NOTICE: *While reasonable efforts have been made to assure the accuracy of the data herein, this is* ***NOT*** *the official version of Senate Journal. It is published to provide information in a timely manner, but has* ***NOT*** *been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.*

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

JOURNAL OF THE SENATE.

Thursday, July 14, 2005.

Met at five minutes past eleven o'clock A.M. (Mr. Moore in the Chair).

Petitions.

Petitions were presented and referred as follows:

By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 2154) of Stanley C. Rosenberg and Ellen Story (by vote of the town) for legislation relative to voting hours in the town of Amherst [Local approval received];
Under Senate Rule 20, to the committee on Election Laws.

By the same Senator, a petition (accompanied by bill, Senate, No. 2155) of Stanley C. Rosenberg and Stephen Kulik (by vote of the town) for legislation to authorize the late filing of a certain application for classification of land under the provisions of chapter 61 of the General Laws [Local approval received];
Under Senate Rule 20, to the committee on Revenue.
Severally sent to the House for concurrence.

Mr. Brewer presented a petition (subject to Joint Rule 12) of Stephen M. Brewer, Edward M. Augustus, Jr., John J. Binienda, James B. Leary and other members of the General Court for legislation to provide for completion of the Korean War Memorial of Central Massachusetts and a walkway of honor recognizing Massachusetts' fallen war heroes and gold star families,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Report of a Committee.

By Mr. Timilty, for the committee on Municipalities and Regional Government, on petition, a Bill to provide a sewer easement in the town of Andover (Senate, No. 2088) [Local approval received];
Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Recess.

There being no objection, at six minutes past one o'clock P.M., the Chair (Mr. Moore) declared a recess; and at nineteen minutes past one o'clock P.M., the Senate reassembled, the President in the Chair.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Mr. Moore for the purpose of an introduction. Mr. Moore introduced the 2005 Massachusetts Division III State Championship Nipmuc Regional High School Baseball Team. The team was the guests

of Senators Moore and Augustus. The members of the team were accompanied by their coaches, Bill McInnis, Matt Petherick and Steve Della Rovere as well as the school's Superintendent Paul Daigle, Principal Joan Scribner and Assistant Principal John Clement.

The President in the Chair, there being no objection, the President handed the gavel to Mr. Brewer for the purpose of an introduction. Mr. Brewer introduced Erika Ebbel, a 2004 graduate of MIT. She was Miss Massachusetts 2004 and is starting Boston University Medical School's PhD program in Biochemistry in the fall. Ms. Ebbel was promoting the teaching and learning of science to young people. She briefly addressed the Chamber, signed the guest book and withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to the Senator from Worcester and Middlesex, Mr. Antonioni, who introduced Mr. Billy Starr, founder and chairman of the PanMass Challenge. The PanMass Challenge is a bicycle event from Sturbridge to Provincetown. The pledges raised by the riders are the lending support funding the Jimmy Fund of the Dana-Farber Cancer Center. Mr. Starr conceived the idea and has been directly involved in its management since the event commenced twenty-six years ago. Mr. Starr signed the guest book and withdrew from the Chamber. He was the guest of Senator Antonioni.

Resolutions.

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

Resolutions (filed by Messrs. Tolman, Havern and Baddour) "proclaiming Operation Lifesaver Day."

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Relative to the procurement officer of the city of Somerville (Senate, No. 2048);

Authorizing the Somerville Retirement Board to purchase or lease property, facilities and equipment (Senate, No. 2086); and

Authorizing the city of Lowell to grant a permanent easement of certain park land to abutters (House, No. 3227);
Were severally read a second time and ordered to a third reading.

The Senate bills

Authorizing certain municipal borrowing for underground utility construction (Senate, No. 1192) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the Department of Highways to acquire and transfer certain parcels of land in the town of Bourne (Senate, No. 2078);
Were severally read a third time and passed to be engrossed.
Severally sent to the House for concurrence.

The Senate Bill relative to the installation of carbon monoxide alarms and smoke detectors in residential buildings (Senate, No. 2152),— was read a third time.

After debate, the question on passing it to be engrossed was determined by a call of the yeas and nays, at twenty-seven minutes past one o'clock P.M., on motion of Ms. Murray, as follows, to wit (yeas 35 — nays 1) **[Yeas and Nays No. 54]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela

Hedlund, Robert L.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
O'Leary, Robert A.	

NAYS.

Nuciforo, Andrea F., Jr.
— 1.

ABSENT OR NOT VOTING.

Havern, Robert A.	Joyce, Brian A. — 2.

The yeas and nays having been completed at twenty-seven minutes before two o'clock P.M., the bill was passed to be engrossed.
Sent to the House for concurrence.

The Senate Resolve establishing a special commission relative to the training of law enforcement officers in mental health issues (Senate, No. 1352, changed) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at twenty-one minutes before two o'clock P.M., on motion of Ms. Creem, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 55]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Hedlund, Robert L.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**
Nuciforo, Andrea F., Jr.	

NAYS — 0.

ABSENT OR NOT VOTING.

Havern, Robert A. **— 1.**

The yeas and nays having been completed at twelve minutes before two o'clock P.M., the resolve was passed to be engrossed.
Sent to the House for concurrence.

The House Bill relative to claims trusts funds (House, No. 3835, changed),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Brown moved that the bill be amended in section 2, by striking out the words "following 3 fiscal years", and inserting in place thereof the following words:— "3 fiscal years beginning July 1, 2006".
This amendment was adopted.
The bill was then passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.

The House Bill providing for a certain exemption from the sales tax (House, No. 4220, amended),— was read a third time.

After debate, the question on passing it to be engrossed, in concurrence, with an amendment, was determined by a call of the yeas and nays, at a quarter past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 56]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne **— 37.**
Nuciforo, Andrea F., Jr.	

NAYS.

