driver's license, passport, state issued identification, United States military identification, or immigration card.
- (b). Require the signature of the purchaser.
- (c). Receive and inspect the identification of the purchaser showing the purchaser's date of birth to verify that he is 18 years of age or older.
- (d). Receive an attestation from the purchaser, on a form prepared by the delivery service, certifying that the information on the identification required under subsection (a) of this section truly and correctly identifies the purchaser, his current address and age. The certification shall be retained on file by the distributor for no less than one year.
- (e). Submit a copy of the invoice for each delivered package to the Department of Revenue which shall ensure that the appropriate excise taxes are paid thereon. To be accepted by the delivery service, each invoice shall include the name and address of the purchaser, the brand, and the type and quantity of tobacco.

Any person who delivers a tobacco product in violation of this act shall be fined no less than \$250 or more than \$1,000 for each offense. A person who falsely certifies information required by this act shall be fined no less than \$100 or more than \$500 for each offense."

The amendment was *rejected*.

Mr. Moore moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION ____. Chapter 111 of the General Laws is hereby amended by inserting after section 24J the following section:-

Section 24K. The department of public health shall establish, maintain and operate a computerized information system to be known as the Massachusetts Immunization Registry. The Massachusetts Immunization Registry shall record immunizations and immunization history with identifying information and shall be used to increase immunization rates and coordinate and promote effective disease prevention and control efforts. The Massachusetts Immunization Registry shall include appropriate controls to protect the security of the system and the privacy of the information.

- (a) Upon receipt of an initial birth record for a newborn, the state registrar of vital records and statistics shall transmit to the Massachusetts Immunization Registry: (1) the information contained in the birth record pursuant to section 1 of chapter 46, notwithstanding any restrictions set forth in chapter 46; and (2) notwithstanding section 24B of chapter 111, the information regarding immunizations administered to a newborn and such other information transmitted with the birth record pursuant to said section as the department determines to be the minimum necessary for the effective operation of the Massachusetts Immunization Registry.

Any licensed health care provider practicing in Massachusetts who administers any immunization to a child under the age of 19 residing in Massachusetts, or any immunization in response to a public health need, as determined by the department, to a Massachusetts resident 19 years of age or older shall for each immunization administered report to the Massachusetts

Immunization Registry such data as the department determines is necessary for disease prevention and control. The reporting of an immunization at birth to the state registrar of vital records pursuant to section 24B of chapter 111, satisfies this reporting requirement.

Any licensed health care provider who administers immunizations, other than those required to be reported above, to any individual, irrespective of residency, may report to the Massachusetts Immunization Registry such information as the department determines is necessary for disease prevention and control.

Individually identifiable immunization information may be released from the Massachusetts Immunization Registry without the explicit consent of the individual or the minor child's parent or guardian as set forth in this section, unless the individual or the parent or guardian objects to such disclosure. All licensed health care providers, before administering an immunizing agent that will be reported to the Massachusetts Immunization Registry, shall provide

notice to the parent, guardian or individual explaining the Massachusetts Immunization Registry and providing the right to object to the disclosure of such information as set forth in this section.

(b) The department may grant access to the Massachusetts Immunization Registry to the following categories of users in the commonwealth: (1) licensed health care providers practicing in Massachusetts who administer immunizations and other licensed health care providers who administer immunizations to Massachusetts residents; (2) elementary and secondary school nurses and registration officials who require proof of immunizations for purposes of school enrollment and disease control; (3) local boards of health for disease prevention and control; (4) Women Infants and Children Nutrition Programs' staff who administer WIC benefits to eligible infants and children (WIC); (5) staff of state agencies or state programs whose duties include education and outreach to parents and guardians of under immunized children and improvement of immunization coverage rates among their clients.

A user may apply to the department and the department may designate appropriate users who shall have access only to the individually identifiable information for which access is authorized. Information designated for department use only shall not be accessed by authorized users. The department may revoke access privileges for just cause.

(c) Nothing in this section shall prohibit the release of immunization information to persons authorized by the written consent of an individual or the custodial parent or legal guardian of a child under the age of 18.

(d) Nothing in this section shall prohibit the release of information in the aggregate, provided that it would not identify any person named in the Massachusetts Immunization Registry.

(e) Nothing in this section shall prohibit the release of identifiable information, excluding that designated for department use only and for which there is an objection to disclosure on record, to persons authorized by the commissioner to conduct research studies pursuant to section 24A of chapter 111, provided that the researcher submits a written request for information and executes a research agreement that protects the confidentiality of the information provided. Such agreements shall prohibit the release by the researcher of any information that might identify any person in the Massachusetts Immunization Registry.

(f) Nothing in this section shall prohibit the release of identifiable information to registries of other states, provided that the department enters into collaborative agreements, which to the maximum extent possible protect the confidentiality of citizens of the commonwealth in accordance with state law.

(g) Information contained in the Massachusetts Immunization Registry is confidential and shall not constitute a public record nor be available except in accordance with this section. Such confidential information shall not be subject to subpoena or court order and shall not be admissible as evidence in any action of any kind before any court, tribunal, agency, board or person.

(h) Nothing in this section is intended to require immunization or tracking of any child otherwise exempt from immunization requirements under section 15 of chapter 76.

(i) An authorized user, including an employee of the department, who in good faith discloses or does not disclose information to the Massachusetts Immunization Registry, shall not be liable in any cause of action arising from the disclosure or nondisclosure of that information.

(j) An authorized user, including an employee of the department, who knowingly and willfully discloses identifiable information to an unauthorized user is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent offense. Such conduct shall also subject the person to the loss of privileges to access the Massachusetts Immunization Registry; disciplinary action if an employee of the department or other state agency; reporting to the appropriate licensing board for disciplinary action; or termination of a contract with the department.

(k) The department shall establish procedures that allow for any individual, parent or guardian to amend incorrect information in the Massachusetts Immunization Registry and that shall provide, upon request, a record of who has accessed an individual's information. The department shall promulgate rules and regulations to implement the Massachusetts Immunization Registry.

The amendment was *rejected*.

Messrs. Tarr and Brown moved that the bill be amended by inserting, after section 109, the following new section: -

"Section _____. Section 51 of chapter 111 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended: by striking the word "shall" in line 29 and replacing it with the word "may", and further, by striking the text beginning with and the word "As" in line 32 and ending with the word "five" in line 47.

The amendment was *rejected*.

Ms. Chandler, Ms. Spilka, and Ms. Resor moved that the bill be amended by inserting after Section _____, the following new Section:-

"SECTION _____. Section 5L of chapter 112 of the General Laws is hereby amended by inserting at the end the following wording:- The board, pursuant to its regulatory authority under section 10 of chapter 13, retains the discretion to determine certain physicians to be eligible to request a waiver of the requirements of this section and may further grant waivers exempting physicians from the requirements of this section; provided, however, that a waiver shall be granted only when it is determined by the board to be in the best interest of public health."

The amendment was *rejected*.

Messrs. Lees, Tisei and Knapik moved that the bill be amended by inserting, after Section _____, the following new Section:-

"SECTION _____. Chapter 270, as amended by Chapter 137 of the Acts of 2004, is hereby amended by striking "51 per cent" in section 22(h)(b) and inserting in place thereof "25 per cent" .

The amendment was *rejected*.

Messrs. Lees, Tisei, Tarr and Knapik moved that the bill be amended by inserting, after Section _____, the following new Section:-

"SECTION _____. Chapter 270 of the General Laws, as appearing in the 2002 official edition, is hereby amendment by inserting the following section:- Section 22A. Notwithstanding the provisions of this chapter, any bar, restaurant or other establishment that serves food or beverages that can demonstrate a substantial loss of revenues as a result of complying with section 22 of this chapter can apply to the local board of health for a hardship license. The Department of Public Health shall promulgate regulations not inconsistent with the provisions of the section in order to facilitate a uniform process for granting such licenses. As used in this section, "substantial loss of revenues" shall include a showing that total revenues were at least 20% greater during the average of 3 12-month periods before July 5, 2004 than total revenues between July 5, 2004 and July 2005."

The amendment was *rejected*.

Mr. Lees moved that the bill be amended, in Section 2, in item 4000-0112 by inserting at the end thereof the following:-
"provided further, that not less than \$50,000 shall be expended for the Scantic Valley YMCA."

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended, in Section 2, in item 4000-0112 by inserting, after the words "Family Services Incorporated of Lawrence;" the following: - "provided further, that not less than \$40,000 shall be expended to Fishtown Artspace Inc;"

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 4000-0112 by inserting after the word "Incorporated," with the following: "provided further, that \$500,000 shall be expended to the Town of Randolph for the purpose of the development of the Randolph Community Center Project." Mr. Joyce further moves to amend the bill, in Section 2, in item 4000-0112, by striking out the figure "\$3,000,000" and inserting in place thereof "3,500,000".

The amendment was *rejected*.

Ms. Chandler moved that the bill be amended, in Section 2, in item 4000-0112, by inserting after the words "leadership training and community service;" the following wording:- "provided further, that, that no less than \$125,000 shall be expended for the Greater Worcester YMCA youth programs;"

The amendment was *rejected*.

Messrs. Brewer and Rosenberg moved that the bill be amended, in Section 2, in item 4000-0112, by adding at the end thereof the following:- "provided further, that not less than \$50,000 shall be expended to the Franklin Community Action Corporation for youth service;"

The amendment was *rejected*.

Ms. Tucker moved that the bill be amended, in Section 2, in item 4000-0112, line 22 by inserting after the word "service;" the following words: "provided further, that not less than \$150,000 shall be expended for non-profit Youth Services in Andover."

The amendment was *rejected*.

Messrs. McGee and Knapik moved that the bill be amended, in Section 2, in item 4000-0300 by striking out the figures "\$126,159,490, and inserting in place thereof the figures \$85,159,490; and in section 2 line item 4000-0600 by striking out the figure "\$1,926,669,254, and inserting in place thereof the figure \$1,858,935,711, and inserting after line item 4000-0620 the following:

4000-0625 "provided further that not less than \$108 million of existing monies appropriated for the provision of Title XIX home health services in line items 4000-0300 and 4000-0600 shall be transferred to 4000-0625. Said appropriation shall be in accordance with 114.3 CMR 50.00 and the funds authorized herein shall be eligible for federal financial participation."

The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, in item 4000-0300, by inserting after the words, "on or before February 1, 2006," the following: "provided, that no premiums shall be imposed on disabled persons whose financial eligibility as determined by the division is below 150 per cent of the federal poverty level or on households with children whose financial eligibility as determined by the division is below 150 per cent of the federal poverty level."

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, in item 4000-0300 by adding in line 6, after the word "Nantucket", the following words:- ", and further provided that the executive office shall include within its covered services for adults at least those federally optional services for dental care and dentures which were included in its state plan in effect on January 1, 2002,"

The amendment was *rejected*.

Ms. Tucker, Ms. Resor, Ms. Fargo and Mr. Montigny moved that the bill amended, in Section 2, in item 4000-0320, by inserting at the end thereof, the following: - "; provided further, notwithstanding any general or special law to the contrary, not less than \$5,000,000 shall be expended from this item for the purpose of providing an increase to \$72.80 per month in the personal needs allowance for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income and increasing said amount each year at the same rate as benefits payable to recipients of Supplemental Security Income;"

The amendment was *rejected*.

Messrs. Moore, Tolman and Tarr, and Ms. Fargo moved that the bill be amended, in Section 2, in item 4000-0500, by inserting at the end thereof the following:- Provided further, the Executive Office of Health and Human Services shall ensure that network hospitals are compensated their full negotiated rate for behavioral health services provided to MassHealth patients who are clients of agencies within the Executive Office of Health and Human Services and for whom no alternative placement is available."

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik and Brown moved that the bill be amended, in Section 2, in item 4000-1405, by striking the following: "provided further, that any such individual shall not be subject to sponsor income deeming or related restrictions;"

The amendment was *rejected*.

Mr. Lees moved that the bill be amended by inserting, after Section ____, the following new Section:-

"SECTION _____. Chapter 118G, as amended by Chapter 184 of the Acts of 2002, is hereby amended by repealing Section 25."

The amendment was *rejected*.

Mr. Moore moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION_____. chapter 44, section 72 of the Massachusetts General Laws as appearing in the 2000 Official Edition is hereby amended by adding in line 18 after the word "fee" the following:- "which shall be not less than 6 per cent."

The amendment was *rejected*.

Mr. Moore moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION_____. Notwithstanding any general or special law, the Secretary of the Executive Office of Health and Human Services is hereby authorized and directed to review requests by Massachusetts based Medicare Advantage Special Needs Plans caring for Medicare and Medicaid (dually) eligible residents of the Commonwealth. Upon determination that appropriate financial standards have been met according to the program requirements, the Secretary shall so certify to the Center for Medicare and Medicaid Services. The Secretary may require a Plan that is requesting review and certification to pay a reasonable fee.

The amendment was *rejected*.

Messrs. Moore and. Tarr moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION_____. Notwithstanding any general or special law to the contrary, the Executive Office of Health and Human Services and all agencies, departments and boards within said secretariat, the Department of Labor and Workforce Development, the Board of Higher Education and any other state agency, board or department that collects data, conducts surveys or gathers information related to the practice of nursing, the supply of nursing workforce, the supply of nursing faculty or other nursing workforce issues shall regularly submit said data and information to the Massachusetts Center for Nursing, Inc.

The amendment was *rejected*.

Mr. Moore and Ms Fargo moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION_____. Subsection 4(c) of section 108 of chapter 175 of the General Laws, as appearing in the 2004 official edition, is hereby amended by striking the provision in its entirety.

Section 2: Subsection (G) of section 110 of chapter 175 of the General Laws, as so appearing, is hereby amended by striking the provision in its entirety.

Section 3: Subsection (e) of section eight of chapter 176A, of the General Laws, as so appearing, is hereby amended by striking the provision in its entirety.

Section 4: Section 7 of chapter 176B of the General Laws, as so appearing, is hereby amended by striking the second, third and fourth sentence in the second paragraph in its entirety.

Section 5: Section 6 of chapter 176G of the general laws, as amended by section 20 of chapter 141 of the acts of 2000, is hereby further amended by striking the second paragraph in its entirety.

Section 6: Section 2 of chapter 176I of the General Laws, as amended by section 24 of chapter 141 of the acts of 2000, is hereby further amended by striking the third full paragraph in its entirety

Section 7: Chapter 176O of the general laws, as so appearing, is hereby amended by adding after section 10 the following section: --:

Section 10A Timely Payment of Claims

(a) No later than 15 calendar days after the date on which a carrier has received a claim that is submitted electronically, or no later than 30 calendar days after the date on which a carrier has received a claim that is submitted on paper from a provider of health care services, the carrier shall: (1) pay the total amount of the claim, or any undisputed portion thereof, in accordance with the contracted fee agreed to by the provider and the carrier, (2) notify the provider in writing of all the reason or reasons for nonpayment of the claim or any unpaid portion, and (3) notify the provider in writing of what additional information or documentation is necessary to complete the claim form and receive payment for the claim or any unpaid portion thereof. All claims that are resubmitted by providers to a carrier shall be processed and paid by the carrier based on the timelines included in this subsection (a).

(b) Any carrier subject to the provisions of this section that fails to comply with subsection (a) for any claim or portion of a claim related to the provision of health services shall pay all unpaid portions of the claim, and any underpayment resulting from such carrier's payment at a rate or fee below the contracted rate or fee agreed to by the provider and such carrier, together with interest on any unpaid or underpaid amount, which interest shall accrue beginning 30 calendar days after the carrier's receipt of

the claim form at the rate of 1.5 percent per month, not to exceed 18 percent per year. The provisions of this subsection relating to interest payments shall not apply to a claim that the carrier is in good faith investigating because of suspected fraud.

(c) In addition to any other penalty or remedy authorized under any general or special law applicable to a carrier subject to the provisions of this chapter, if the commissioner finds that any such carrier has engaged in a pattern of non-compliance with this section, the commissioner shall subject such carrier to an administrative penalty of no less than \$10,000 per day until said carrier has demonstrated that it has taken corrective action and has resolved the pattern of non-compliance.