Hedlund, Robert L. **— 1.**

The yeas and nays having been completed at nineteen minutes past two o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment previously adopted by the Senate.

The Senate Bill requiring distribution of citation books to the Office of Law Enforcement in the Executive Office of Environmental Affairs (Senate, No. 1338),— was considered.
Pending the main question on passing the bill to be engrossed, and pending the motion, previously moved by Mr. Creedon, to lay the matter on the table, on motion of Mr. Brewer, the further consideration thereof was postponed until Monday, July 25.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, on House, No. 4169, in part, a "Bill relative to tax laws" (Senate, No. 2092).

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

Pending the main question on ordering the bill to a third reading, Ms. Murray moved to amend the bill by inserting after section 18 the following section:—

"SECTION 18A. Paragraph 1 of said section 30 of said chapter 63, as so appearing, is hereby amended by adding the following sentence:— An entity that is exempt from taxation under section 501 of the Code shall not be considered to be a corporation for purposes of the calculation of tangible property or net worth taxable under section 32 or section 39 or for the purposes of chapter 59."; and

By inserting after section 19 the following section:—

"SECTION 19A. Paragraph 2 of said section 30 of said chapter 63, as so appearing, is hereby amended by adding the following sentence:— An entity that is exempt from taxation under section 501 of the Code shall not be considered to be a corporation for purposes of the calculation of tangible property or net worth taxable under section 32 or section 39 or for the purposes of chapter 59."
After remarks, the amendment was adopted.

Mr. Lees moved that the bill be amended by inserting, after section ___, the following new section:—

"SECTION ___. Section 5 of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting, after clause Forty-first C, the following clause:—

Forty-first C½, Real property, to the amount of four thousand dollars of taxable valuation or an amount not greater than $1,000 or such lesser amount as is accepted by a city or town, whichever would amount in an exemption of the greater amount of taxes due, of a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by said person as his domicile, or of a person who owns the same jointly with his spouse, either of whom has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by them as their domicile, or for a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile; provided: (A) that such person (1) has been domiciled in the commonwealth for the preceding ten years, (2) has so owned and occupied such real property or other real property in the commonwealth for five years, or (3) is a surviving spouse who inherits such real property and has occupied such real property in the commonwealth five years and who otherwise qualified under this clause; (B) that such person's income does not exceed that required to qualify under section 5 subsection (a) of chapter 62 or such lesser amount as is accepted by a city or town; and (C) that such person had a whole estate, real and personal, not in excess of twenty thousand dollars, or if married, not in excess of twenty-three thousand dollars, provided that real property occupied as his domicile shall not be included in computing the whole estate except for any portion of said property which produces income. In the case of real property owned by a person jointly or as a tenant in common with a person not his spouse, the amount of his exemption under this clause shall be that proportion of four thousand dollars valuation or the sum of five hundred dollars, whichever would result in an exemption of the greater amount of taxes due, which the amount of his interest in such property bears to the whole tax due; provided: (A) that no exemption shall be granted to any joint tenant or tenant in common unless the gross receipts from all sources whatsoever of each joint tenant or tenant in common is less than ten thousand dollars or, if married, the combined gross receipts from all sources whatsoever of each joint tenant or tenant in common and his spouse is less than twelve thousand dollars; provided, however, that in computing the gross receipts of an applicant under this clause ordinary business expenses and losses may be deducted, but not personal or family expenses; and provided, further, that there shall be deducted from the total amount received by the applicant under the federal social security or railroad retirement and from any annuity, pension, or retirement plan established for employees of the United States government, the government of the commonwealth, or the government of any city, town, county, or special district, included in such receipts, an amount equivalent to the minimum payment then payable under said federal social security law, as determined by the commissioner of revenue, to a retired worker seventy years of age or over, if the applicant is unmarried, or to a retired worker and spouse, both of whom are seventy years of age or over, if the applicant is married; and (B) that the combined whole estate, real and personal, of each joint tenant or tenant in common is less than twenty

thousand dollars or, if married, the combined whole estate, real and personal of each joint tenant or tenant in common and his spouse does not exceed twenty-three thousand dollars, provided that real property occupied as their domicile shall not be included in computing the whole estate except for any portion of said property which produces income. No proportion of the exemption shall be denied to any applicant otherwise qualified for the reason that another joint tenant or tenant in common receives a proportion of the total exemption. Household furnishings and property already exempt under the twelfth, twentieth, thirty-first, and thirty-fifth clauses of this section shall not be included in computing the whole estate for purposes of this section. Where a portion of the real property occupied as a domicile of an applicant under this clause is located within a municipality other than the municipality in which the applicant is domiciled, and where the value of said property, or the taxes, assessed by the municipality in which such applicant is domiciled would result in his receiving less than the maximum exemption provided by this clause, that part of the property of such applicant within such other municipality shall be exempt to a value, or to an amount of tax, sufficient to grant the applicant the total maximum exemption provided by the clause. This clause shall take effect upon its acceptance by any city or town. In those cities and towns which accept the provisions of this clause, the provisions of clause Forty-first, Forty-first B and Forty-first C shall not be applicable; provided, however, that any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause and clause Forty-first shall be distributed as provided in said clause Forty-first.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 57]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Timilty, James E.
McGee, Thomas M.	Tisei, Richard R.
Menard, Joan M.	Tolman, Steven A.
Montigny, Mark C.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**
Nuciforo, Andrea F., Jr.	

NAYS.

Moore, Richard T. — **1.**

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

Mr. Lees moved that the bill be amended by inserting after section ___, the following new section:—

"SECTION ___. Section 5 of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after clause fifty-fourth the following:—

Fifty-fifth. Notwithstanding any other provision of this section, any person eligible for an exemption under clause Twenty-second (a), Twenty-second (B), Twenty-second (c), Twenty-second (d), Twenty-second (e), Twenty-second (f), Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, and Twenty-second E shall be eligible for an increase in the exemption,

up to four times the amount of the exemption, for a city, by vote of its council and approval of its mayor, or for a town, by vote of town meeting. This paragraph shall take effect in a city or town upon its acceptance by such city or town."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 58]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

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

Messrs. Lees, Tisei, Tar, Hedlund, Knapik, Brown, Montigny and Tucker moved to amend the bill by inserting the following new sections:—

"SECTION 1. Section 413 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 2. Section 414 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 3. Notwithstanding section 32 of chapter 186 of the acts of 2002 and sections 21 and 22 of chapter 364 of the acts of 2002, the following provisions of the General Laws shall be effective for tax years beginning on or after January 1, 2003:

(1) the second paragraph of subsection (m) of section 1 of chapter 62 of the General Laws, as appearing in section 2 of chapter 186 of the acts of 2002;

(2) paragraph (3) of subsection (b) of section 2 of said chapter 62, as appearing in section 6 of said chapter 186;

(3) the introductory clause, paragraph (1), paragraph (3), and paragraph (4) of subsection (c) of said section 2 of said chapter 62, as appearing in section 4 of chapter 364 of the acts of 2002;

(4) paragraph (2) of said subsection (c) of said subsection 2 of said chapter 62 as appearing in section 5 of said chapter 364;

(5) subsection (e) of said section 2 of said chapter 62, as appearing in section 7 of said chapter 364; and

(6) subsection (c) of section 4 of said chapter 62, as appearing in section 14 of chapter 186 of the acts of 2002."
After debate, the amendment was *rejected*.

Messrs. Lees, Tisei and Tarr moved that the bill be amended by striking out sections 28 through 39, inclusive.
The amendment was *rejected*.

Mr. Joyce moved to amend the bill by striking out sections 28 to 39, inclusive, and 74.
After debate, the amendment was *rejected*.

Messrs. Lees, Tarr, Hedlund, Knapik and Brown moved that the bill be amended by inserting after section ___, the following new sections:—

"SECTION ___. Subsection (a) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subdivision (13) in its entirety and inserting in place thereof the following subdivision;

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in subparagraph (A) of subdivision (1) of subsection (b) of this section, subparagraph (A) of subdivision (1A) of subsection (b) of this section, and subparagraph (A) of subdivision (2) of subsection (b) of this section for such taxable year are the maximum allowable amounts set forth in said subparagraphs; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION ___. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:

(b) Part B taxable income shall be taxed at the rate of 5 per cent for taxable years beginning on or after January 1, 2007."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 32) **[Yeas and Nays No. 59]**:

YEAS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Timilty, James E. **— 6.**

NAYS.

Antonioni, Robert A.	Montigny, Mark C.
Augustus, Edward M., Jr.	Moore, Richard T.
Baddour, Steven A.	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.
Hart, John A., Jr.	Tisei, Richard R.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne **— 32.**

Mr. Rosenberg in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), the yeas and nays having been completed at twenty-four minutes before four o'clock P.M., the amendment was *rejected*.

Messrs. Lees, Montigny, Baddour, Tarr, Hedlund, Knapik, Brown and Joyce moved that the bill be amended by inserting after section ___ , the following new sections:—

"SECTION ___. Section 13 of chapter 186 of the Acts of 2002 is hereby repealed.

SECTION ___. Subsection (a) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subdivision (13) in its entirety and inserting in place thereof the following subdivision:

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in subparagraph (A) of subdivision (1) of subsection (b) of this section, subparagraph (A) of subdivision (1A) of subsection (b) of this section, and subparagraph (A) of subdivision (2) of subsection (b) of this section for such taxable year are the maximum allowable amounts set forth in said subparagraphs; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 13 — nays 25) **[Yeas and Nays No. 60]**:

YEAS.

Baddour, Steven A.	Montigny, Mark C.
Brown, Scott P.	Moore, Richard T.
Buoniconti, Stephen J.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. **— 13.**
Lees, Brian P.	

NAYS.

Antonioni, Robert A.	Morrissey, Michael W.
Augustus, Edward M., Jr.	Murray, Therese
Barrios, Jarrett T.	Nuciforo, Andrea F., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Brewer, Stephen M.	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.	Tolman, Steven A.
Havern, Robert A.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne **— 25.**
Menard, Joan M.	

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

Messrs. Morrissey, Creedon, Pacheco, Joyce and Moore moved that the bill be amended by inserting after section 2 the following section:—

"SECTION 2A. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subparagraph (13) and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1) clause (A) of subparagraph (1A) and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clause; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns."; and by inserting after section 4 the following 3 sections:—

"SECTION 4A. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.2 per cent for tax years beginning on or after January 1, 2006.

SECTION 4B. Section 4 of chapter 62 of the General Laws, inserted by section 4A, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.1 per cent for tax years beginning on or after January 1, 2007.

SECTION 4C. Section 4 of chapter 62 of the General Laws, inserted by section 4B, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.0 per cent for tax years beginning on or after January 1, 2008."; and by inserting after section 65 the following sections:—

"SECTION 65A. Section 4A shall take effect on January 1, 2006 and shall expire on December 31, 2006.

SECTION 65B. Section 4B shall take effect on January 1, 2007 and shall expire on December 31, 2007.

SECTION 65C. Section 4C shall take effect on January 1, 2008."

SECTION 65D. Sections 2A, 4A, 4B and 4C shall take effect only after the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws, has a balance of $3,000,000,000 at the end of a fiscal year and this balance of $3,000,000,000 has been certified by the department of revenue."