(d) A carrier shall disclose to a contracted provider of health care services, at said provider's request, all information that is necessary for such provider to determine whether it has been compensated according to the terms of its contract with the carrier. Such disclosure shall include, but not be limited to, all applicable billing policies, procedures and guidelines used in paying claims for covered services; fee schedules applicable to the provider contract; and a clear explanation of all methodologies and rules that will be used by the carrier to pay claims, including payment rules used to combine multiple codes or reduce codes in procedures commonly referred to as "bundling" and "downcoding" of procedures. Such carrier shall provide any addendum, schedule or attachment necessary to provide a reasonable understanding of the information disclosed to the contracted provider. For the purposes of this subsection, such information shall be disclosed to the contracted provider at the sole expense of the carrier, which may require that the provider sign a confidentiality agreement prior to the release of such information.

(e) A carrier shall be required to ensure that access to and coverage for services continue in the event that an organization that does business with or is contracted by said carrier through a carveout arrangement, so called, is no longer capable of meeting its obligations regarding access and coverage for services provided to the carrier's insured. Said carrier shall be responsible to ensure that the insured has access to necessary care and said carrier shall pay all unpaid claims at the contracted rate for covered services provided to its insured during the coverage period that said insured's premium has been paid to the carrier or the carveout arrangement. For the purposes of this subsection, a carveout arrangement shall include any arrangement by which an organization other than the insured's carrier provides access to and coverage for medically necessary services on behalf of said carrier either through a contract between the carveout organization and the carrier or through a contract between the carveout organization and the provider of health care services. Provided further that said organization shall be required to comply with the timely payment provisions of this section and shall incorporate such provisions in its contracts between the carrier or the provider of health care services.

SECTION 8:

A carrier, so called, shall include the provisions of Section 7 of this Act in any contract between the carrier and a health care provider, so called, which is entered into, renewed, or amended on or after the effective date of the Act. Nothing in said section 7 shall be construed to prohibit carriers and providers from entering into contracts that include claims payment provisions that meet or exceed the provisions of Section 7 of this Act.

The amendment was *rejected*.

Mr. Moore moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION _____. Section 13A of Chapter 118E of the General Laws, as amended by section 162 of Chapter 149 of the Acts of 2004, is hereby amended by deleting the term "public payor-dependent non-acute hospital" as it appears in the third paragraph, and inserting in its place the following term "non-acute hospital."

The amendment was *rejected*.

Ms. Walsh moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION _____. Multiple source drugs listed in the Massachusetts list of interchangeable drug products established pursuant to the provisions of section thirteen of chapter seventeen of the General Laws and regulations **adopted** thereunder shall not be reimbursable except for the "Massachusetts maximum allowable cost", as defined by regulations of the department, unless the division grants prior authorization based upon the practitioner's assertion to the division that satisfactorily demonstrates that a recipient's medical condition requires the use of a nongeneric drug and unless the practitioner writes on the face of the prescription in his or her own handwriting the words "brand name medically necessary" under the words "no substitution" in a manner consistent with applicable state law; provided that a pharmacist dispensing in accordance with this section shall be exempt from the provisions of the fourth paragraph of section twelve D of chapter one hundred and twelve. A request for prior authorization may be made by telephone or other telecommunication device or in writing. The division shall act within 24 hours of the request. If the request is denied, the practitioner or recipient may appeal as provided for in sections 47 and 48, provided that the boards of hearings hold a hearing and render a decision within 90 days of the appeal to the division. The division shall authorize the use of a nongeneric drug as requested by the practitioner during the pendency of the appeal.

Notwithstanding the provisions of the first paragraph, prior authorization shall not be required for medications used to treat mental illness, including but not limited to schizophrenia, depression, bipolar disorder, anxiety, or attention deficit disorder and

attention deficit hyperactivity disorder. The division shall further make available medications for persons with mental illness, including atypical antipsychotic medications, conventional antipsychotic medications, antidepressants, anticonvulsants, and other medications used for the treatment of mental illness without restriction or without preference for one medication over another or one class of medications over another."

The amendment was *rejected*.

Mr. Montigny moved that the bill be amended by inserting the following the new Section:-

SECTION ____ Chapter 6A of the General laws, as amended by section 15 of chapter 26 of the Acts of 2003, is hereby amended by inserting after section 16 the following new section:-

Section 16A ½. (A) Notwithstanding any general or special law to the contrary, the Secretary of Health and Human Services in consultation with the Secretary of Elder Affairs shall create a program to allow state employees, retirees and their family members who are insured by the Commonwealth, Mass Health recipients and Prescription Advantage enrollees to purchase their prescription medications from Canada through one or more licensed Canadian pharmacies within 90 days of such purchase becoming legal under federal law. The program shall be optional for participants and shall provide financial incentives to enrollees in the form of reduced co-payments or health insurance premiums.

The program shall have the following restrictions:

- Purchases may be made only through a licensed Canadian pharmacy;
- Only drugs that have been approved by the appropriate federal agencies in Canada as to the drugs' formulation, source and specification of active ingredients, processing methods, manufacturing controls, and the container, closure or packaging of the drug may be purchased through this program;
- The Secretary shall establish standards for packaging and shipment of the drugs to participants that include tamper proof requirements and temperature controls for medications that need to be maintained at a specific temperature;
- All purchases through this program must be accompanied by a valid prescription from the enrollee's physician;
- An enrollee may only purchase medications through this program that he or she has taken for at least 30 days as purchased from a pharmacy in the United States;
- Medications purchased through this program may be for personal use only and may not be re-sold in any form; and
- Purchases may be for no more than a 90-day supply per order.

B) Within 90 days of the establishment of this program, the Secretary of Human Services shall expand the program to assist residents of the Commonwealth without adequate coverage for prescription drugs in purchasing their medications from the same licensed pharmacy or pharmacies in Canada. For the purposes of this section, a resident without adequate coverage means a resident of the commonwealth with no insurance coverage for prescription drugs or with coverage for which the annual maximum coverage limit under his health benefit plan has been reached. All the same requirements of subsection A shall apply. The Secretary may establish an enrollment fee to cover administrative costs of the program for these residents, but all cost savings shall be realized by the enrollee.

C) Any aggregate or bulk purchasing program operated by the secretary of health and human services for the purchase of prescription drugs under section 271 of chapter 127 of the acts of the Acts of 1999 or section 62 of chapter 177 of the Acts of 2001 or any other authority shall include an option for participants to purchase drugs from Canada through the program authorized by this section in order to maximize cost savings of the aggregate purchasing plan.

D) Within 180 days of the establishment of the initial program, the secretary shall file a report with the House and Senate Committees on Ways and Means and the House and Senate Clerk detailing the number of participants in the program, a break down of participants by insurance group, the medications purchased through the program, the amount of savings realized by the Commonwealth, the amount of savings passed on to enrollees and any reports of safety concerns in the implementation of this program.

The amendment was *rejected*.

Messrs. Montigny, Tarr and Brewer moved that the bill be amended by inserting the following new Section:-

Section ____ Chapter 118E of the General Laws is hereby amended by inserting after section 12 the following sections:

Section 12A. Consumer Protection Rules; Prior Authorization of Prescription Drugs

(a) Any prior authorization process required by the division before it authorizes coverage for a prescription drug shall comply with the consumer protections in this section and with 42 U.S.C. section 1396r-8(d).

(b) Coverage for a prescription drug that is not covered by the division without prior authorization shall be authorized if a patient's health care provider certifies, in a manner determined by the division, that:

- (i) the drug is medically necessary; and
- (ii) in the case of a prescription drug that is not the preferred choice in a therapeutic category on the preferred drug list,
 - (A) the preferred choice has not been effective, or with reasonable certainty is not expected to be effective in treating the patient's condition; or
 - (B) the preferred choice causes or is reasonably expected to cause adverse or harmful reactions in the patient.
- (c) The prescriber's certification concerning whether a particular drug has been ineffective, is expected to be ineffective in treating the patient, or is expected to cause an adverse or harmful reaction shall be final.
- (d)(1) The division's prior authorization process shall be designed to minimize administrative burdens on prescribers, pharmacists, and consumers.
 - (2) The prior authorization process shall ensure real-time receipt of requests, by telephone, voice mail, facsimile, electronic transmission, or mail on a 24-hour basis, seven days a week.
 - (3) The prior authorization process shall provide an in-person response to emergency requests by a prescriber with telephone answering queues that do not exceed 10 minutes.
 - (4) Any request for authorization or approval of a drug that the prescriber indicates, including the clinical reasons for the request, is for an emergency or urgent condition shall be responded to in no more than 4 hours from the time the program or participating health benefit plan receives the request.
 - (5) In emergency circumstances, or if the response to a request for prior authorization is not provided within the time period established in subdivision (4) of this subsection, a 72-hour supply of the drug prescribed shall be deemed to be authorized by the program or the participating health benefit plan, provided it is a prescription drug approved by the United States Food and Drug Administration, and provided, for drugs dispensed to a Medicaid beneficiary, it is subject to a rebate agreement with the Centers for Medicare and Medicaid Services.
 - (6) The division shall provide to participating providers a prior authorization request form designed to permit the prescriber to make prior authorization requests in advance of the need to fill the prescription, and designed to be completed without unnecessary delay. The form shall be capable of being stamped with information relating to the participating provider and, if feasible, at least one form capable of being copied shall contain known patient information.
- (e) The division's prior authorization process shall require that the prescriber, not the pharmacy, request a prior authorization exception to the requirements of this section. The division may exempt a prescriber from the need to secure prior authorization for a specific drug category if the division determines that the prescriber has written a minimum number of scripts in that category, and the prescriber prescribes prescription drugs on the preferred drug list at or above the minimum threshold for that category.
- (f) If the patient is denied authorization of coverage, the denial shall be subject to an administrative fair hearing and to all rights under section 14 of chapter 30A of the general laws.
- (g) The division shall, using bulletins, manuals, notices or other appropriate means, educate prescribers and pharmacists who treat MassHealth patients about the requirements of the prior authorization process, including the obligations of providers and pharmacists and the rights of consumers.

Section 12B. Supplemental Rebates

- (a) The commissioner, separately or in concert with the authorized representatives of any health benefit plan participating in the prescription drug fair pricing program established by chapter 118H, shall use the division's preferred drug list of prescription drugs covered without a prior authorization requirement to negotiate with pharmaceutical companies for the payment to the commissioner of supplemental rebates or price discounts for Medicaid. The commissioner may also use the preferred drug list to negotiate for the payment of rebates or price discounts in connection with drugs covered under any other health benefit plan within or outside this state participating in the prescription drug fair pricing program established by chapter 118H. Such negotiations and any subsequent agreement shall comply with the provisions of 42 U.S.C. section 1396r-8. The program established by chapter 118H, or such portions of the program as the commissioner shall designate, shall constitute a state pharmaceutical assistance program under 42 U.S.C. section 1396r-8(c)(1)(C). The provisions of this section do not authorize agreements with pharmaceutical manufacturers whereby financial support for medical services covered by the Medicaid program is accepted as consideration for placement of one or more prescription drugs on the preferred drug list or for excluding a drug from any prior authorization requirement.

(b) The commissioner shall provide quarterly reports on the progress of negotiating supplemental rebates pursuant to this section to the joint committee on health care and the house and senate committees on ways and means. By September 1, 2003, the commissioner shall provide with the next occurring quarterly report a cost-benefit analysis of alternative negotiation strategies, including strategies used by the state Medicaid agencies in states of Florida and Michigan to secure supplemental rebates and any other alternative negotiation strategy that might secure lower net prescription drug costs.

(c) The commissioner shall prohibit the public disclosure of information revealing company-identifiable trade secrets obtained by the department, and by any officer, employee or contractor of the department in the course of negotiations conducted pursuant to this section. Such confidential information shall be exempt from public disclosure.

Section 12C. Discount Program Waiver

(a) The division shall seek a prescription drug discount program waiver from the Centers for Medicare and Medicaid Services pursuant to section 1115(a) of the Social Security Act. The prescription drug discount program shall provide eligible individuals with a financial subsidy for prescription drugs equal to the average rebate paid to the Medicaid program by pharmaceutical manufacturers. Eligible individuals shall include Medicare-eligible individuals whose financial eligibility exceeds 188 per cent of federal poverty level and who do not have an insurance policy that covers drugs and other individuals whose financial eligibility does not exceed 300 per cent of the federal poverty level who do not have an insurance program that includes a prescription drug benefit.

(b) The division may establish, as part of the discount program, an annual enrollment fee. Subject to appropriation, the division shall make a payment of at least 2 percent of the cost of each prescription or refill dispensed to individuals enrolled in the program.

(c) In implementing the program, the division may contract with a nonprofit corporation or other entity to administer the program. Such corporation or entity shall agree to assist individuals enrolled in the program to access other free or discount prescription drug programs offered by private entities, including pharmaceutical manufacturers.

(d) The division shall report to the house and senate committees on ways and means and the joint committee on health care, not later than 60 days after the effective date of this section, on the division's progress in implementing this section and shall report every 90 days thereafter on its progress in obtaining the waiver to those committees.

SECTION 2. The General Laws are hereby amended by inserting the following new chapter:

Chapter 118H. The Massachusetts Prescription Drug Fair Pricing Program

Section 1. Program Established

(a) There is hereby established a program to reduce the cost to the Commonwealth of providing prescription drugs to its citizens while maintaining high quality in prescription drug therapies. The program shall include, but shall not be limited to, the following components:

(1) the development and use of a statewide, uniform preferred list of covered prescription drugs that identifies preferred choices within therapeutic classes for particular diseases and conditions, including generic and therapeutic equivalents;

(2) the creation of a single purchasing unit for the purchase of prescription drugs by the commonwealth;

(3) the use of strategies to negotiate with pharmaceutical manufacturers to lower the cost of prescription drugs for program participants, including a supplemental rebate program;

(4) the development of educational programs, including a counterdetailing program, designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to consumers, physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs;

(5) the utilization of any available cost containment tools that meet program objectives by reducing the cost to the commonwealth of obtaining and providing prescription drugs, including clinical management tools, utilization review procedures, a prior authorization review process, duplicate prescription monitoring, and refill and supply controls;

(6) the observance of consumer protection rules to maintain high quality in prescription drug therapies and to protect access to needed prescriptions; and

(7) the operation of a discount program to provide the benefit of negotiated price discounts to uninsured citizens.

(b) The following state agencies shall participate in the program authorized in this chapter, to the extent permitted by federal law:

- (1) the division of medical assistance;
 - (2) the executive office of elder affairs;
 - (3) the group insurance commission;
 - (4) the department of public health;
 - (5) the department of mental health;
 - (6) the department of mental retardation;
 - (7) the department of corrections; and
 - (8) the division of employment and training.
- (c) Any other public or private health benefit plan that purchases prescription drugs may elect to participate in all or portions of the program.

Section 2. Bulk Purchasing Agreements

- (a) State agencies and other participants in the program shall act as a single purchasing unit for the negotiation of a contract to purchase prescription drugs on behalf of the commonwealth.
- (b) The prescription drug procurement unit created by section 62 of chapter 177 of the Acts of 2001 shall implement all or part of the program to the extent permitted by federal law. The secretary of the executive office of elder affairs, the commissioner of the group insurance commission and the commissioners of the departments of public health, mental health and mental retardation may renegotiate or amend existing contracts for the purchase of prescription drugs, including a contract made in conformance with said section 62, if such renegotiation or amendment is necessary to implement all or part of the program and will be of economic benefit to the health benefit plans subject to such contracts, and to the beneficiaries of such plans. Any renegotiated or substituted contract shall be designed to improve the overall quality of integrated health care services provided to beneficiaries of such plans.