Pending the question on adoption of the amendment, Messrs. Tarr, Tisei, Baddour, Montigny, Lees, Joyce, Rosenberg, Pacheco, Creedon, Morrissey and Moore moved that the amendment be further amended by striking out the last section thereof and inserting in place thereof the following section:—

"SECTION 65D. Sections 2A, 4A, 4B and 41C shall take effect only after the amounts distributed to cities and towns as Chapter 70 educational aid, so-called, and additional assistance, so-called, and lottery aid, so-called, reach the amounts provided for such purposes in fiscal year 2002."

After remarks, the question on adoption of the further amendment (Tarr, et al) was determined by a call of the yeas and nays, on motion of Mr. Tarr, at twenty-four minutes past four o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 61]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at a half past four o'clock P.M., the further amendment was adopted. The pending amendment (Morrissey, et al), as amended (Tarr, et al), was then considered; and it was adopted.

Ms. Creem moved to amend the bill by inserting after section 2 the following 13 sections:—

"SECTION 2D. Clause Sixteenth A of section 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby repealed.

SECTION 2A. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out paragraph (2) of clause Sixteenth and inserting in place thereof the following paragraph:—

(2) In the case of a business corporation subject to tax under section 39 of chapter 63 that is not a manufacturing corporation, all property owned by the corporation other than real estate, poles, underground conduits, wires and pipes, and machinery used in the conduct of the business, which term, as used in this clause, shall not include stock in trade or any personal property directly used in connection with dry cleaning or laundering processes or in the refrigeration of goods or in the air-conditioning of premises or in any purchasing, selling, accounting or administrative function.

SECTION 2B. Paragraph (3) of said clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 247 to 249, inclusive, the words '(3) In the case of (a) a domestic manufacturing corporation as defined in section 38C of chapter 63 or (b) a foreign manufacturing corporation as defined in section 42B of said chapter,' and inserting in place thereof the following words:— (3) In the case of a manufacturing corporation as defined in section 42B of chapter 63.

SECTION 2C. Clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out paragraph (5) and inserting in place thereof the following paragraph:—

(5) The classification by the commissioner, or the appellate tax board, as the case may be, of a corporation as a business corporation or a manufacturing corporation as respectively defined as aforesaid, shall be followed in the assessment under this chapter of machinery used in the conduct of the business.

SECTION 2E. Section 18 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words 'domestic business and foreign corporations as defined in section thirty of chapter sixty-three' and inserting in place thereof the following words:— business corporations subject to tax under section 39 of chapter 63.

SECTION 2F. Said section 18 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 38 and 39, the words 'domestic business or foreign corporation, as defined in section thirty of chapter sixty-three', and inserting in place thereof the following words:— business corporation subject to tax under section 39 of chapter 63.

SECTION 2G. Section 33 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 6 to 10, inclusive, the words 'except domestic business corporations and foreign corporations as respectively defined in section thirty of chapter sixty-three, and domestic manufacturing corporations and foreign manufacturing corporations as respectively defined in sections thirty-eight C and forty-two B of said chapter:' and inserting in place thereof the following words:— except business corporations subject to tax under section 39 of chapter 63;.

SECTION 2H. Section 83 of said chapter 59, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic and foreign'.

SECTION 2I. Section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following three paragraphs:—

(p) ‘Partnership’, an entity that is classified for the taxable year as a partnership for federal income tax purposes, except as otherwise provided in this chapter.

(q) ‘Disregarded entity’, an entity that is disregarded as a separate entity from its owner for federal income tax purposes. The entity shall similarly be disregarded for purposes of this chapter, and without limitation, all income, assets, and activities of the entity shall be considered to be those of the owner.

(r) ‘Tax free earnings and profits’, earnings and profits that were considered tax free earnings and profits under section 8 of this chapter as in effect on December 31, 2004 or under equivalent rules in the case of a corporate trust subject to excise under section 38U of chapter 63.

SECTION 2J. Paragraph (1) of subsection (a) of section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (E) and inserting in place thereof the following subparagraph:—

(E) Amounts excluded under subchapter S of the Code with respect to a federal S corporation which is subject to tax under section 38U of chapter 63 as a corporate trust or which has been subject to tax under this chapter as a corporate trust and amounts received by the taxpayer that are attributable to tax free earnings and profits of a corporate trust to the extent not already included in federal gross income.

SECTION 2K. Said section 2 of said chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the words ‘this chapter’ and inserting in place thereof the following words:— section 38U of chapter 63.

SECTION 2L. Paragraph (2) of subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (D) and inserting in place thereof the following subparagraph:—

(D) Dividends received from a corporate trust subject to taxation under section 38U of chapter 63 or under section 8 of this chapter as in effect on December 31, 2004, to the extent that they are derived from earnings and profits previously taxed to such trust under said chapters but only to the extent the trust properly filed returns and paid all taxes due.

SECTION 2M. Said section 2 of said chapter 62, as so appearing, is hereby amended by striking out, in line 310, the words ‘this chapter’ and inserting in place thereof the following words:— section 38U of chapter 63.”; and further moved to amend by inserting after Section 5 the following section:—

“SECTION 5A. Section 4 of chapter 62 of the General Laws, as so appearing is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:—

Residents shall be taxed on their taxable income, and non-residents shall be taxed to the extent specified in section 5A on their taxable income, as follows:” ; and further moved to amend by inserting after Section 6 the following 5 sections:—

“SECTION 6A Subsection (a) of section 6 of said chapter 62, as so appearing, is hereby amended by adding the following paragraph:—

In the case of dividends received out of tax-free earnings and profits of a corporate trust previously subject to tax under this chapter or subject to tax under section 38U of chapter 63, shareholders of the corporate trust shall be entitled to credit for income taxes paid to other jurisdictions on the earnings and profits, either by the corporate trust or by the shareholders, as otherwise calculated under this subsection.

SECTION 6B. Section 8 of said chapter 62, as so appearing, is hereby repealed.

SECTION 6C. Section 17 of said chapter 62, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

A partnership as such shall not be subject to the taxes imposed by this chapter. Individuals carrying on business as partners shall be liable for the taxes imposed by this chapter only in their separate or individual capacities.

SECTION 6D. Section 17A of said chapter 62, as so appearing, is hereby amended by striking out, in lines 55 and 56, the words ‘this chapter’ and inserting in place thereof the following words:— section 38U of chapter 63.

SECTION 6E. Section 19 of said chapter 62, as so appearing, is hereby repealed.”; and further moved to amend by inserting after Section 7 the following 4 sections:—

“SECTION 7B. Section 6 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the word ‘domestic’ and inserting in place thereof the following word:— business.

SECTION 7A. Said section 6 of said chapter 62C, as so appearing, is hereby further amended by striking out, in lines 8 to 10, inclusive, the words ‘every corporate trust taxable under section eight of chapter sixty-two, and every other corporate trust doing business within the commonwealth’.

SECTION 7C. Section 7 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines land 2, the words ‘, other than a corporate trust as defined in chapter sixty-two.’.

SECTION 7D. Said chapter 62C is hereby amended by striking out section 11, as so appearing, and inserting in place thereof the following section:—

Section 11. Except as otherwise provided in this chapter, every business corporation, as defined in section 30 of chapter 63, shall, on or before the fifteenth day of the third month following the close of each taxable year, make a return giving such information as the commissioner considers necessary for the determination of the taxes imposed upon it by said chapter 63.”; and further moved to amend by inserting after section 18 the following 5 sections:—

“SECTION 18A. Section 51 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words ‘domestic or foreign business corporation’ and inserting in place thereof, the following words:— business corporation as defined in section 30 of chapter 63.

SECTION 18B. The definition of ‘Financial Institution’ of section 1 of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following sentence:— The term ‘corporation’ as used in this definition shall mean any corporation, or any ‘other entity’ as defined in section 1.40 of chapter 156D, whether the corporation or other entity may be formed, organized, or operated in or under the laws of Massachusetts or any other jurisdiction, that is classified for the taxable year as a corporation for federal income tax purposes.

SECTION 18C. Section 2 of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words ‘subsection (b)’ and inserting in place thereof the following words:— subsections (b) and (d).

SECTION 18D. Said section 2 of said chapter 63, as so appearing, is hereby further amended by adding the following subsection:—

(d) Any financial institution that is an S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, shall not be subject to the tax provided in subsections (a) and (b), and shall instead be subject to the excise set forth in section 2B.

SECTION 18E. Said chapter 63 is hereby amended by inserting after section 2A, the following section:—

Section 2B. (a) Any financial institution which is an S corporation, as defined under section 1361 of the Code, shall pay, on account of each taxable year, an excise measured by its net income determined to be taxable under section 2A as follows:

(1) The net income shall be determined by taking into account subchapter S of the Code. Income or loss shall be determined as if it were realized or incurred directly by an owner subject to taxation under chapter 62 or 63, as applicable. In the case of an S corporation, income shall be included in the net income measure under this subsection and subject to tax at a rate of 10.5 percent to the extent that such income is taxed to the S corporation for federal income tax purposes; and

(2) Any such financial institution which is an S corporation and has total receipts for the taxable year of $6,000,000 or more shall also include in its excise an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by one of the following rates:

(i) if total receipts for the taxable year are at least $6,000,000 but less than $9,000,000, 3.31 percent; and

(ii) if total receipts for the taxable year are $9,000,000 or more, 4.97 percent.

For purposes of subparagraph (2), net income determined to be taxable in accordance with this chapter shall be determined without taking into account subchapter S of said Code, and shall not include income that is taxed to the S corporation at the entity level under subparagraph (1). The term ‘total receipts’ shall mean gross receipts or sales, less returns and allowances, and shall include dividends, interest, royalties, capital gain net income, rental income and all other income. The cost of goods sold or the cost of operations shall not be deductible in determining such total receipts. The commissioner shall, by regulation, apply such limits on an aggregate basis to S corporations engaged in a unitary business with majority direct or indirect ownership by common stockholders. Aggregating shall also include any other type of entity so engaged and so owned which the commissioner finds was established for the purpose of avoiding the foregoing limit.

(3) Qualified subchapter S subsidiaries shall not be subject to separate entity level taxation under this section. Rather, the parent S corporation shall be subject to tax under this section, and shall include the income and take into account the activities of all qualified subchapter S subsidiaries for purposes of calculating the excise due under subparagraphs (1) and (2). The parent S corporation and its qualified subchapter S subsidiaries shall be jointly and severally liable for the tax due under this chapter.

(b) The excise imposed under this section for each taxable year shall be no less than $456"; and further moved to amend by striking out sections 19 and 20 and inserting in place thereof the following 2 sections:—

"SECTION 19. Section 30 of said chapter 63, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof, the following introductory paragraph:—

When used in this section and sections 31 to 52, inclusive, the following terms shall have the following meanings, but the terms 'business corporation' 'disregarded entity' and 'partnership' in paragraphs 1, 2, and 16 of this section shall, unless otherwise provided, also have the following meanings and effect for purposes of this chapter:

SECTION 20. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out paragraphs 1, and 2, and inserting in place thereof the following 2 paragraphs:—

1. 'Business corporation', any corporation, or any 'other entity' as defined in section 1.40 of chapter 156D, whether the corporation or other entity may be formed, organized, or operated in or under the laws of Massachusetts or any other jurisdiction, and whether organized for business or for non-profit purposes, that is classified for the taxable year as a corporation for federal income tax purposes. An entity that is exempt from taxation under section 501 of the Code shall not be considered to be a corporation for purposes of the calculation of tangible property or net worth taxable under section 32 or section 39 or for the purposes of chapter 59.