Section 3. Pharmaceutical Benefits Manager

- (a) State agencies and other participants in the program may contract with a third party pharmacy benefit manager to assist in implementation of the program. Such pharmacy benefit manager shall be a non-profit corporation with expertise in the management of pharmacy benefits.
- (b) No contract shall be signed with a pharmacy benefit manager unless the pharmacy benefit manager has agreed to disclose to the commonwealth, in a manner that preserves the confidentiality of any proprietary information:
- (1) operating statements of the pharmacy benefit manager;
 - (2) total revenue attributable to pharmaceutical manufacturer rebates and total revenue not attributable to pharmaceutical manufacturer rebates;
 - (3) all sources of rebate revenue and non-rebate revenue, and amounts of revenue from such sources;
 - (4) rebate management fees collected;
 - (5) the terms and conditions of any contract with any subcontractor, including contracts with the pharmacy benefit manager's pharmacy network; and
 - (6) the terms and conditions of any sale or exchange of prescription drug data concerning beneficiaries or the prescribing practices of the providers.
- (c) No contract shall be signed with a pharmacy benefit manager that has entered into an agreement or engaged in one or more of the following practices unless a majority of state agency participants in the program determines, after consideration of all relevant circumstances, that such agreement or practice furthers the financial interests of the commonwealth, and does not adversely affect the financial or medical interests of beneficiaries:
- (1) any agreement with a pharmaceutical manufacturer to favor the manufacturer's products over a competitor's products, or to switch the drug prescribed by the patient's health care provider with a drug agreed to by the pharmacy benefit manager and the manufacturer;

- (2) any agreement with a pharmaceutical manufacturer to share manufacturer rebates and discounts with the pharmacy benefit manager, or to pay soft money, so-called, or other economic benefits to the pharmacy benefit manager;
- (3) any agreement to share revenue with a mail order or internet pharmacy company;
- (4) any agreement or practice to bill the commonwealth's health benefit plans for prescription drugs at a cost higher than the pharmacy benefit manager pays the pharmacy; or
- (5) any agreement to sell prescription drug data concerning beneficiaries, or data concerning the prescribing practices of health care providers.

Section 4. Cost Containment Tools

(a) The program shall include the following components:

(1) A preferred list of covered prescription drugs that identifies preferred choices within therapeutic classes for particular diseases and conditions, including generic alternatives.

(i) The preferred drug list shall be implemented as a uniform, statewide, preferred drug list for use by state agencies participating in the program and health benefit plans in the Commonwealth shall be encouraged to participate in the program.

(ii) The program may utilize the MassHealth Drug List developed by the division of medical assistance as its preferred drug list. In order to assist the state agencies participating in the program with the development, modification and timely revision of the preferred drug list, such agencies shall appoint a Drug List Review Board. The board may be comprised in whole or in part of representatives of state agencies, including the Drug Use Board established by the division of medical assistance pursuant to federal law, or may be established by contract with a public or private non-profit organization. The board shall:

(A) make recommendations for the adoption and maintenance of the preferred drug list based upon considerations of clinical efficacy, safety, and cost-effectiveness;

(B) meet at least quarterly;

(C) to the extent feasible, review all drug classes included in the preferred drug list at least every 12 months, and recommend additions to or deletions from the preferred drug list;

(D) establish board procedures for the timely review of prescription drugs newly approved by the federal Food and Drug Administration, including procedures for the review of newly-approved prescription drugs in emergency circumstances, including early refill review standards, a prior authorization review process, duplicate prescription monitoring, and quality and supply controls;

(E) encourage health benefit plans to implement the preferred drug list as a uniform, statewide preferred drug list by inviting the representatives of each health benefit plan providing prescription drug coverage to residents of the commonwealth to participate as observers or nonvoting members in the commissioner's drug utilization review board, and by inviting such plans to use the preferred drug list in connection with the plans' prescription drug coverage.

(iii) Members of the board shall receive per diem compensation and reimbursement of board related expenses. The board shall consult with a preferred drug list advisory group which shall include 1 designee of the commissioner of mental health; 1 designee of the commissioner of public health; 1 designee of the secretary of the executive office of elder affairs; 1 physician with experience treating MassHealth patients; 1 practicing pediatrician with experience treating MassHealth patients; 1 practicing pharmacist with experience serving MassHealth patients; 1 pharmacologist with expertise in psychiatric drugs; 1 representative of a senior citizens advocacy group; 1 representative of a disability advocacy group; and 1 representative of a statewide advocacy group representing the interests of MassHealth members.

(2) A series of educational programs including a counterdetailing program, designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to consumers, physicians, pharmacists and other health care professionals authorized to prescribe and dispense

prescription drugs.

(3) Consideration of alternative pricing mechanisms including consideration of using maximum allowable cost pricing for generic and other prescription drugs.

(4) Consideration of alternative coverage terms, including consideration of providing coverage of over-the-counter drugs where cost-effective in comparison to prescription drugs, and authorizing coverage of dosages capable of permitting the consumer to split each pill if cost-effective and medically appropriate for the consumer.

(5) Development of a simple, uniform prescription form, designed to implement the preferred drug list, and to enable prescribers and consumers to request an exception to the preferred drug list choice with a minimum of cost and time to prescribers, pharmacists and consumers.

Section 5. Consumer Protection Rules

(a) The program shall authorize pharmacy benefit coverage when a patient's health care provider prescribes a prescription drug not on the preferred drug list, if a patient's health care provider certifies that:

(i) the drug is medically necessary; and

(ii) in the case of a prescription drug that is not the preferred choice in a therapeutic category on the preferred drug list,

(A) the preferred choice has not been effective, or with reasonable certainty is not expected to be effective in treating the patient's condition; or

(B) the preferred choice causes or is reasonably expected to cause adverse or harmful reactions in the patient.

(b) The prescriber's certification concerning whether a particular drug has been ineffective, is expected to be ineffective in treating the patient, or is expected to cause an adverse or harmful reaction shall be final.

(c) The program shall authorize coverage notwithstanding any prior authorization requirement if the patient agrees to pay any additional cost in excess of the benefits provided by the patient's health benefit plan. The provisions of this paragraph shall not apply in circumstances in which their application is inconsistent with federal Medicaid laws and regulations. The provisions of this paragraph shall not affect implementation by a participating health benefit plan of tiered co-payments or other similar cost sharing systems.

(d) The program or any participating health benefit plan shall provide information on how prescribers, pharmacists, beneficiaries, and other interested parties can obtain a copy of the preferred drug list, whether any change has been made to the preferred drug list since it was last issued, and the process by which exceptions to the preferred list may be made.

(e)(1) The program's prior authorization process shall be designed to minimize administrative burdens on prescribers, pharmacists, and consumers.

(2) The prior authorization process shall ensure real-time receipt of requests, by telephone, voice mail, facsimile, electronic transmission, or mail on a 24-hour basis, seven days a week.

(3) The prior authorization process shall provide an in-person response to emergency requests by a prescriber with telephone answering queues that do not exceed 10 minutes.

(4) Any request for authorization or approval of a drug that the prescriber indicates, including the clinical reasons for the request, is for an emergency or urgent condition shall be responded to in no more than 4 hours from the time the program or participating health benefit plan receives the request.

(5) In emergency circumstances, or if the response to a request for prior authorization is not provided within the time period established in subdivision (4) of this subsection, a 72-hour supply of the drug prescribed shall be deemed to be authorized by the program or the participating health benefit plan, provided it is a prescription drug approved by the United States Food and Drug Administration, and provided, for drugs dispensed to a Medicaid beneficiary, it is subject to a rebate agreement with the Centers for Medicare and Medicaid Services.

(6) The program or participating plan shall provide to participating providers a prior authorization request form designed to permit the prescriber to make prior authorization requests in advance of the need to fill the prescription, and designed to be completed without unnecessary delay. The form shall be capable of being stamped with information relating to the participating provider and, if feasible, at least one form capable of being copied shall contain known patient information.

(f) The program's prior authorization process shall require that the prescriber, not the pharmacy, request a prior authorization exception to the requirements of this section. The program may exempt a prescriber from the need to secure prior authorization for a specific drug category if the program determines that the prescriber has written a minimum number of scripts in that category, and the prescriber prescribes prescription drugs on the preferred drug list at or above the minimum threshold for that category.

(g) If the patient is denied authorization of coverage, the denial shall be subject to an administrative fair hearing and to all rights under section 14 of chapter 30A of the general laws.

Section 6. Discount Card Program.

(a) The commissioner of health and human services or another commissioner of a participating state agency designated by program participants shall implement a pharmacy discount plan, to be known as the Healthy Massachusetts Discount Card Plan, for residents without adequate coverage for prescription drugs. As used in this section, a resident without adequate coverage means a resident of the commonwealth with no insurance coverage for prescription drugs or with coverage for which the annual maximum coverage limit under his health benefit plan has been reached. Such plan shall establish a system through which residents without adequate coverage are able to take advantage of discounted prices for prescription drugs negotiated pursuant to this chapter. Such commissioner shall implement the pharmacy discount program authorized by this section without any financial contribution by the state, and may establish an enrollment fee in such amount as is necessary to support the administrative costs of the plan. The plan shall be designed to work cooperatively with other state prescription drug assistance programs, including any program created pursuant to a discount program waiver granted by the Centers for Medicare and Medicaid Services to the division of medical assistance. Such commissioner may contract with a nonprofit corporation or other entity to administer the program. Such corporation or entity shall agree to assist individuals eligible for the program to access other free or discount prescription drug programs offered by private entities, including pharmaceutical manufacturers.

Section 7. Reporting and Legislative Oversight

(a) The commissioner of health and human services or another commissioner of a participating state agency designated by program participants shall report quarterly to the joint committee on health care and the house and senate committees on ways and means on progress of the program in implementing a single state purchasing unit for prescription drugs pursuant to section 2. The report shall provide a status report on the formation of or operation of the contract negotiated pursuant to section 2, and shall identify any barriers to full implementation of section 2 and recommend any changes to the program or other legislative changes advisable to eliminate such barriers. The report shall also report on the program's progress in securing the participation of other health benefit plans with the commonwealth by means of joint purchasing agreements to enhance the commonwealth's purchasing power.

(b) Each year for the duration of the pharmacy benefit manager contract pursuant to section 3, the commissioner of health and human services or another commissioner of a participating state agency designated by program participants shall provide a status report on the contract and the operations of the pharmacy benefit manager to the joint committee on health care and the house and senate committees on ways and means. The report shall include:

(1) a description of the activities of the pharmacy benefit manager;

(2) an analysis of the success of the pharmacy benefit manager in achieving each of the department's public policy goals, together with the pharmacy benefit manager's report of its activities and achievements;

(3) an assessment, based upon information learned in contracting with the pharmacy benefits manager, of administrative costs relating to prescription drug benefits in the Medicaid program and the Prescription Advantage program established pursuant to section 39 of chapter 19A, including any recommendations for increasing the administrative efficiency of such programs;

(4) any recommendations for enhancing the benefits of or minimizing inefficiencies of the pharmacy benefit manager contract or advancing the commonwealth's public policy goals relating to pharmaceutical costs, quality and access;

(5) a fiscal report on the costs and savings to the commonwealth of the pharmacy benefit manager contract, including the information disclosed pursuant to paragraph (b) of section 3, in a manner that preserves the confidentiality of any proprietary information; and

(6) if the pharmacy benefit manager engages in any of the activities described in paragraph (c) of section 3, an explanation of the reasons for finding that such agreement or practice furthers the financial interests of the commonwealth, and does not adversely affect the financial or medical interests of beneficiaries.

(c) The commissioner of health and human services or another commissioner of a participating state agency designated by program participants shall report quarterly to the joint committee on health care and the house and senate committees on ways and means concerning the cost containment aspects of the program undertaken pursuant to section 4. Such report shall include:

(1) a copy of the preferred drug list, an explanation of the list, a summary of the operation of the prior authorization process or any other cost savings measures instituted as a part of the list, and an estimate of expected cost savings as a result of the preferred drug list;

(2) a description of the efforts undertaken to educate consumers and health care providers about the preferred drug list and the program's utilization review procedures;

(3) a description of the efforts undertaken to establish programs to educate health care providers about the costs of prescribing patterns, including counterdetailing programs;

(4) a report of other cost containment strategies undertaken, including, but not limited to, alternative pricing mechanisms and alternative coverage terms, the expected savings from such strategies, and the effect of such strategies on access to prescription drugs for consumers; and

(5) a status report on the development of a uniform prescription form and any barriers to such development.

(d) The joint committee on health care shall closely monitor implementation of the program, including the preferred drug list and utilization review procedures, to ensure that the consumer protection standards are not diminished as a result of implementing the preferred drug list and the utilization review procedures, including any unnecessary delay in access to appropriate medications. Such joint committee shall, by means of an oversight hearing or otherwise, ensure that all affected interests, including consumers, health care providers, pharmacists and others with pharmaceutical expertise have an opportunity to comment on the operation of the program, the preferred drug list, and other procedural aspects of the program.

SECTION 3. The General Laws are hereby amended by adding after chapter 268B the following chapter.

Chapter 268C. Physician and Pharmaceutical Manufacturer Conduct

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

"Gift", a payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received. "Gift" shall not include a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance, a gift received from a member of the reporting person's immediate family or from a relative within the third degree of consanguinity of the reporting person or of the reporting person's spouse or from the spouse of any such relative, or prescription drugs provided to a physician solely and exclusively for use by the physician's patients.

"Immediate family", a spouse and any dependent children residing in the reporting person's household.

"Medical device", an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is:

(1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them,

(2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or

(3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

"Person", a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.

"Pharmaceutical marketer", a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities, or other marketing of prescription drugs in this state to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A, a representative of such a distributor who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug, or a retail pharmacist registered under section 37 if such person is not engaging in such practices under contract with a manufacturing company.

"Pharmaceutical manufacturing company", any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A or a retail pharmacist registered under section 37.

"Pharmaceutical manufacturer agent", a pharmaceutical marketer or any other person who for compensation or reward does any act to promote, oppose or influence the prescribing of a particular prescription drug or medical device or category of prescription

drugs or medical devices. The term shall not include a licensed pharmacist, licensed physician or any other licensed health care professional with authority to prescribe prescription drugs who is acting within the ordinary scope of the practice for which he is licensed.

"Physician", a person licensed to practice medicine by the board of medicine pursuant to section 2 of chapter 112 .

"Prescription drugs", any and all drugs upon which the manufacturer or distributor has placed or must, in compliance with federal law and regulations, place the following or a comparable warning: "Caution federal law prohibits dispensing without prescription."

Section 2. No pharmaceutical manufacturer agent shall knowingly and willfully offer or give to a physician or a member of a physician's immediate family, and no physician shall knowingly and willfully solicit or accept from any pharmaceutical manufacturer, gifts of any value at any time.

Section 3. A person who violates this section shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 2 years, or both.

SECTION 4. The commissioner of the division of medical assistance, the secretary of the executive office of elder affairs, the commissioner of the group insurance commission and the commissioners of state agencies participating in the Massachusetts prescription drug fair pricing program established by chapter 118H of the general laws shall take all steps necessary to enable the commonwealth to participate in joint prescription drug purchasing agreements with other states and other health benefit plans. Such steps shall include:

- (1) Active collaboration with the National Legislative Association on Prescription Drug Prices in the Association's efforts;
- (2) Active collaboration with the Pharmacy RFP Issuing States Initiative, so-called, organized by the West Virginia Public Employees Insurance Agency; and
- (3) The execution of any joint purchasing agreements or other contracts with any health benefit plan or organization within or outside the state which such commissioners determines will lower the cost of prescription drugs for the commonwealth and its citizens while maintaining high quality in prescription drug therapies.

SECTION 5. (a) The General Court finds that the National Legislative Association on Prescription Drug Prices is a nonprofit organization of legislators formed for the purpose of making prescription drugs more affordable and accessible to citizens of the member states, including the commonwealth. The General Court further finds that the activities of the Association provide a public benefit to the people of the commonwealth.

(b) Three members of the senate, including one member of the minority party, shall be appointed directors of the Association by the senate president, and three members of the house of representatives, including one member of the minority party, shall be appointed directors of the Association by the speaker of the house. Directors so appointed shall serve until new members are appointed.

(c) The directors of the Association shall report to the house and senate committees on ways and means and the joint committees on health care and insurance on or before January 1 of each year with a summary of the activities of the Association, and any findings and recommendations for making prescription drugs more affordable and accessible to citizens of the commonwealth.

The amendment was *rejected*.

Messrs. Montigny, Tarr and Ms. Wilkerson moved that the bill be amended by inserting, after Section , the following new Section:-

"SECTION . Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the director of the Office of Medicaid shall authorize MassHealth payment for early refills or up to a 90 day supply of prescriptions between November 15, 2005 and December 31, 2005 for beneficiaries under chapter 118E who will also be eligible for the Medicare Prescription Drug benefit on January 1, 2006, so-called "dual eligibles." This section shall not be interpreted to permit the dispensing of more than a 30 day supply of narcotic pain killers and other controlled drugs in violation of state or federal law. The secretary and the director shall authorize payment for a 30 day supply of those drugs to be provided to dual eligibles who present a valid prescription in January 2006 and whose Medicare prescription drug plan will not cover the prescribed medication at the time the prescription is presented. Pursuant to regulations of the Center for Medicare and Medicaid Services, the secretary shall seek federal financial participation for all prescriptions provided pursuant to this section. The secretary and the director shall supply all pharmacists in the Commonwealth with clear, concise and consumer friendly information in at least 2 languages about the impact of the Medicare Prescription Drug Benefit on MassHealth members. This information shall include a warning that the customer's drugs may no longer be covered by MassHealth after January 1, 2006 and shall include appropriate toll free numbers to call for more information. The secretary and the director shall direct all pharmacists

to include this information with any prescription filled between October 15, 2005 and February 15, 2006 for a MassHealth recipient who is known or is likely to be eligible for the Medicare prescription drug benefit. The secretary and the director are authorized to promulgate regulations consistent with this section."
The amendment was *rejected*.

Mr. Moore moved that the bill be amended, in Section 2, in item 4100-0060 the words "provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals shall be calculated as provided in section 5 of said chapter 118G; provided further, that the assessed amount shall be not less than 65 per cent of the division's expenses as specified in this item" and replacing with the following:- "provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of chapter 118G of the General Laws for fiscal year 2006 shall be equal to the amount specifically appropriated in this item less amounts projected to be collected by the division in fiscal year 2006 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 cost; provided further that any amendments to this item through subsequent budget enactments will not be applied to the assessment and will not be accounted for in any adjustments to the assessment in this item as so amended; provided that the amount of such assessment shall be no greater than 65 percent of the amount appropriated in this line item; provided further, that the provisions of this item shall supercede the applicable provisions of said section 5;"
The amendment was *rejected*.

Ms. Chandler and Mr. Moore moved that the bill be amended in Section 2, by inserting after item 4100-0060 the following item:-
"4100-0080 For continued funding of the qualified community health center based health maintenance organization campaign for excellence community health center initiative.....\$6,000,000".
The amendment was *rejected*.

Messrs. Tarr and Brown and Ms. Wilkerson moved that the bill be amended, in Section 2, in item by inserting after item 1775-0100 the following item:

"1775-0110 For the Operation of the Affirmative Market Program.....\$300,000."
The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, by inserting after item 1102-3232 the following item:

"1102-3233, For the construction, reconstruction, renovation, repair, or improvement of various commonwealth and municipal capital facilities; provided further, that \$2,000,000 shall be expended for repairs to the Manning bowl in Lynn; and provided further, that all funds appropriated herein shall be expended subject to terms and conditions as may be determined by the secretary for administration and finance, including a requirement for matching funds to be spent by any non-state recipient of such funds."
The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended, in Section 2, in item 7000-9501, by inserting after the words "immediately proceeding" the following:- "provided further that not less than \$100,000 shall be expended for historic preservation repairs at the Bacon Free Library in Natick".
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7000-9501 by inserting after the word "contrary," with the following: "provided further, that \$50,000 shall be expended to the East Bridgewater Public Library for the purpose of the funding an air conditioning system."
The amendment was *rejected*.

Ms. Chandler moved that the bill be amended, in Section 2, in item 8200-0200, by inserting after the words "under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222;" the following wording:- "provided further, that not less than \$50,000 shall be expended for the purpose of a feasibility study of a multi-use public safety structure in the town of Paxton;"
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 2800-0100 by inserting after the word "Reservation," with the following: - "provided further, that \$275,000 shall be expended for the engineering and construction of new soccer fields in the Town of West Bridgewater."
The amendment was *rejected*.

Ms. Spilka moved that the bill be amended, in Section 2, in item 2800-0101 by adding the following: "; and provided further, that not less than \$100,000 shall be expended for a grant to the town of Hopkinton for a detailed investigation of North Pond Dam/Lake Maspenock Dam located in the towns of Hopkinton, Milford, and Upton to determine the extent of seismic testing

necessary at said facility and to perform such Seismic testing for Liquefaction and/or other Seismotectonic testing as may be recommended by said investigation."

The amendment was *rejected*.

Mr. Brown moved that the bill be amended in section 2, in item 2800-0101, by inserting after the word "state house" the following: - "; provided further, not less than \$40,000 shall be expended for flood control on Forest Road in Millis"; and in said item by striking out the figures "\$1,147,489" and inserting in place thereof the figures "1,187,489".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 2800-0101, by inserting after the word "state house" the following: "provided further that not less than \$100,000 shall be expended for environmental protection and improvements to the former

ravel pit on Morse's Pond in Natick"; and in said item by striking out the figures "1,750,000" and inserting in place thereof the figures "1,850,000".

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended, in Section 2, in item 2800-0600, by inserting after the words "required maintenance and upkeep" the following: - "provided further, that the department shall expend not less than \$2,500,000 for the repair of the Connors Memorial Pool in the city of Waltham; provided further, that the department shall repair and reopen the Connors Memorial Pool in the City of Waltham no later than May 26, 2006", and moved to further amend said item by striking the figure "\$750,000" and inserting in place thereof the following figure: - "\$3,250,000".

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended, in Section 2, by inserting after item 2800-0600 the following item:

"2800-0601

For the rehabilitation of the state owned Manning Pool in the City of Brockton\$1,200,000.

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended, in Section 2, in item 2810-0100 by inserting, following the words "Schooner Ernestina Commission" the following: - "provided further that \$100,000 shall be expended for the restoration of trails at Bradley State Park."

The amendment was *rejected*.

Mr. Barrios (on behalf of the late Senator Charles E. Shannon and his office) moved that the bill be amended, in Section 2, in item 2810-0100 by inserting after the words "Schooner Ernestina Commission;" the following:-- "provided further, that not less than \$6,000,000 shall be expended for the reconstruction of Veterans Rink in the City of Somerville", and by striking the figure "19,007,437" and inserting in place thereof the following:-- "\$25,007,437".

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, by striking out item 2810-0100 and inserting in place thereof the following item: -

"2810-0100 For the operations of the division of state parks and recreation; provided, that funds appropriated in this item shall be used to operate all of the division's parks, heritage state parks, reservations, campgrounds, beaches and pools and for the oversight of rinks, to protect and manage the division's lands and natural resources including the forest and parks conservation services and the bureau of forestry development; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that the department may issue grants to public and nonpublic entities from this item; provided further, that \$100,000 shall be expended for the Schooner Ernestina Commission; provided further, that \$25,000 shall be expended for a grant to the Sutton Fire and Rescue department for park user safety equipment at the Purgatory Chasm State Reservation in the town of Sutton; provided further, that \$600,000 shall be expended for the demolition of the abandoned Naval Annex Buildings located on 125 acres adjacent to Wompatuck State Park in the town of Hingham; and provided further, that the level of funding for the beaches and pools from this item in fiscal year 2006 shall not be reduced from fiscal year 2005.....\$19,607,437".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 2820-0100, by inserting after the words " fiscal year 2005" the following: - "; provided further, not less than \$90,000 shall be expended for improvements at the Cole Recreation Center in Natick"; and in said item by striking out the figures "\$22,718,929" and inserting in place thereof the figures "\$22,808,929".

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended, in Section 2, in item 2820-0100, by inserting after the words "true seasonal employees" the following: - "; provided further not less than \$100,000 shall be expended for improvements and lighting

at the Hunnewell Field in Natick"; and in said item by striking out the figures "\$22,781,929" and inserting in place thereof the figures "22,881,929".

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended, in Section 2, in item 2820-0100, by inserting after the words "true seasonal employees" the following: "Not less than \$70,000 shall be expended for improvements at Murphy Playground in Natick"; and in said item by striking out the figures "\$22,718,929" and inserting in place thereof the figures "22,788,929".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 2820-0100, by inserting after the words "true seasonal employees" the following: "; provided further that not less than \$50,000 shall be expended for emergency safety repairs to Oak Grove Farm Playground in Millis"; and in said item by striking out the figures "\$21,420,203" and inserting in place thereof the figures "21,470,203".

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 2820-0100 by inserting after the word " Boston," with the following: "provided further, that \$100,000 be expended for Pine Tree Brook in the Town of Milton for the purpose of implementing Phase V of a project for clearing and dredging."

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 2820-0100, by adding at the end thereof the following new language:- "; provided further, that not less than \$168,500 be allocated for the repair of the Cadish Avenue Seawall in the Town of Hull.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 2820-0100 the following item:- "provided further, that not less than \$329,500 be allocated for the Green Hill Seawall and Bluff Stabilization in the Town of Hull.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 2820-0100, by adding at the end thereof the following new language:- ";provided further, that not less than \$100,000 be granted to the town of Hull for the purpose of repairing the James Avenue Seawall.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 2820-0100 the following item:- "provided further, that not less than \$2,000,000 be allocated for repairs to the Nantasket Beach Seawall.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 2820-0100 the following item:- "provided further, that not less than \$237,000 be allocated for the Stoney Beach Seawall in the Town of Hull.

The amendment was *rejected*.

Mr. McGee moved that the bill be amended, in Section 2, by inserting after line item 2820-9005 the following item:

"2820-9010 For the study of traffic patterns during rush hour commutes on DCR controlled roadways serving Lynn, Swampscott and Nahant.....\$75,000.

The amendment was *rejected*.

Ms. Chandler and Mr. Augustus moved that the bill be amended, in Section 2, in item 8324-0000, by inserting at the end thereof the following wording:-"; and provided further, that \$2,000,000 shall be provided to the city of Worcester for a memorial public safety facility."

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended, in Section 2, in item 8324-0000 by inserting after the words "Plymouth county juvenile court;" the following "provided further, that not less than \$25,000 shall be expended for the purpose of a feasibility study of a multi-use public safety structure in the town of Millbury;"

The amendment was *rejected*.

Ms. Resor moved that the bill be amended, in Section 2, in item 8900-0001 by inserting at the end thereof the following:- "; provided, that \$500,000 be expended for the stabilization and preservation of the structures in Shirley Shaker Village".

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7061-9404 by inserting after the word "Springfield" with the following "provided further, that \$400,000 shall be expended to the Blue Hills Regional Vocational School in Canton for the purpose of funding roof repairs"; and

In Section 2, in item 7061-9404 by striking out the figure "\$10,000,000" and inserting the figure "\$10,400,000".
The amendment was *rejected*.

Ms. Spilka moved that the bill be amended, in Section 2, by inserting after item 7061-9612 the following item:-

"7061-9613

For facility planning design and other related costs for the Christa Corrigan McAuliffe Center of Education and Teaching Excellence at Framingham State College\$459,000"

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 8311-1000, in line 9, by inserting after "shall be paid from this item", the following: "and provided further, that not less than \$225,000 shall be awarded to purchase and install an emergency power generator to be placed in the public shelter of Wayland Middle School in the Town of Wayland"; and in said item by striking out the figures "1,052,495" and inserting in place thereof the figures "1,277,495".

The amendment was *rejected*.

Mr. Nuciforo moved that the bill be amended, in Section 2, in item 6010-0001 by inserting, after the words "after the end of each quarter; ", the following words- "provided further, that not less than \$100,000 shall be granted to the towns of Otis and Becket for phase 2 emergency repairs of the Green Water Pond Dam;"; and by striking the figure "\$15,281,640" and inserting in place thereof the following figure:- "\$15,381,640".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 6010-0001, in line 40, by inserting after the word "repair" the following:- "provided further that not less than \$200,000 shall be made available for the redesign and engineering of the intersection of Chestnut Street and Route One in the town of North Attleboro".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 6010-0001, in line 40, by inserting after the word "repair" the following:- "; provided further that not less than \$225,000 shall be made available for the rehabilitation of the Fisher Street Bridge in the town of North Attleboro".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 6010-0001, in line 16, by inserting after the word "department;" the following: "provided further, that not less than \$795,000 shall be expended for the renovation of the Rockland Street Bridge in the Town of Wellesley;".

The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 6010-0001, by inserting after the words "vehicle repair" the following:- "Provided that not less than \$45,000 be expended for improvements to the sidewalk on North Main Street in Sherborn to meet the standards of the Americans with Disabilities Act"; and in said item by striking out the figures "\$15,281,640" and inserting in place thereof the figures "\$15,326,640".

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended, in Section 2, in item 6010-0001, by inserting after the words "AA object code" the following words: - "provided further, that not less than \$575,000 shall be expended for the design and reconstruction, including replacing signalization, of the intersection of Route 30 and Wellesley Street in Weston".

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 6010-0001 by inserting after the words "global positioning system program" with the following: "provided further, that not less than \$100,000 shall be expended for the repair and maintenance of the road in the section of Easton where Route 123 and Route 106 intersect, referred to as Five Corners;".

The amendment was *rejected*.

Mr. Havern and Ms. Fargo moved that the bill be amended, in Section 2, in item 6010-0001 by adding at the end thereof the following:- "provided further, that said department shall construct sound barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21,

Waterford Place in Chelmsford, designated Area 1, Ledgewood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document."

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended, in Section 2, in item 6010-0001, inserting the following language:- "; provided further that not less than 100,000 shall be expended for improvements and repair to the Memorial Avenue rotary and the North End Bridge rotary in West Springfield."

The amendment was *rejected*.

Messrs. Joyce and Timilty moved that the bill be amended, in Section 2, in item 2000-0100 by inserting after the word "beach," with the following: "provided further, that \$2,500,000 shall be expended for purchase of a certain parcel of land known as Rattlesnake Hill, in the Town of Sharon."

The amendment was *rejected*.

Mr. Joyce further moved to amend the bill, in Section 2, in item 2000-0100, by striking out the figure "\$6,234,486" and inserting in place thereof "\$8,734,486".

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended by inserting, after section 109, the following new section: -

SECTION _____. The Executive Office of Environmental Affairs is hereby authorized and directed to conduct a study to determine the feasibility of conducting a maintenance dredge within the Essex river."

The amendment was *rejected*.

Messrs. Brown and Timilty moved that the bill be amended, in Section 2, in item 8000-0000, by inserting after "commission" the following:- "provided further, not less than \$134,000 be granted for the upgrade of the Attleboro Police Department dispatch area to allow for the installation of 911 and radio equipment for the city of Attleboro."

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 8000-0010 by inserting after the word " Kingston" with the following "provided that not less than \$27,000 shall be expended to the East Bridgewater Police Department for the purpose of purchasing a new police cruiser".

The amendment was *rejected*.

Mr. Tolman moved that the bill be amended, in Section 2, in item 2250-2000, by inserting the following: "provided further that not less than \$150,000 be provided for the purpose of conducting an environmental assessment study for the Sawin's Pond area located in Watertown, MA."

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, by striking out item 2310-0200 and inserting in place thereof the following item: -

"2310-0200 For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be made available to the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2005 for such research; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns of Montague and Sandwich; provided further, that \$200,000 shall be expended for the demolition of abandoned buildings located on fisheries and wildlife property adjacent to the Back River in the town of Hingham; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 per cent of the amount so expended; provided further, that the department of fish and game, the division of fisheries and wildlife and the fisheries and wildlife board shall submit a joint report to the house and senate committees on way and means by September 1, 2005 detailing a 5- year plan for the expenditures of the surplus of funds in the Inland Fish and Game Fund; and provided further, that \$15,000 shall be expended for beaver maintenance in the town of Orange.....\$8,620,362."

The amendment was *rejeced*.

Mr. Tarr moved that the bill be amended, in Section 2, in item 2310-0200, by inserting at the end thereof the following words: - "provided further, that not less than \$200,000 be expended for the restoration and remediation of Silver Lake in the town of

Wilmington."
The amendment was *rejected*.

Mr. Joyce moved that the bill be amended, in Section 2, in item 7004-0099, by inserting after the word " Worcester" with the following "provided further, that \$250,000 shall be expended to the Avon Housing Authority for the purpose of the re-pavement of fellowship circle and other housing authority lots in the Town of Avon".
The amendment was *rejected*.