2. 'Disregarded entity', an entity that is disregarded as a separate entity from its owner for federal income tax purposes. Such an entity shall similarly be disregarded for purposes of this chapter, and without limitation, all income, assets, and activities of such entity shall be considered to be those of the owner. An entity that is exempt front taxation under section 501 of the Code shall not be considered to be a corporation for purposes of the calculation of tangible property or net worth taxable under section 32 or section 39 or for the purposes of chapter 59."; and further moved to amend by inserting after Section 22 the following 5 sections:—

"SECTION 22E. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out paragraph 16, and inserting in place thereof, the following paragraphs:—

16. 'Partnership', an entity that is classified as a partnership for federal income tax purposes for the taxable year.

17. Except as otherwise provided in this chapter, the term 'Code' shall mean the Internal Revenue Code of the United States, as amended and in effect for the taxable year.

SECTION 22A. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 178, the word 'foreign' and inserting in place thereof the following word:— business.

SECTION 22B. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 184, the words 'thirty-two or'.

SECTION 22C. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 192, the words 'thirty-two or'.

SECTION 22D. Said section 30 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 196 to 199, inclusive, the words 'domestic business corporation taxable under clause (1) of subsection (a) of section 32 or of a foreign corporation taxable under clause (1) of subsection (a)' and inserting in place thereof the following words:— business corporation taxable under."; and further moved to amend by inserting after section 24 the following 15 sections:—

"SECTION 24A. Section 31E of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words 'domestic or foreign' and inserting in place thereof the following word:— business.

SECTION 24B. Said chapter 63 is hereby further amended by inserting after section 31K, as so appearing, the following section:—

Section 31L. In determining gross income under this chapter, if the federal gross income includes any item of gain or has been reduced by any item of loss, with respect to property, then the federal gross income shall be increased by the excess of the federal adjusted basis of the property over the Massachusetts adjusted basis thereof, and shall be decreased by the excess of the Massachusetts adjusted basis of the property over the federal adjusted basis thereof, so that the gain or loss realized for

Massachusetts purposes takes into account all applicable differences in the Massachusetts and federal tax rules over the life of an asset that should, in principle, give rise to differences in basis. The Massachusetts adjusted basis of property shall be the federal adjusted basis, except that (i) any federal adjustment resulting from provisions of the Code that were not applicable in determining Massachusetts gross income at the time the federal adjustments were made shall be disregarded; and (ii) adjustments shall be made for any item that was applicable in determining Massachusetts gross income but that was not so applicable in determining federal gross income and for which a federal adjustment would be allowed under the provisions of the Code if the item had been applicable in determining federal gross income. Without limitation of the foregoing, the federal basis of shares in a business corporation that was formerly treated as a corporate trust or of shares in a successor of the entity shall be reduced in computing Massachusetts adjusted basis to take into account any tax-free earnings and profits accumulated by the former corporate trust.

SECTION 24C. Section 32 of said chapter 63, as so appearing, is hereby repealed.

SECTION 24D. Section 32B of said chapter 63, as so appearing, is hereby amended by striking out, in line 16, the words ‘thirty-two or’.

SECTION 24E. Said section 32B of said chapter 63, as so appearing, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

If 2 or more business corporations subject to the excise under section 39 participated in the filing of a consolidated return of income to the federal government, the net income measure of their excises imposed under section 39 may, at their option, be assessed upon their combined net income, in which case the entire excise under this chapter shall be assessed to all said corporations and collected from any 1 or more of them. The commissioner may require corporations that have made the election to report the income measure and the non-income measure of the excise, and the minimum excise if applicable, all as set forth in section 39, on a single form; but, nothing in this section shall be construed to eliminate the requirement that each corporation participating in a combined return compute its non-income measure and the minimum excise if applicable in accordance with said section 39.

SECTION 24F. Section 32D of said chapter 63, as so appearing, is hereby amended by striking out, in line 31 the words ‘or qualified subchapter S subsidiary’.

SECTION 24G. Paragraph (ii) of subsection (a) of said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:—

Any business corporation which is an S corporation and has total receipts for the taxable year of $6,000,000 or more shall also include in the net income measure of the excise imposed under section 39 an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by 1 of the following rates, in lieu of the rate provided in said section 39.

SECTION 24H. Paragraph (i) of said subsection (a) of said section 32D of said chapter 63, as so appearing, is hereby amended by striking out the fourth sentence.

SECTION 24I. Subsection (a) of said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:—

A business corporation subject to an excise under section 39 which is an S corporation, as defined under section 1361 of the Code, as amended and in effect for the taxable year, shall determine the net income measure of the excise as follows:

SECTION 24J. Said section 32D of said chapter 63, as so appearing, is hereby further amended by striking out subsection (b).

SECTION 24K. Said section 32D of said chapter 63, as so appearing, is hereby further amended by inserting after subsection (a) the following subsection:—

(b) Qualified subchapter S subsidiaries shall not be subject to separate entity level taxation under this section or section 39. Rather, the parent S corporation shall be subject to tax under this section and section 39, and shall include the income and take into account the activities of all qualified subchapter S subsidiaries for purposes of determining the excise due under subsections (a)(i) and (ii) of this section, and shall include the value of the property or the net worth of all qualified subchapter S subsidiaries for purposes of determining the non-income measure of the excise under subsection (a)(1) of chapter 39. The parent S corporation and its qualified subchapter S subsidiaries shall be jointly and severally liable for the tax due under this chapter.

SECTION 24L. Said chapter 63 is hereby amended by striking out section 33, as so appearing.

SECTION 24M. Section 38 of said chapter 63 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the introductory paragraph and inserting in place thereof, the following introductory paragraph:—

The commissioner shall determine the part of the net income of a business corporation derived from business carried on within the commonwealth as follows:

SECTION 24N. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out clause (i) of paragraph (1) of subsection (a) and inserting in place thereof the following clause:—

(i) shares in a corporate trust, as defined in section 1 of chapter 62, to the extent the dividends represent tax free earnings and profits, as defined in section 8 of chapter 62 in effect on December 31, 2004, or shares of a corporate trust subject to section 38U.