Ms. Fargo moved that the bill be amended, in Section 2, in item 7004-9005 by inserting after the words "capital repairs", the following: - provided further, that \$2,000,000 shall be granted to the town of Waltham for public safety improvements to the Prospect Hill housing complexes", and moved to further amend said item by striking the figure "\$34,871,170" and inserting in place thereof the following figure: - "\$36,871,170".
The amendment was *rejected*.

Messrs. Brown and Mr. Tarr moved that the bill be amended by inserting, after Section _____, the following new Section:-

"SECTION _____. Notwithstanding any special law to the contrary, the Massachusetts Office on Disability shall study the impact of Registry of Motor Vehicle issuing disabled registration plates or placards to parents of children with mental disabilities and shall consider the impacts on the current availability of designated handicapped parking spaces throughout the Commonwealth. The study shall report its findings to the Legislature no later December 31, 2005 for the consideration of the inclusion mental disabilities as well as physical disabilities for the issuance of designated handicapped registration plates. The amendment was *rejected*.

Messrs. Brown and Timility moved that the bill be amended, in Section 2, by inserting after the item 1410-0630 following item:

"1599-0015 For disabled access improvements to the Bristol community college campus in Attleboro\$800,000"
The amendment was *rejected*.

Ms. Chandler moved that the bill be amended in Section 2, by inserting after item 7116-0101 the following item:-

"7116-0105 For a matching grant for improvements to rockwood field located at Worcester State College; provided, that said match shall be one dollar of private funds for every dollar of state funds raised through alumni contributions; provided, that no funds shall be expended until an equal or greater amount has been raised through alumni contribution and committed by Worcester State College foundation for said project; and provided further, that said college shall work with the city of Worcester.....\$250,000."
The amendment was *rejected*.

Mr. Brown moved that the bill be amended, in Section 2, in item 0526-0100, by inserting after the word "commission" the following:- "; provided further that not less than \$150,000 shall be make available for the rehabilitation of the historical structures of the Holmes School and the Holmes Hall site in the town of North Attleboro".
The amendment was *rejected*.

Ms. Creem and Mr. Brown moved that the bill be amended, in Section 2, in item 6000-0110, by adding the following: "provided further, that not less than \$500,000 be allocated to the Massachusetts Bay Transportation Authority for enhanced safety devices at the Wellesley Farms commuter rail station track crossing;". And moved that said item be further amended by striking the figure "\$27,344" and inserting in place thereof the following figure:- "\$527,344".
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended, in Section 2, in item 6005-0015, by adding at the end thereof the following new language:- ";provided further, that not less than \$200,000 be allocated for additional parking in Cohasset Village in the town of Cohasset due to the loss of spaces as a result to the Greenbush Commuter Rail Project.
The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by adding, after Section 109, the following section: -

SECTION 110. Massachusetts Highway Department shall permit a traffic signal light at the intersection of the new Cohasset Commuter Rail Station on Route 3A.

\The amendment was *rejected*.

As previously stated, the above amendments were considered as one, and were *rejected* .

Mr. Brewer, Ms. Resor, Mr. Antonioni, Ms. Chandler, Ms. Fargo, Messrs. Nuciforo, Joyce, Moore, Augustus, Knapik, Tarr, Ms. Spilka, and Messrs. O'Leary, Montigny, Lees and Brown moved that the bill be amended, in Section 2, in item 7035-0006, by striking out the figure "\$42,500,000" and inserting in place thereof the following figure:- "\$45,000,000".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at five o'clock P.M., on motion of Mr. Brewer, as follows, to wit (yeas 38 - nays 0) **[Yeas and Nays 43]**:

YEAS.

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

38.

NAYS — 0.

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

Mr. Antonioni moved that the bill be amended by inserting the following new section:-

"SECTION XX There shall be a special commission on after school and out of school time. The special commission shall undertake a study and make recommendations on how to better coordinate, expand, finance, and improve accessible, affordable, quality out-of-school time programming for school age children in all settings. The commission shall consist of: one member appointed by the Speaker of the House of Representatives, one member appointed by the Senate President, the chairs of the house and senate committees on ways and means or their designees, the house and senate chairs of the joint committee on education or their designees, the house and senate chairs of the joint committee on children and families or their designees, the commissioner of the department of early education and care, the commissioner of the department of education, the commissioner of the department of public health, one member chosen by each of the following organizations: Massachusetts 2020, the United Way of Massachusetts Bay, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Association of Elementary School Principals, the Massachusetts Association of Regional Schools, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, the Massachusetts Parent-Teacher Association, the Massachusetts Association of Day Care Agencies, the Massachusetts Independent Child Care Organization, the Massachusetts School-Age Coalition, the Massachusetts Community Action Program, the Massachusetts Child Care Resource and Referral Agencies Network, the YMCAs of Massachusetts, the Boys and Girls Club Alliance, Parents Alliance for Catholic Education, Parents United for Child Care, or its successor organization, one person chosen by the co-chairs who shall be a representative of family child care, one member who shall be chosen by the co-chairs who shall be a representative of nonpublic schools, and no fewer than 6 representatives selected by the Massachusetts After school Partnership, with consideration of the broad constituency of out of school time, including providers, educators, parents of school-age children, advocates for school-age children's services, business, community and religious leaders, representatives of higher education, law enforcement officials, philanthropic leaders, and individuals with knowledge and experience in the fields of out-of-school time.

The Senate President and Speaker of the House shall appoint the co-chairs of the working group. The commission shall consider settings including, but not limited to, public and private out-of-school time programs located in schools and in community based organizations and programs in non-public schools. During the course of the study, the commission shall advise the General Court, the Department of Early Education and Care, the Department of Education and other administrative agencies who work with school age children to ensure that there is a continuity of services for children as they grow and develop and to avoid duplication of effort as these agencies continue to make administrative and programmatic improvements.

During the course of the study, the working group shall (1) evaluate different age populations served by before school, after school and out-of-school time programs and identify ways to best support their needs; (2) review existing data on the effectiveness of out-of-school time programming in the commonwealth; (3) hold no fewer than nine hearings in, at minimum, the following regions of the commonwealth: Western Massachusetts, Central Massachusetts, Metrowest, Southeastern Massachusetts, the Cape and Islands, the Merrimac Valley, the North Shore, the South Shore, and Greater Boston; (4) solicit testimony from interested stakeholders including, but not limited to, the following: staff of after school and out-of-school time programs; parents of school age children; advocates for school-age children's services; business, community and religious leaders; representatives of higher education; law enforcement officials; philanthropic leaders, and individuals with knowledge and experience in the field of out-of-school time.

Upon completion of the study, the commission shall make recommendations to: (1) coordinate, integrate, and streamline publicly funded out-of-school time administration and functions; (2) coordinate resources and policies regarding public funding streams for school age children; (3) strengthen consumer education; (4) create an effective data collection system to support the necessary functions of a consolidated system; (4) establish the appropriate balance between funding for direct provision of service, for quality enhancement, and for administration; and (5) ensure the creation of a workforce system to support education, training and compensation of the out-of-school time workforce. The working group shall submit a report containing its recommendations to the Governor, the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education and the joint committee on children and families not later than December 15, 2005. The joint committee on education and the joint committee on children and families shall review the recommendations of the working group on after school and out-of-school time and make appropriate legislative or budgetary recommendations necessary to best support accessible, affordable, quality out-of-school time programming for school age children not later than February 1, 2006 to the General Court."

Pending the question on adoption of the amendment, Mr. Nuciforo moved that the amendment be amended by inserting after the words, "individuals with knowledge and experience in the fields of out-of-school time;" the following words:- "and no fewer than 6 representatives, one each drawn from the 6 DEEC regions, who are community-based subsidized school age care providers;" The further amendment was **adopted**.

The pending amendment (Antonioni) as amended (Nuciforo) was considered; and it was **adopted**.

Messrs. O'Leary, Tarr, Knapik, Brown, Brewer, Montigny, Nuciforo and Antonioni, Ms. Spilka, and Mr. Moore moved that the bill be amended by adding, at the end thereof, the following section:- "Chapter 21A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 10 the following new section:- "SECTION 10A: There shall be established and set up on the books of the Commonwealth a separate trust to be known as the Department of Fish and Game Marine and Inland Resource Protection Trust Fund. There shall be credited to the fund all gifts, grants, donations, federal reimbursements, settlements, GIS maps and application fees which the Department is hereby authorized to accept, and other monies and real properties made available to the Office of the Commissioner, the Divisions of Marine Fisheries, Riverways and the Public Access Board within said Department for the purpose of restoring, protecting, and managing the natural resources of the Commonwealth in keeping with the stewardship mission of the Department and its Divisions. All amounts credited to the fund may be expended by the Department without further appropriation and without indirect cost assessments for the purpose of protecting and managing coastal fisheries, the protection and restoration of rivers and lands on a statewide basis, the appropriate development of recreational facilities such as boat and canoe launching areas, docks, and fishing piers and the development of GIS maps and applications. Said fund may be expended for all costs of departmental personnel or contractors and for all other project costs associated with the purposes defined above. Any amounts credited to the fund in excess of the amount expended on an annual basis shall be retained in the fund. The Treasurer shall invest the proceeds of such fund and credit such interest that accrues back to the fund. The Department's expenditure of the amounts in this fund shall be in accordance with relevant state law applicable to the expenditure and record keeping of state funds and shall be subject to audit by the state auditor."

Pending the question on adoption of the amendment, Mr. O'Leary moved that the amendment be amended by striking the following language:- "and without indirect cost assessments"

The further amendment was **adopted**.

The pending amendment (O'Leary et al) as amended (O'Leary) was then considered; and it was **adopted**.

Mr. Hart moved that the bill be amended by inserting, after Section ___, the following new Section: -

"SECTION ___. Subparagraph (b) of Section 15 of Chapter 152 of the Acts of 1997 is hereby amended by inserting after the third sentence the following:- In the event that the Authority and the private owner or operator do not enter into such a contract or

an extension or renewal thereof or in the case of an initial contract pursuant to this section, have not entered into such a contract by September 30, 2005, then the Authority and the private owner or operator shall engage in binding mediation to determine the provisions of such an agreement with an arbitrator on the approved list of arbitrators of the American Arbitration Association with the costs of the arbitrator shared equally by the Authority and the private owner or operator."
After debate, the amendment was **adopted**.

Mr. Montigny moved that the bill be amended in Section 75 by striking the word "ten" in subsection (1) and inserting in place thereof the following word:- "twenty".
After remarks, the amendment was **adopted**.

Mr. Creedon, Ms. Creem and Mr. O'Leary moved that the bill be amended by inserting, after Section 109, the following new Section:-

"Section ____ . Chapter 118E of the General Laws is hereby amended by striking Section 9E. This section shall take effect on July 1, 2006."The amendment was **adopted**.

Mr. Tolman moved that the bill be amended, in Section 2, in item 2820-0100, the following language: "The Commissioner of the Department of Conservation and Recreation shall prepare a traffic study to improve public safety along Nonantum Road and adjacent parklands, including developing alternatives for narrowing the parkway cross-section, alternatives for safety improvements at the intersections of Charlesbank Road and Maple Street, alternatives for landscape, pathway, lighting, and drainage improvements, and a schedule and cost estimate for the design and construction of the recommendation; moreover, the Commissioner shall report progress to the Stewardship Council at each meeting until the study reaches completion; moreover, the Commissioner shall ensure public input through two public hearings held in Newton and Watertown during the study - one prior to the initial recommendation; one after release of the initial recommendation but prior to the final recommendation; moreover, the Commissioner shall ensure public awareness by publishing quarterly progress reports on the Department of Conservation and Recreation website's press release section; moreover, upon completion of the study, the Commissioner shall deliver the recommendation of the study along with a report addressing public opinion not reflected in the recommendation to the Stewardship Council; moreover, the Commissioner shall develop a capital project plan to enact the recommendation of the traffic study, including design and implementation; moreover, the Commissioner shall submit this plan for the next fiscal year budget following the completion of the traffic study.....\$40,000."
The amendment was *rejected*.

At seventeen minutes past five o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Havern) declared a recess; and, at eighteen minutes before six o'clock P.M., the Senate reassembled, Mr. Havern in the Chair.

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Messrs. Tarr, O'Leary, Lees, Hedlund and Brown moved that the bill be amended by inserting, after section 109, the following new section: -

"Section ____ . section 33 of chapter 291 of the acts of 2004 is hereby repealed."

Pending the question on adoption of the amendment, at seventeen minutes before six o'clock P.M., Mr. Morrissey doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

After debate, the question on adoption of the amendment was determined by a call of the yeas and the nays at six minutes before six o'clock P.M., on motion of Mr. Morrissey, as follows, to wit (yeas 32 - nays 5) [**Yeas and Nays 44**]:

YEAS.

Antonioni, Robert A.	Buoniconti, Stephen J.
Augustus, Edward M., Jr.	Chandler, Harriette L.
Baddour, Steven A.	Creem, Cynthia Stone
Berry, Frederick E.	Fargo, Susan C.
Brewer, Stephen M.	Hart, John A., Jr.

Brown, Scott P.	Havern, Robert A
Hedlund, Robert L.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Rosenberg, Stanley C.
Menard, Joan M.	Spilka, Karen E.
Montigny, Mark C.	Tarr, Bruce E.
Moore, Richard T.	Tisei, Richard R.
Murray, Therese	Tolman, Steven A.
Nuciforo, Andrea F., Jr.	Tucker, Susan C.
O'Leary, Robert A.	Wilkerson, Dianne —

32.

NAYS.

Barrios, Jarrett T.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Timilty, James E. —

5.

McGee, Thomas M.

ABSENT OR NOT VOTING.

Walsh, Marian — **1.**

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

Subsequently, Mr. Morrissey moved reconsideration and; after debate, the motion was *negatived*.

Mr. Pacheco moved that the bill be amended by adding the following new sections:-

SECTION 1. Chapter 30 of the General Laws is hereby amended by inserting after section 39S, inserted by section 2 of chapter 306 of the acts of 2004, the following section:-

Section 39T. An owner controlled insurance policy relating to a public construction project with a project value of more than \$10,000,000 shall not take effect until the attorney general, the commissioner of insurance and the inspector general each review it and signify approval in writing.

SECTION 2. Section 1 of chapter 260 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following clause:- Sixth, Actions upon contracts for public construction projects with a project value of greater than \$250,000.

SECTION 3. Section 1 shall apply only to owner controlled insurance policies executed after the effective date of this act. The amendment was **adopted**.

Mr. McGee moved that the bill be amended by inserting, after Section ____, the following new Section: -

"SECTION. ____ Section 48 of Chapter 208 of the Acts of 2004 is hereby amended by striking paragraph (c) and insert in place thereof the following:- (c) Any additional amounts owed to the city of Lynn as a result of audits performed shall be paid to the city by the authority in 5 annual installments. The first such installment shall be made in fiscal year 2005. The amendment was **adopted**.

Mr. Tolman moved that the bill be amended by inserting, after Section 108, the following new Section:-

"SECTION 109. Notwithstanding any special or general law to the contrary, to prevent further environmental harm and increased risk to public safety caused by additional traffic congestion to the residents of the East Boston neighborhood in the city of Boston, the Massachusetts Port Authority shall not alter car rental operations as they existed on January 1, 2005, located at the Southwest Service Area of General Edward Lawrence Logan International Airport, in any manner until the completion of an environmental study analyzing the effect of any proposed change on the local community and potential remedies which may alleviate any environmental impact including, but not limited to, the creation of a consolidated car rental facility. Said study shall be completed in accordance with chapter 30, section 61 of the General Laws, notwithstanding any purported exemptions stated

therein, and submitted for review no later than April 14, 2006."
The amendment was **adopted**.

Messrs. Nuciforo, Barrios, O'Leary, Tisei, Buoniconti, and Tolman moved that the bill be amended, in Section 2, item 4000-0352 after the words "executive office;" by inserting the following words:- "provided that the executive office shall provide grants for continuation of the Covering Kids and Families program, including grants to coalitions receiving Covering Kids and Families grants; and provided further, that the executive office shall provide grants for the Western Massachusetts Health Access Network, of thirteen community-based organizations to provide enrollment assistance and outreach for MassHealth and other publicly-funded health coverage programs;"; and

By striking the figure "\$250,000" and inserting in place thereof the following figure:- "\$500,000"
The amendment was **adopted**.

Messrs. Morrissey, Hart and Tolman moved that the bill amended, in Section 2, in item 7006-0070 by striking out in each instance, the figure "7,897,089" and inserting in place thereof in each instance, the following figure:- "8,167,225"; and

In item 7006-0070 by adding after the words "cable television services" the following:- ";provided further that, the Department of Telecommunications and Energy shall conduct and submit a report to the Joint Committee on Telecommunications, Utilities and Energy, and the House and Senate Clerks no later then October 1, 2005 on the potential savings and/or financial gain to the NSTAR utility company prior to and as a result of any strike or work stoppage, said report shall also examine the service quality index and standards, including but not limited to, safety response time, power outages, safety of the works and the public, prior to and as a result of any work stoppage or strike".

After remarks, the amendment was **adopted**.

Mr. Montigny, Ms. Resor and Ms. Fargo move that the bill be amended by striking section 86 in its entirety and inserting in place thereof, the following section:-

"Section 86. (a) For the purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Commissioner", the commissioner of capital asset management and maintenance.

"Net cash proceeds", all payments paid to the commonwealth as and when paid, less any transaction-related expenses incurred by the division of capital asset management and maintenance for which it is not otherwise reimbursed, and less any amounts that may be owing to the federal government as a result of the disposition.

"Real property", as defined in section 39A of chapter 7 of the General Laws.

"State agency", as defined in said section 39A(v) of said chapter 7.

"Surplus land coordination committee", the committee established by subsection (e).

"Surplus real property", real property of the commonwealth: (1) previously determined to be surplus to current and foreseeable state needs pursuant to sections 40F or 40F½ of said chapter 7, but excluding real property for which there is an established local reuse plan; or (2) determined to be surplus to current and foreseeable state needs pursuant to this section or to section 548 of chapter 26 of the acts of 2003. This term shall not include property subject to Article 97 of the Amendments to the Constitution and shall not include any parcel of property which exceeds 25 acres as existing on May 1, 2005

(b) Notwithstanding sections 40E to 40F½, inclusive, and 40H of said chapter 7, or any other general or special law to the contrary, the commissioner may sell, lease for a term not to exceed 99 years, transfer or otherwise dispose of surplus real property of the commonwealth, as specified in this section.

(c) In order to determine if specified real property is surplus to the current and foreseeable needs of the commonwealth, the commissioner shall provide written notice and inquiry to the executive heads of state agencies and secretaries of the executive offices, who shall have 30 days to submit a written response indicating that the property is necessary for a specific current or foreseeable need of such agency. If no agency or executive office submits such a response within 30 days of the notice, the commissioner in consultation with the surplus land coordination committee may declare the property as surplus and dispose of it in accordance with this section. Alternatively, if a written response is timely received specifying a current or foreseeable need for the real property, the commissioner shall, in consultation with the secretary of administration and finance, the surplus land coordination committee and with those responding affirmatively, determine whether the real property shall: (1) be made available for current use by a state agency, (2) be retained on account of a foreseeable use by a state agency, or (3) be declared surplus real property which may be disposed of pursuant to this section.

(d) When real property is determined to be surplus to current state needs but not to foreseeable state needs, the commissioner shall take such necessary action to ensure that any disposition of the real property is temporary and maintains the commissioner's ability to make such real property available to a state agency as needed.

(e) There shall be a surplus land coordination committee. The committee shall consist of 1 representative appointed by each of the following: the commissioner of the department of capital asset management and maintenance, the secretary of the executive office of environmental affairs, the chairman of the commonwealth development coordinating council; the Massachusetts Association of Regional Planning Agencies, the executive director of the Massachusetts Municipal Association. Each representative shall serve a renewable three-year term. The committee shall meet at least quarterly and shall advise the commissioner on all real property being considered for surplus designation and on the appropriate disposition of such property, including but not limited to whether the property should be declared surplus, the potential uses for the property, including its suitability for housing development or preservation as open space, and what restrictions, if any, should be considered on its use and development. The commissioner shall send to the house and senate chairs of the committee on bonding, capital expenditures and state assets and the committees on ways and means, a detailed list of all property being considered for surplus by the surplus land coordination committee and recommendation for disposition of the property and its potential uses; the list shall be sent by the commissioner on a quarterly basis and within 14 days after any advisory meeting with the committee.

The council shall within 60 days after the request for review complete this review and submit it in writing, the review to the commissioner, the surplus land coordination committee, and the house and senate chairs of the joint committee on bonding, capital expenditures and state assets, and to make the review available to all parties listed under subsection (f) subparagraph (1). Reasonable costs incurred by the regional planning agency shall be considered part of sale expenses paid for by the division, and reimbursed from total commonwealth real property sale proceeds not to exceed \$3,000 per parcel reviewed. If the smart growth review is not completed within 60 days, the commissioner may dispose of the property in accordance with subsection (f).

(f) If the commissioner determines that the real property is surplus, the commissioner shall: (1) provide written notice for each city or town in which the property is located to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency and the members of the general court representing the city or town in which the property is located as well as surrounding cities or towns; (2) declare it available for disposition and identify any restrictions on its use and development necessary to comply with the policies and principles established by the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws and take into consideration other established state and local plans and policies and any recommendations or comments, from a city or town in which the property is located and from any member of the general court representing the city or town where the property is located; (3) conduct a public hearing in the municipality in which the property is located to consider potential reuses and appropriate restrictions if the property parcels exceeds 2 acres or if the commissioner determines or the city or town in which the property is located requests that a hearing should be held for a smaller parcel and provide reasonable public notice and written notice to all parties listed under subsection (f) subparagraph (1); and (4) ensure that any deed, lease or other disposition agreement sets forth all such reuse restrictions, provides for effective remedies on behalf of the commonwealth and provides, in the event of a failure to comply with the reuse restrictions by the grantee, lessee or other recipient, that such title or lesser interest as may have been conveyed shall immediately revert to the commonwealth.

(g) The commissioner shall establish the value of surplus real property using customarily accepted appraisal methodologies. The value shall be calculated both: (1) for the highest and best use of the property as may be encumbered, and (2) subject to uses, restrictions and encumbrances defined by the commissioner. In no instance in which the commonwealth retains responsibility for maintaining the said property shall the terms provide for payment of less than the annual maintenance costs.

(h) Before disposing of the surplus property, the commissioner shall provide to each city or town in which the property is located a written right of first refusal to purchase the surplus property on the conditions established in section (f) and at 85 per cent of the value established in subsection (g). The commissioner shall have the authority to accept flexible payment schedule at his discretion. This right of first refusal must be exercised, if at all, by the town or city or its assignee within 120 days after this notice by giving written notification to the commissioner. Upon exercise of the right of first refusal, the city or town shall have an additional 180 days to close the purchase of such property. The commissioner may grant a city or town additional time to close the purchase of such property, but if a city or town has held a vote for debt exclusion pursuant to section 21C of chapter 59 of the General Laws, the commissioner shall grant an additional 90 days to close the purchase of the property. If the city or town fails to close the purchase of such property within that time, the sole remedy of the commonwealth against the city or town for this failure shall be to proceed with the disposition of the surplus property without further right of purchase by the city or town and the elimination of any requirement to share proceeds of the sale with the city or town as provided in subsection (q).

(i) A municipality that exercises the right of first refusal set forth in subsection (g) shall not transfer the property to a for-profit organization for fair market value within 5 years of its purchase from the Commonwealth unless the municipality uses an amount equal to 15% of the value of the parcel established in subsection (g) for smart growth purposes. The municipality may assign its right of first refusal to a not-for-profit organization which shall be a community development corporation as defined in chapter 40F, affordable housing non-profit or a non-profit conservation organization. The assignee shall be entitled to purchase the

property for the same price and according to the same terms which would apply to a sale to a municipality under this section. If the municipality or its assignee acquires any portion of the property for open space purposes, or if any portion of the property is restricted for open space purposes, a conservation restriction pursuant to chapter 184 of the General Laws shall be retained by the commonwealth on such parcels. A city or town that has exercised its right of first refusal or otherwise has a right to close on the property, at its own expense, may enter upon the property and any of its agents or contractors may enter upon the property, to conduct inspections, surveys, or tests customarily performed in real estate transactions for the type and nature of the property specified as surplus as long as the commissioner is notified and consents to such inspection, survey or test, which consent shall not be unreasonably withheld; except, the commissioner in his sole discretion, may withhold consent for testing for environmental pollution. A city or town shall be responsible to the commonwealth for any damage to the property, and shall hold harmless the commonwealth from all losses arising out of a claim of any nature from a third party, which resulted from conducting any such inspection, survey or test.

(j) If the city or town has not exercised or assigned its right of first refusal, or has failed to close in a timely manner if such right was exercised, the commissioner shall dispose of surplus real property utilizing appropriate competitive processes and procedures. Such competitive processes may include, but are not limited to, absolute auction, sealed bids and requests for price and development proposals. At least 30 days before the date of an auction or the date on which bids, proposals or other offers to purchase or lease surplus real property are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 stating the availability of such property, the nature of the competitive process and other information deemed relevant, including the time and location of the auction, the submission of bids or proposals and the opening thereof.

(k) The commissioner shall place a notice in the central register and notify in writing, all parties listed under subsection (f) subparagraph (1), identifying the individual or firm selected as party to such real property transaction, along with the amount of such transaction. If the commissioner accepts an amount below the value calculated under subsection (g), he shall include the justification therefore, specifying the difference between the calculated value and the price received.

(l) No agreement for the sale, lease, transfer or other disposition of surplus real property and no deed executed by or on behalf of the Commonwealth, shall be valid unless such agreement or deed contains the following certification, signed by the commissioner:

"The undersigned certifies under penalties of perjury that I have fully complied with section ___ of chapter ___ of the acts of 2005 in connection with the property described herein."

(m) No agreement for the sale, lease, transfer or other disposition of surplus real property shall be valid unless the purchaser or lessee has executed and filed with the commissioner the statement required by section 40J of chapter 7 of the General Laws.

(n) The grantee or lessee of any surplus real property shall be responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as shall be considered necessary by the commissioner.

(o) This section shall not apply to the disposition of real property that is the subject of a special act having an effective date before July 1, 2003 .

(p) The authority granted to the commissioner by this section shall cease as of June 30, 2010 , but the commissioner may complete any transaction for which agreements have been signed and delivered on or before that date.

(q) Funds from the net cash proceeds of dispositions of surplus property pursuant to this section shall be allocated as follows: (i) 10 per cent of the net cash proceeds of each transaction shall be paid to the city or town in which the property is located as long as such city or town did not exercise its right of first refusal, whether or not the transaction thereafter closed; however, such city or town may receive up to a total 25 per cent of the net cash proceeds of a transaction if the municipality has taken affirmative actions to meet local and regional needs for affordable housing and open space by adopting chapter 40R, implementing a comprehensive housing plan certified by the department of housing and community development, implementing an affordable housing plan approved by the department of housing and community development or otherwise furthering the commonwealth's objectives for the parcel, consistent with smart growth and subject to regulations promulgated by the division in consultation with the commonwealth development coordinating council no later than October 1, 2005; (2) after distribution of net cash proceeds to cities and towns pursuant to clause (1), the first \$5 million shall be deposited in the General Fund; (3) 50 per cent of the next \$10 million shall be deposited in the Smart Growth Housing Trust Fund established in section 35AA of chapter 10 of the General Laws, and 50 per cent shall be deposited in the General Fund; and (4) the remaining net cash proceeds shall be deposited in the Smart Growth Housing Trust Fund. Funds governed pursuant to this section include any surplus property sale funds generated during the entire 5 year period that the law is effective, and shall not reset annually.

(q) The commissioner shall, within 6 months of the effective date of this section, establish criteria that would allow property to be considered for disposition under this section. Said criteria shall include an automatic notice and inquiry to the executive heads of state agencies and secretaries as established under subsection (c) regarding any parcel that is left unused or abandoned for a

specified period of time.

The amendment was **adopted**.

Messrs. Baddour, Antonioni, Augustus, Berry, Buoniconti, Hedlund, Lees, Knapik, Mr. Nuciforo, Mr. O'Leary, Ms. Spilka, Mr. Brown, Mr. Tarr, Mr. Tolman, Ms. Tucker, and Ms. Wilkerson moved that the bill be amended, in Section 2, by striking out item 7007-0900 and inserting in place thereof the following item:-

"7007-0900 For the operation and administration of the office of travel and tourism and for grants to public and private nonprofit local and regional organizations to be awarded by the Massachusetts office of travel and tourism for tourism promotion; provided, that performance-based standards shall be incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided further, that the organizations shall be required, as a condition of receiving a grant, to submit a total operating budget which identifies each source and use of operating and capital funds; provided further, that said grants shall not replace or supplant funding otherwise available to said centers from local chambers of commerce, regional tourist councils, and other public or private funding sources; provided further, that said office shall grant not less than \$2,000,000 to the Massachusetts International Marketing Partnership Incorporated, the business entity awarded the contract pursuant to section 60 of chapter 141 of the acts of 2003 for the express purpose of implementing the strategic marketing and promotional program to recover the commonwealth's lost international market share; provided further, that not less than \$1,000,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2006 for the highway information centers operating year round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that \$450,000 shall be expended for a grant to the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$350,000 shall be expended to enhance tourism along the South Lawrence River in the City of Lawrence; provided further, that not less than \$300,000 shall be expended for the purpose of a grant to the Greater Boston Convention & Visitors Bureau, Inc. to develop and implement, in cooperation with the Massachusetts Lodging Association, an advertising and direct mail program to promote tourism throughout the commonwealth during the winter season; provided further, that not less than \$275,000 shall be expended to the town of Holbrook for public safety improvements and activities at the police/fire station; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$250,000 shall be expended for the Route 9/Lakeway Business District through the Lakeway Overlay District Fund in the Town of Shrewsbury; provided further; that not less than \$250,000 shall be expended for the Museum of Afro-American History located in the city of Boston; provided further, that not less than \$250,000 shall be expended for the Gloucester Adventure, Inc. for the purpose of the restoration of the NHL Schooner *Adventure*; provided further, that not less than \$200,000 shall be expended for the Bay State Games; provided further, that not less than \$200,000 shall be expended for a grant for the From the Top, Inc.; provided further, that \$200,000 shall be made available to Franklin for economic development; provided further, that not less than \$200,000 shall be expended for the Mahaiwe Theater; provided further, that not less than \$200,000, subject to 100 percent funding match, shall be made available to the Boston Symphony Orchestra venue at Tanglewood; provided further, that not less than \$185,000 shall be expended for the International Trade Assistance Center in the city of Fall River; provided further, that not less than \$150,000 shall be expended for City Stage; provided further, that not less than \$150,000 be expended for the Highland center for the Arts at the Cape Cod National Seashore; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$125,000 shall be expended for the New England Puerto Rican association; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$100,000 shall be expended for the Old Provincial State House; provided further, that not less than \$100,000 shall be expended for an economic development project on state highway route 110 in the town of Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$100,000 shall be expended for the Western Massachusetts Economic Development Council for tourism and marketing purposes; provided further, that not less than \$100,000 shall be expended for the Merrimack Repertory Theatre; provided further, that not less than \$100,000 shall be expended for the Buzzards Bay Village Association; provided further, that not less than \$75,000 shall be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$75,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be appropriated to the Puerto Rican Cuatro Project, a cultural development project under the Spanish American Union, Inc of Springfield, Massachusetts; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$60,000 shall be expended for Herman Melville's Arrowhead Museum; provided further, that not less than \$50,000 shall be expended for the Russian Community Association in Springfield; provided further, that not less than \$50,000 shall be expended for the Victory Theater in the city of Holyoke; provided further, that not less than \$50,000 shall be expended for the Plymouth Area Chamber of Commerce; provided further, that not less than \$50,000 shall be expended for a grant to the Salem Partnership for the purposes of hosting a state wide conference on the merits of a creative economy; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum; provided further, that not less than \$50,000 shall be expended for the promotion of Boston Neighborhoods through the Boston Main Streets program; provided

further, that not less than \$50,000 shall be expended for the Riverside Theater Works in the Hyde Park section of the city of Boston; provided further, that not less than \$50,000 shall be expended for the Office of Community Collaborations and Program Development at the New England Conservatory of Music in the City of Boston; provided further, that not less than \$50,000 shall be expended for the Forefather Monument at Pilgrim State Park; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitor's Center; provided further, not less than \$50,000 shall be expended for the North Quabbin Woods Project; provided further, that not less than \$40,000 shall be expended for the Newburyport Economic Development Departments Jump Start Program; provided further, that not less than \$40,000 shall be expended from this item for the purpose of the operation and the promotion of the Ipswich Shuttle Bus Service; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$40,000 shall be expended for the Massachusetts 54 th Regiment; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce; provided further, that not less than \$25,000 shall be expended to operate the Cape Cod Junior Technology Council; provided further, that not less than \$25,000 shall be expended to the Hull Lifesaving Museum for the purpose of planning a maritime trail; provided further that not less than \$25,000 shall be expended for the Sandwich Glass Museum; provided further, that not less than \$25,000 shall be expended for the Natural History Museum in the Town of Brewster; provided further, that not less than \$20,000 shall be expended for an economic development project known as the Cleveland Circle Streetscape Plan Early Action Item; provided further, that not less than \$10,000 shall be expended for the Providence and Worcester Railfan Museum in the town of Webster; provided further, that expenditures on international and domestic promotion and administration shall be separately accounted for in the Massachusetts management accounting and reporting system; provided further, that the office shall make travel arrangements for all international travel not less than 7 days before departure; provided further, that the office shall dedicate 1 full-time equivalent employee to the advisory commission on travel and tourism; and provided further, that the office shall make every effort to develop tourism in under-visited regions of the commonwealth\$18,143,306

Tourism Fund 100.0%"

After remarks, the amendment was **adopted**.