SECTION 24O. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 70, the words 'section thirty-eight C or'"; and further moved to amend by inserting after Section 25 the following 7 sections:—

"SECTION 25A. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 219, the words 'domestic or foreign' and inserting in place thereof the following word:— business.

SECTION 25B. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 235 and 236, the words 'domestic or foreign'.

SECTION 25C. Said section 38 of said chapter 63, as so appearing, is hereby further amended by striking out, in line 302, the words 'domestic or foreign'.

SECTION 25D. Section 38A of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the word 'domestic'.

SECTION 25E. Section 38B of said chapter 63, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ', domestic business corporation or foreign' and inserting in place thereof the following word:— or business.

SECTION 25F. Said section 38B of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 14 and 15 the words ', domestic business corporation or foreign' and inserting in place thereof the following word:— or business.

SECTION 25G. Said section 38B of said chapter 63, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) A corporation taxable under this section shall not be subject to the excise imposed by section 2, 2B, 32D, or 39."; and further moved to amend by striking out section 26 and inserting in place thereof the following section:—

"SECTION 26. Section 38C of said chapter 63 is hereby repealed."; and further moved to amend by inserting after Section 26 the following 14 sections:—

"SECTION 26A. Section 38D of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic or foreign'.

SECTION 26B. Said section 38D of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 86 and 87, the words '(1)(i) of subsection (a) of section thirty-two or clause'.

SECTION 26C. Section 38E of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words 'domestic or foreign'.

SECTION 26D. Section 38F of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic or foreign' and inserting in place thereof the following word:— business.

SECTION 26E. Section 38H of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic or foreign'.

SECTION 26F. Said section 38H of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words '(1)(i) of subsection (a) of section thirty-two or clause'.

SECTION 26G. Section 38I of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic or foreign' and inserting in place thereof the following word:— business.

SECTION 26H. Section 387 of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words 'domestic or foreign'.

SECTION 26I. Section 38M of said chapter 63, as so appearing, is hereby amended by striking out, in line 1, the words 'domestic or foreign' and inserting in place thereof the following word:— business.

SECTION 26J. Said section 38M of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 28 and 29, the words ‘subsection (b) of section thirty-two, subsection (b) of section thirty-nine,’ and inserting in place thereof the following words:— subsection (b) of section 39.

SECTION 26K. Said section 38M of said chapter 63, as so appearing, is hereby amended by striking out, in lines 44 and 45, the words ‘thirty-two or’.

SECTION 26L. Subsection (a) of section 38Q of said chapter 63, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

A business corporation which commences and diligently pursues an environmental response action on or before August 5, 2005 and which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated thereunder which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2007 for any property it owns or leases for business purposes and which is located within an economically distressed area as defined in section 2 of chapter 21E; provided, however that these costs shall be no less than 15 per cent of the assessed value of the property prior to remediation; provided further, that the site was reported to the department of environmental protection; and provided further, that a credit of 50 per cent of such costs shall be allowed for any such corporation which achieves and maintains a permanent solution or remedy operation scams in compliance with chapter 21E and the Massachusetts Contingency Plan provided in 310 CMR 40.00, as amended, which does not include an activity and use limitation. Only a business corporation that is an eligible person as defined by section 2 of chapter 21E, and not subject to any enforcement action brought pursuant to chapter 2IE shall be allowed a credit.

SECTION 26M. Said section 38Q of said chapter 63, as so appearing, is hereby further amended by striking out, in line 60, the words ‘subsection (b) of section 32 or’.

SECTION 26N. Section 38S of said chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the phrase ‘domestic or foreign’.”; and further moved to amend by striking out Section 27 and inserting in place thereof the following 2 sections:—

“SECTION 27. Said chapter 63 is hereby amended by inserting after Section 38S, as so appearing, and inserting in place thereof the following 2 sections:—

Section 38T. Every business corporation which is exempt from taxation under section five hundred and one of the Code shall be subject to tax under section 39 on its unrelated business taxable income, as defined in section 512 of the Code. The property or net worth of such a corporation shall not be subject to tax under this chapter and the minimum excise under section 39 shall not apply. If a corporation has unrelated business taxable income that is taxable both within and without the commonwealth, it may apportion its net income to the commonwealth pursuant to section 38, provided that its apportionment factors shall be determined by reference only to the unrelated business activity of the corporation. The credits allowed under this chapter shall be determined only with respect to the unrelated business activity of the corporation.

An entity that is exempt from taxation under section 501 of the Code shall not be considered to be a business corporation for purposes of chapter 59.

Section 38U. (a) Notwithstanding any other provision of this chapter, the excise under this chapter of a business corporation that is a corporate trust shall be determined under this section.

(b) For purposes of this chapter, a corporate trust is a business corporation as defined in section 30 that is organized, for its full taxable year, as a partnership, association, or trust with transferable shares. However, the term ‘corporate trust’ shall not include any incorporated entity, any limited liability company, any insurance company, any business corporation within the definition of a utility corporation under section 52A, any regulated investment company as defined under section 851 of the Code, any business corporation that would have been subject to an excise under this chapter if it had been organized in its current form and doing business in the commonwealth on January 1, 2004 (whether or not it was actually so organized or doing business on such date), or any entity expressly exempted by the General Laws from the excise under this chapter. The definition of a partnership in section 30 shall not apply for purposes of this subsection.

(c) A corporate trust that does business in the commonwealth within the meaning of section 1 or 39, as applicable, shall be subject to an excise with respect to each taxable year of the greater of: (1) 5.3 percent of its taxable net income determined under section 2A or 38A, and as further modified by this section; or (2) a minimum excise of $456. Notwithstanding other provisions of law, the excise determined under this subsection shall not be subject to surtaxes imposed by existing law. A corporate trust shall not be entitled to any credits under this chapter except to the extent that equivalent credits are also available to individuals under chapter 62.