Messrs. Tarr, Hedlund and Montigny moved that the bill be amended, in Section 2, in item 7007-0515, by inserting after the words "Massachusetts Fisheries Recovery Commission" the following words: - "not less than \$60,000 of which shall be expended for the purposes of a socio-economic study and analysis of the commonwealth's fishing industry."

The amendment was **adopted**.

Mr. Tarr moved that the bill be amended by inserting, after Section 109, the following new Section: -

"SECTION _____. (a)The division of capital asset management and maintenance, in consultation with the department of conservation and recreation, may, notwithstanding the provisions of sections 40E to 40K and 52 to 55, inclusive, of chapter 7 of the General Laws, and utilizing such competitive proposal process or processes as said division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years, to one or more proponents, for one or more skating rinks, so as to provide for the continued use, operation, maintenance, repair, and improvement of the following state-owned buildings and facilities together with the land and appurtenances associated therewith, comprising those ice skating rinks and facilities formerly under the jurisdiction of the metropolitan district commission: Bajko memorial rink, Hyde Park district, Boston; Connell memorial rink, Weymouth; Devine memorial rink, Dorchester district, Boston; Emmons Horrigan O'Neill memorial rink, Charlestown district, Boston; Flynn memorial rink, Medford; LoConte memorial rink, Medford; Murphy memorial rink, South Boston district, Boston; Reilly memorial rink, Brighton district, Boston; Shea memorial rink, Quincy; Steriti memorial rink, Boston; Ulin memorial rink, Milton; and, Veterans memorial rink, Somerville.

Such leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance, after consultation with the commissioner of department of conservation and recreation, and, notwithstanding the provisions of any general or special law to the contrary, shall provide for the lessees to operate, manage, improve, repair, and maintain the properties, and may provide for the department to make initial capital improvements or direct grant funds to the lessee to undertake initial capital improvements at one or more of the properties that the commissioner of said department determines is necessary due to the structural condition of any of the properties. Any such leases or other arrangements requiring improvements to be made to any buildings may include a description of the initially required improvements and, at minimum, performance specifications. Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to user groups in the following priority order: general public skating; youth groups; high school hockey; and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator with the following restrictions: general public skating shall be booked at a minimum of 16 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly-formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender. Such leases and other agreements authorized herein shall provide that any benefits to the communities and the costs of improvements and repairs made to the properties provided by the lessees or the recipients of the properties shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the Urban Parks Trust Fund in accordance with the provisions of section 34 of chapter 92 of the General Laws; provided, that any such

consideration received for the Jim Roche memorial rink shall be payable to said department for deposit into the Roche Community Rink Fund in accordance with the provisions of section 2 NNN of chapter 29 of the General Laws. The lessees or the recipients of said properties shall bear all costs deemed necessary or appropriate by the commissioner of the department of conservation and recreation for the transactions including, without limitation, all costs for legal work, survey, title, and the preparation of plans and specifications.

The division, in consultation with the department, when evaluating proposals that are otherwise comparable, shall prefer any proposal to lease a rink or rinks that is submitted by a city or town where the rink or rinks are located, or by a non-profit youth hockey organization in the city or town where the rink or rinks are located, provided that the proposal complies with the ice time allocation guidelines outlined above.

(b) Item 2100-2012 of section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the words "North Adams" the following:- provided further that the department may expend said funds, subject to up to a 1 to 1 match of department funds, as a grant to reimburse a lessee for funds expended for improvements made in accordance with an executed lease;"

Pending the question on adoption of the amendment, Mr. Nuciforo moved that the amendment be amended by striking paragraph (b).

The further amendment was *rejected*.

The pending amendment (Tarr) was then again considered; and it was *rejected*.

Messrs. Morrissey, Knapik, Baddour, Havern, Ms. Tucker, Messrs. Tisei, Joyce, Brewer, Nuciforo, Augustus, Ms. Resor, Messrs. Hedlund and Hart, Ms. Chandler, and Mr. Timilty moved that the bill be amended, in Section 2, in item 7006-0040 by striking out the figure "\$3,180,940" and inserting in place thereof the following new figure:- "\$3.680.940". After remarks, the amendment was **adopted**.

Mr. Hedlund moved that the bill be amended by adding, after Section 109, the following section: -

SECTION 110. The Massachusetts Bay Transportation Authority shall grant the town of Cohasset access to the MBTA right of way on north side of Greenbush Commuter Rail tracks from the Cohasset Commuter Rail Station to King Road for the purpose of construction and utilizing a multi-use pedestrian access pathway.

The amendment was *rejected*.

Ms. Murray, Messrs. Moore, Antonioni, Augustus Jr., Baddour, Barrios, Berry, Brewer, Buoniconti, Ms. Chandler, Messrs. Creedon, Hart, Havern, Joyce, Knapik, Lees, McGee, Ms. Menard, Messrs. Montigny, Nuciforo, O'Leary, Pacheco, Panagiotakos, Rosenberg, Tarr, Tisei, Tolman, Travaglini, Ms. Tucker, Ms. Walsh and Ms. Wilkerson moved that the bill be amended by striking Section 91 and inserting in its place the following:-

Notwithstanding any general or special laws to the contrary, in fiscal year 2006, expenditures from the Distressed Provider Expendable Trust Fund, as established by chapter 241 of the acts of 2004, shall be dedicated to efforts that are designed to improve and enhance the ability of distressed community providers to serve populations in need more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support and care coordination services, pharmacy management services, or other efforts to create effective coordination between hospital care and ambulatory care sites in the community. The secretary of health and human services shall develop emergency regulations governing the recommended uses of the fund in partnership with the Massachusetts League of Community Health Centers and the Massachusetts Hospital Association. Provided further, that no less than \$1,000,000 shall be expended for a specialty hospital located in Suffolk county which provides diagnosis and treatment of eye, ears, nose and throat; provided that, the secretary shall provide a \$500,000 one-time grant from the fund for a sole community hospital located in the City of Gardner providing essential community health services and access to care for low-income population in northern Worcester County; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a community hospital with geriatric psychiatry beds providing essential community health services located in the town of Clinton; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund for an acute care hospital located in Winchester that is the number one provider of acute and emergency services to the city of Woburn; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund for a teaching hospital located in central Berkshire County; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a not-for-profit acute care hospital located in the northwestern-most portion of Berkshire County; provided further, that the secretary shall provide a \$100,000 one-time grant from said fund for a community health center located in the city of Lynn providing health care to medically underserved and uninsured patients and which provides a 340B pharmacy program; provided further that the secretary shall provide a \$500,000 one time grant from the fund for the Lowell Community Health Center; provided, however, that the secretary shall provide a \$285,000 one-time grant from the fund for a community, nonprofit, acute care regional teaching hospital located in Worcester county affiliated with the University of Massachusetts Memorial Health Care System; provided further, that the secretary shall provide a \$511,000 one-time grant from the fund for a nonprofit disproportionate share community acute care hospital with less than 115 beds that operates an inpatient psychiatric unit

licensed by the department of mental health located in southern Worcester county affiliated with the university of Massachusetts memorial Health Care System; provided further, that the secretary shall provide a \$600,000 one-time grant from the fund for Hubbard Regional hospital; provided further, that the secretary shall provide a \$750,000 one-time grant for Franklin Medical Center in Greenfield; provided further that not less than \$4,000,000 shall be expended for a teaching hospital in Hampden County with high Medicaid utilization; provided further, that the secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South Boston section of the city of Boston which operates an urgent care center and which is affiliated with the disproportionate share teaching hospital in Suffolk county with the highest volume of free care; provided further, that the secretary shall provide a \$350,000 one-time grant from the fund for a community health center located in the Codman square neighborhood of the Dorchester section of the city of Boston providing health care to medically underserved patients in Dorchester, that has formed an integrated health services network to provide access to primary and preventive public health services; provided further, that the secretary shall provide a \$350,000 one-time grant from the fund for a community health center located on Bowdoin Street in the Dorchester neighborhood; provided further, that the secretary shall provide a \$350,000 one-time grant from the fund for a community health center located near the Fields Corner neighborhood of Dorchester, on Dorchester avenue, providing health care to medically underserved patients in Dorchester, who has formed an integrated health services network to provide access to primary and preventive public health services; provided further, that the secretary shall provide a \$400,000 one-time grant from the fund for a community health center with at least 3 sites serving the medically underserved areas of Dorchester and South Boston, including at least one public housing project; provided further that the secretary shall provide a \$350,000 one-time grant from the fund for a community health center serving a disadvantaged population in the neighborhood of Mattapan; provided further that the secretary shall provide a \$200,000 one time grant for a community health center serving a disadvantaged, multi-lingual population in the Uphams Corner neighborhood in Dorchester; provided further, that the secretary shall provide a \$4,000,000 one-time grant from the fund for a disproportionate share financially distressed community hospital located in Suffolk County with a locked inpatient adolescent psychiatric unit that participates in the MassHealth program; provided further, that the secretary shall provide a \$500,000 one-time grant from said fund to a non-acute chronic hospital located in Hampden County, east of the Connecticut River, with less than 200 beds, that participates in MassHealth; provided further, that the secretary shall provide a \$200,000 one-time grant from said fund to a community health center serving the towns of the Outer and Lower Cape in Barnstable County for the purpose of developing a 340B pharmacy program; provided further, that the secretary shall provide a \$750,000 one-time grant from said fund for a sole community hospital under the Medicare program located in Barnstable County; provided further, that the secretary shall provide a \$300,000 one-time grant from said fund to a community health center serving the full range of the underserved populations throughout the mid-Cape area; provided further, that the secretary shall provide a \$500,000 one-time grant to the Great Brook Valley Health Center in Worcester; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for Wing Memorial Hospital in the town of Palmer; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for Mary Lane Hospital in the town of Ware; provided further, that the secretary shall provide a \$4,000,000 one-time grant from said fund for a two hospital system located in Hampden county, one of which hospitals provides inpatient psychiatric services for children and adults and a methadone program; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a hospital located in Hampden county, west of the Connecticut river with under 100 beds that participates in MassHealth; provided further, that the secretary shall provide a \$3,200,000 one-time grant from said fund for an acute care hospital located in Holyoke that is affiliated with a commonwealth-owned university medical school and that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities; provided further, that the secretary shall provide a \$950,000 one-time grant from the fund to a disproportionate share acute care hospital located in the southeastern Massachusetts division of the medical assistance psychiatric service area that operates an inpatient psychiatric unit within the city of Brockton; provided further, that the secretary shall provide a \$500,000 one-time grant from said Fund for a community health center that serves as a family practice residency training site for a commonwealth funded medical school and that assumed the primary care services of the former Worcester City Hospital; provided further, that the secretary shall provide a \$750,000 one-time grant from said fund for a non-profit visiting nurse association located in Boston, that delivers at least 30 per cent of all MassHealth reimbursed skilled nursing visits and at least 50 per cent of all MassHealth reimbursed home health aide services in Suffolk county; provided further, that the secretary shall provide a \$300,000 one-time grant from the fund to inpatient behavioral health providers under contract with Mass Health's managed care contractors for mental health and substance abuse for costs associated with providing care to stuck kids; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund for an acute care hospital serving the Melrose and Wakefield communities that operates a family health services clinic; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital located in Gloucester that is part of a health care system; provided further, that the secretary shall provide a \$1,800,000 for a one time grant to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital; provided further, that the secretary shall provide a \$750,000 for a non-teaching, community, disproportionate share, acute care hospital located in southeastern Massachusetts, which provides inpatient care to over 5,000 MassHealth or MassHealth HMO patients per year; provided further, that \$500,000 from the fund shall be directed to a community hospital located in Northern Bristol County with a Medicare/Medicaid and low-income uninsured patient mix exceeding fifty percent (50%) that provides at least 50,000 emergency room visits per annum and is the largest provider of Medicaid obstetric services in the region; that the secretary shall provide a \$500,000 one time grant from the fund for a pediatric unit of an acute care hospital in Suffolk county in which the ration of licensed pediatric beds to total licensed hospital beds shall exceed 0.20; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund to a not-for profit long term acute care hospital located the Roxbury section of the City of Boston; provided further, that the

secretary shall provide a \$350,000 one-time grant from the fund for Dimock Community Health Center located in the Egleston Square neighborhood in the Roxbury Section of Boston for health care and traditional housing to medically underserved patients from the Roxbury, Dorchester and Jamaica Plain sections of the city of Boston; provided further, that the secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the south end of Boston which is the largest provider of community based mental-health services, and serves significant homeless and latino populations; provided further, that the secretary shall provide a \$200,000 one-time grant from the fund for Whittier Street Community Health Center located in the Roxbury section of Boston for adult and child behavioral health services to homeless, immigrant and refugees populations; provided further, that said secretary shall provide a one-time grant of \$200,000 to South Cove Community Health Center located in the Chinatown section of the City of Boston which provides health care to immigrant and linguistically diverse populations; provided further, that said secretary shall provide a one-time grant of \$200,000 to Fenway Community Health Center located in the Fenway section of the City of Boston which provides health care to gay and lesbian populations; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a pediatric rehabilitation hospital located in Suffolk County; provided further, that the secretary shall provide a \$500,000 one time grant from the fund for Milton Hospital; provided further, that the secretary shall provide a \$2,000,000 one-time grant from the fund to a disproportionate share hospital provider located in the county formerly known as Essex county that has a family practice residency program in partnership with a federally qualified community health center, which program enhances the coordination of cost-effective care delivery in ambulatory settings and at the hospital to underserved populations; provided further, that the secretary shall provide a \$3,000,000 one-time grant from said fund for a community health center located in East Boston which operates both a PACE program and a 340B pharmacy program; provided further, that the secretary shall provide a \$500,000 one-time grant for the North Shore Medical Center; provided further, that the secretary shall provide a \$1,000,000 one-time grant from said fund for a disproportionate share teaching hospital in Worcester County for emergency mental health services; provided further, that the secretary shall provide a \$500,000 one-time grant from said fund for a community hospital located in Norfolk county with an affiliation with a disproportionate share financially distressed community hospital located in Suffolk County with a locked inpatient adolescent psychiatric unit; provided further, that the secretary shall provide a \$250,000 one-time grant from said fund for a community health center in the North End section of the City of Boston; provided further, that the secretary shall provide a \$250,000 one-time grant from said fund for a health care center located in the city of Revere affiliated with Massachusetts General Hospital; provided further, that the secretary shall provide a \$500,000 one-time grant for Waltham Community Health Center. The secretary shall file a report not later than October 30, 2005 to the speaker of the house of representatives, the president of the senate and to the house and senate committees on ways and means outlining the providers to be funded during fiscal year 2006 from the fund, the amount expended or to be expended for each provider under this section and the extent to which any portion of such expenditures are eligible for federal reimbursement. Any federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into the fund.;

By adding the following section:-

" Notwithstanding any general or special law to the contrary, the division of health care finance and policy and the secretary of health and human services, shall verify any surplus funds from fiscal years 1998 and 1999 within the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws. The division of health care finance and policy shall expend \$18,740,000 of such funds, without further appropriation, for the administration of the uncompensated care pool, established under subsection (d) of section 18 of chapter 118G of the General Laws, and pursuant to Section 61 of this act. All Title XIX federal financial participation revenue generated by hospital payments funded from this section, whether the payments are made by the division or the executive office, shall be credited to the Distressed Provider Expendable Trust Fund. " ;

By striking Section 85 and inserting in place thereof the following:-

"Notwithstanding any general or special law to the contrary, during fiscal year 2006 the executive office of health and human services shall expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount equal to the actual amount paid for fiscal year 2005 for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the executive office of health and human services, relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the Medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2006. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The executive office of health and human services shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts authorized for expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to this medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts of supplemental payments made by the executive office of health and human services under managed care contracts with the commissions. An amount equal to 9.09 per cent of the total amount that the Boston and Cambridge public health commissions transfer to the medical assistance

intergovernmental transfer account pursuant to this section shall be transferred from the medical assistance intergovernmental transfer account and credited to the Distressed Provider Expendable Trust Fund.;

In Section 64, by striking the figure "\$48,700,000" in line 4, and inserting in place thereof the figure:- "55,900,000"; and

In Section 61, by striking the figure "\$500,000,000" in line 70, and inserting in place thereof the figure:- "518,740,000".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and the nays at twenty-two minutes past six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 - nays 0) [**Yeas and Nays 45**]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Walsh, Marion — **1.**

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

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

Orders of the Day.

The Orders of the Day were further considered as follows:-

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4001),- was further considered, the main question being on ordering it to a third reading.

Ms. Murray moved that the bill be amended, in Section 2, by striking out item 0340-1101, the first time it appears, and inserting in place thereof the following item:-

"0340-1001

For the overtime costs of state police officers assigned to the Cape and Islands district attorney's office

.....;\$271,954

General Fund 11.80%
Highway Fund..... 88.20%"

By inserting after line item 1102-3302 the following new line item:-

1102-3305 For the maintenance and joint operation of the state house under the jurisdiction of the state superintendent of buildings and the joint committee on rules of the house of representatives and the senate; provided, that the bureau shall work in coordination with the house of representatives and the senate relative to the maintenance, repair, purchases and payments for any and all materials and services including ongoing Americans with Disabilities Act (ADA) maintenance and improvements required in the operation of the state house \$750, 000;

In item 1201-0160, by adding the following words:- "; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of the authorization or the most recent revenue estimate therefor as reported in the state accounting system for federal incentives and said network in accounts 1201-0161 and 1201-0410"

In item 1410-0012, by striking out, in line 17, the figure "\$50,000" and inserting in place thereof the following figure:- "\$100,000".;

By striking out line item 1410-0250 in its entirety and inserting in place thereof the following:-

1410-0250 For homelessness services; provided, that not less than \$475,105 shall be obligated for a contract with the central Massachusetts shelter for homeless veterans located in the city of Worcester; provided further, that not less than \$352,395 shall be obligated for a contract with the Southeastern Massachusetts Veterans Housing Program, Inc. located in the city of New Bedford; provided further, that \$100,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$199,405 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$75,000 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$51,975 shall be expended for a contract with the Springfield bilingual veterans outreach center for the operation and maintenance of a transitional housing unit at the YMCA of Springfield; provided further, that not less than \$28,350 shall be obligated for a contract with the Homestead located in the town of Hyannis; provided further, that not less than \$200,000 shall be obligated for contracts with the veterans hospice homestead in the city of Leominster and the veterans hospice in the town of Fitchburg; provided further, that not less than \$22,500 shall be obligated for a contract with the Turner House located in the town of Williamstown; provided further, that not less than \$73,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Roxbury; provided futher, that not less than \$44,888 shall be provided for a contract with the Mansion located in the city of Haverhill; provided further, that not less than \$200,000 shall be obligated for a contract with the United Veterans of America shelter located in the town of Leeds; and provided further, that not less than \$190,000 shall be obligated for a contract with Habitat P.L.U.S. in the city of Lynn\$2,013,318;

In item 1599-6901, by striking out, in line 8, the words "operational services division" and inserting in place thereof the words:- "executive office of health and human services" ;

In said item 1599-6901, by striking out , in line 11, the word "division" and inserting in place thereof the following words:- "executive office.";

In section 2, in item 2030-1000, by inserting after the words, "Sanitation Program;", the following words:-provided further, that the department shall maintain and operate the boat registration and titling offices in Hyannis and Fall River;

In said section 2, in item 2820-0100, by inserting after the word "fiscal year 2006 shall", in line 30, the following word:- not;

In said section 2, in item 2820-0100, by striking out, in line 17, the word " Shannon" ;

In section 2, item striking 4000-0112 and inserting:-

"4000-0112

For matching grants to boys' and girls' clubs, YMCA and YWCA organizations, nonprofit community centers, and youth development programs; provided, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; provided further, that not less than \$1,750,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs to provide grants to boys and girls of Massachusetts; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$40,000 shall be expended for the public partnership program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$50,000 be expended for programs and improvements at the Northeast Family YMCA; provided further, that not less than \$50,000 shall be expended for programs and improvements at the Northeast Family YMCA;

provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA; provided further, that not less than \$100,000 shall be expended for programs and improvements to the YWCA of Newburyport; provided further, that not less than \$50,000 shall be expended for the Project Adventure Youth Leadership Program as administered by Family Services Incorporated of Lawrence; provided further, that not less than \$50,000 shall be expended for programs at the Girls Incorporated of Holyoke Drop-In Center; provided further, that not less than \$25,000 shall be expended for programs at the Fishing Academy, Incorporated; provided further, that not less than \$225,000 shall be expended for Camp Coca Cola New England to provide youth development services with an emphasis on leadership training and community service; and provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2006 by March 1, 2006 ...\$3,000,000;

In said section 2, in item 4000-0300, by inserting after the words "item 4000-1401 of this act" the following words:- " In calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric subspecialty units as defined in section 1 of chapter 118G of the General Laws, the executive office of health and human services shall make a supplemental payment, if necessary, sufficient to assure that payment for inpatient cases with a case-mix acuity greater than 5.0 shall be at least equal to 85 per cent of the expenses incurred in providing services to those children".;

In said section 2, item 4100-0060 by striking the third sentence and inserting in its place:- "provided further, that the assessed amount shall be not less than 65 per cent of the division's expenses as provided in section 5 of said chapter 118G";

In said section 2, in line item 4110-1000, by striking out the figure "\$3,711,958" and inserting in place thereof the following figure:- \$3,786,958;

In said section 2, in item 4200-0100, by adding the following words:- "; and provided further, that not less than \$1,250,000 shall be expended for the homeward bound program in the town of Brewster".;

In said section 2, in item 4200-0200, by striking out the words "; and provided further, that not less than \$1,250,000 shall be expended for the homeward bound program in the town of Brewster.";

In section 2, in line item 4510-0721, by inserting after the words "joint committee on health care" the following words:- financing, the joint committee on public health;

In section 2, in line item 4510-0722, by inserting after the words "joint committee on health care" the following words:- financing, the joint committee on public health;

In section 2, in line item 4510-0723, by inserting after the words "joint committee on health care" the following words:- financing, the joint committee on public health;

In said section 2, in item 4512-0500, by striking out, in line 5, the words "Doherty Dental" and inserting in the place thereof the following words:- "Taunton Oral".;

In said section 2, in item 4800-1400, by striking out the words "provided further, that not less than \$200,000 shall be expended for the women's shelter operated by SMOC of Massachusetts at the People in Peril shelter in the city of Worcester;"

In said section 2, in item 4800-1400, by striking out the figure " \$20,440,496" and inserting in place thereof the following figure:- \$20,867,496".;

In section 2, in item 7003-0702, by inserting after the words, "Women & Enterprise;" the following words:- provided further that not less than \$250,000 shall be expended to fund need based workforce development related to continuing education grants administered by the Access Program of Boston, an affiliate program of the Boston Plan for Excellence;

In said section 2, in item 7003-0702, by striking out, in line 12, the figure " \$250,000" and inserting in place thereof the following figure:- \$450,000";

In said section 2, in item 7003-0702, by adding the following words:- "; provided further, that not less than \$250,000 shall be expended for a gang intervention prevention program called the Senator Charles E. Shannon Jr. At-Risk Youth Project, operated by the Center for Teen Empowerment Inc., for the community of Somerville;"

In said section 2, in item 7004-9024, by striking out, in lines 37 to 39, inclusive, the words "there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher or project-based voucher, but each household;" and inserting in place thereof the following words:- "each household holding a project-based voucher shall pay at least 30 per cent but not more than 35 per cent of its income as rent, and each household holding a mobile voucher".;

In said section 2, in item 7010-0030, by striking out, in lines 2 to 7, inclusive, the words ", as amended by provisions of this act; provided, that funds shall be expended from this item to provide one time grants to ensure that no charter school receives less funding in fiscal year 2005 than it would have received had tuition been calculated pursuant to subsection (nn) of section 89 of chapter 71 of the General Laws as in effect prior to passage of this act.";

In said section 2, in item 7061-0012, by striking out, in line 19, the figure, "\$100,000" and inserting in place thereof the following figure:- "\$200,000".;

In said section 2, in item 7077-0023, by striking out the figure "\$3,554,000" and inserting in place thereof the following figure:- \$4,054,000".;

In said section 2, in item 7007-0300, by adding the following words:- "provided further, that notwithstanding any general or special law to the contrary, a grant of not less than \$250,000 shall be expended from this item for regional tourism and economic development in southeastern Massachusetts including the Southcoast Development Project";

In said section 2, in item 7003-0702, by striking out "5,649,500" and inserting in place thereof "6,819,000".;

By inserting after section 34 the following section:-

"SECTION 34A. Section 1A of chapter 152 of the acts of 1997 is hereby amended by inserting after item 1100-7985 the following item:-

1599-0018 For a grant to the town of Wakefield for the cleanup of Lake Quannapowitt, its shoreline, banks buffer zone and land in the vicinity thereof.....\$500,000.";

In Section 2, in item 8100-0000 by striking the words "provided further, that not less than \$900,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Lawrence, Lowell, New Bedford, Revere, Springfield, and Worcester" and inserting in place thereof the following:- "provided further, that not less than \$1,050,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Fall River, Fitchburg, Holyoke, Lawrence, Lowell, Lynn, New Bedford, Revere, Somerville, Springfield, and Worcester";

In said section 2, in item 8100-0000 by striking out "\$211,036,870" and inserting in place thereof the following:- "\$211,186,870";

By inserting after section 36 the following section:-

"SECTION 36A. Item 2200-2015 of section 2 of chapter 236 of the acts of 2002 is hereby amended by striking out the words 'provided, further, that \$500,000 shall be expended for the clean up of Lake Quannapowitt, its shoreline, bank, buffer zone, and land in the vicinity thereof and enhance its future access and use, inserted by section 232 of chapter 149 of the acts of 2004".;

By striking out section 42.;

By striking out section 43 and inserting in place thereof the following section:-

"SECTION 43. The first paragraph of subsection (a) of section 279 of said chapter 149 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This authorization shall only apply to the following rinks: Allied Veterans Memorial Rink, Everett; Connery Memorial Rink, Lynn; Cronin Memorial Rink, Revere; Porazzo Memorial Rink, East Boston district, Boston; Simoni Memorial Rink, Cambridge; Veterans Memorial Skating Rink, Arlington; Veterans Memorial Rink, Waltham; and Daly Memorial Rink, Brighton." ;

By striking out section 47 and inserting in place thereof the following:

"SECTION 47. Notwithstanding any other general or special law to the contrary, the department of conservation and recreation is hereby authorized to enter into a Memorandum of Agreement with the Island Alliance, a duly authorized nonprofit organization dedicated to promoting awareness and usage of the Boston Harbor Islands national park area, to assist in the development and improvement of the Boston Harbor Islands. The Memorandum of Agreement may extend for an initial period of not more than thirty years, and may authorize the Island Alliance, notwithstanding sections 38A ½ to 38 O, inclusive, of chapter 7 and sections 44A to 44J, inclusive, of chapter 149 of the General Laws but in accordance with procurement and construction guidelines as approved by the division of capital asset management and as set forth in the memorandum of agreement, to provide the following services: procurement, undertaking studies and designs, obtaining permits, entering into and managing contracts for construction and operations. The memorandum of agreement may allow for the Island Alliance to accept funds and directed grants from the Department or on behalf of the Department from another agency and such other services as the Department shall determine to be appropriate. The Memorandum of Agreement may permit the Island Alliance to retain funds generated by its activities pursuant

to the Memorandum of Agreement so long as such funds are used for the further purposes and promotion of the islands owned by the Commonwealth within the Boston Harbor Islands national park area.";

In section 62, in the first paragraph, in the last sentence, by adding the following words:- "and receive information about the member's Medicare eligibility and enrollment status necessary for the operation of the prescription advantage program".;

By striking out section 71;

By adding after section 109 the following section:-

"SECTION ____ . Notwithstanding any general or special law to the contrary, Sergeant Kathleen Barrett of the Massachusetts State Police, shall be eligible for disability benefits under the cancer presumption law as defined in section 94B of chapter 32 of the General Laws, as appearing in the 2002 Official Edition.";

By inserting after section 109 the following section:-

"SECTION ____ . Chapter 29, as so appearing, is hereby amended by inserting after Section 2 NNN , the following section:-

Section 2000. There shall be established and set up on the books of the commonwealth a separate fund to be known as the State Office Building Repairs and Improvements Fund. There shall be credited to such fund monies paid to the commonwealth pursuant to section 6 of chapter 8 of the General Laws, and any interest or investment earnings on such monies. The superintendent of state office buildings shall be the custodian of this trust fund and shall receive, deposit and invest all monies transmitted to him under the provisions of this section and shall credit interest and earnings on the trust fund to the trust fund.

The superintendent of state office buildings may charge fees of state executive and administrative departments, agencies, and officers for the use and occupancy of state properties under his responsibility, other than the state house, in an amount determined by the secretary of administration and finance. These fees shall be deposited, along with any other amounts specifically appropriated for repairs and improvements to state office buildings, into this trust fund. Funds collected pursuant to said section 6 and pursuant to this section shall be expended by the superintendent without further appropriation for the purpose of repairs and improvements to state office buildings."

The amendment was **adopted**.

The Ways and Means amendment was then **adopted**, as amended, and the bill was ordered to a third reading. The rules were suspended, on motion of Mr. Havern, and the bill was read a third time.

The question of passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and the nays at two minutes past seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 - nays 0) [**Yeas and Nays 46**]

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Augustus, Edward M., Jr.	Joyce, Brian A.
Baddour, Steven A.	Knapik, Michael R.
Barrios, Jarrett T.	Lees, Brian P.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Resor, Pamela	Tisei, Richard R.
Rosenberg, Stanley C.	Tolman, Steven A.
Spilka, Karen E.	Tucker, Susan C.

Tarr, Bruce E. Wilkerson, Dianne —
37.

Timilty, James E. **NAYS — 0.**

ABSENT OR NOT VOTING.

Walsh, Marion — **1.**

The yeas and nays having been completed at six minutes past seven o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments adopted by the Senate. [For text of Senate amendments, see Senate, No. 2101, printed as amended.]

Sent to the House for concurrence in the amendments.

Order adopted.

On motion of Mr. Berry ,--

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

On motion of Mr. Berry , at twenty-two minutes past seven o'clock P.M. , the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.