(d) In determining taxable net income of a corporate trust, there shall be excluded interest received on obligations of the United States exempt from state income taxation to the extent included in federal gross income. There shall be no deduction for dividends received. There shall be no deduction for losses incurred in other taxable years, provided that capital losses may be carried forward and, as reduced from year to year, may offset capital gains.

(e) A corporate trust shall not be treated as a business corporation for purposes of chapter 59.

(f) A corporate trust shall not be treated as a subsidiary corporation for purposes of determining the net worth of a business corporation under section 30.

(g) A corporate trust that is an S corporation as defined under section 1361 of the Code shall, in addition to the excise due under subsection (c), pay an excise with respect to each taxable year under sections 2B or 32D of this chapter, at the rates applicable thereunder (including surtax applicable with respect to section 32D), if at any time during the taxable year (i) such corporate trust owns directly or by attribution, under such rules as the commissioner may determine by regulation or otherwise, fifty percent or more (by vote or value) of the shares or other beneficial interest of a qualified subchapter S subsidiary, a limited liability company, a limited partnership, a limited liability partnership, or any similar entity providing limited liability for its holders of shares or other beneficial interest, or (ii) shares or other beneficial interest of such corporate trust are owned by a limited liability company or other entity that provides limited liability, not available at common law, for its holders of shares or other beneficial interest.

SECTION 27A. Said chapter 63 is hereby further amended by striking out section 39 and inserting in place thereof the following section:—

Section 39. Except as otherwise provided herein, every business corporation, organized under the laws of the commonwealth, or exercising its charter or other means of legal authority, or qualified to do business or actually doing business in the commonwealth, or owning or using any part or all of its capital, plant or any other property in the commonwealth, shall pay, on account of each taxable year, the excise provided in subsection (a) or (b) of this section, whichever is greater, except that an insurance mutual holding company established pursuant to chapter 175 or pursuant to the equivalent law of another state shall pay, on account of each taxable year, only the excise provided in clause (2) of subsection (a) or subsection (b), whichever is greater.

Without limitation, the excise levied herein is due and payable on any one or all of the following alternative incidents:

(1) The authority or qualification to carry on or do business in this state or the actual doing of business within the commonwealth. The term ‘doing business’ as used herein shall mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed in the commonwealth, as an incident to or by virtue of the powers and privileges acquired by the nature of such organizations, as well as, the buying, selling or procuring of services or property.

(2) The exercising or continuance of a business corporation’s charter or other means of legal authority within the commonwealth.

(3) The owning or using any part or all of its capital, plant or other property in the commonwealth.

It is the purpose of this section to require the payment of this excise to the commonwealth by a business corporation for the enjoyment under the protection of the laws of the commonwealth, of the powers, rights, privileges and immunities derived by reason of its existence and operation.

In the case of a business corporation whose taxable year is a period of less than twelve calendar months, the portion of the amount determined under clause (1) of subsection (a) shall be multiplied by a fraction whose numerator is the number of months included in the taxable year and whose denominator is 12.

(a) An amount equal to the sum of:—

(1) Seven dollars per thousand upon the value of:—

(i) its tangible property as determined to be taxable under paragraph 7 of section 30 if a tangible property corporation, or

(ii) its net worth as determined to be taxable under paragraph 9 of section 30 if an intangible property corporation; and

(2) Eight and thirty-three one hundredths per cent of its net income determined to be taxable in accordance with the provisions of this chapter.

(b) Four hundred dollars.

A business corporation shall not be subject to the income measure of tax under subsection (a)(2) if it is engaged in the business of selling tangible personal property and taxation of that business corporation under this chapter is precluded by the Constitution or laws of the United States, or would be so precluded except for the fact that the business corporation stored tangible personal property in a licensed public storage warehouse; provided, that no portion of any warehouse which is owned or leased by a consignor or consignee of the tangible personal property shall be deemed a licensed public warehouse. A business corporation exempt from the income measure of the excise under this paragraph pursuant to federal Public Law 86-272 shall nevertheless be subject to the excise under subsection (a)(1) or (b), whichever is greater."; and further moved to amend by striking out Section 28 and inserting in place thereof the following 5 sections:—

"SECTION 28. Said chapter 63 is hereby amended by striking out section 42B and inserting in place thereof the following section:—

Section 42B. Every business corporation subject to taxation under section 39 that has a usual place of business in the commonwealth, and is engaged in manufacturing therein, or engaged therein in research and development shall, for the purposes of this chapter, be deemed to be a manufacturing corporation or a research and development corporation. Every manufacturing corporation shall be taxed in the same manner and shall have the same duties under this chapter and chapter 62C as other business corporations subject to taxation under section 39, except insofar as the determination of the excise under this chapter may be affected by reason of the exemption from local taxation of the machinery of a manufacturing corporation.

A research and development corporation for the purposes of this section is a business corporation subject to tax under section 39 whose principal activity herein is research and development and which, during the taxable year, derives more than 2/3 of its receipts attributable to the commonwealth from the activity or incurs more than 2/3 of its expenditures attributable to the commonwealth allocable to the activity; provided however, that a corporation that qualifies as a research and development corporation only by reason of its expenditures shall not be entitled to the credit provided in section 31A of chapter 63 by virtue of its qualification as a research and development corporation. A corporation that is engaged in research and development and that conducts manufacturing activities shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing whether 2/3 of expenditures are allocable to research and development, whether or not the manufacturing activities of the corporation are substantial. Receipts from research and development shall include receipts from the provision of research and development services and from royalties or fees derived from the licensing of patents, know how or other technology developed from research and development. For purposes of this section, research and development is experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, the development or improvement of methods for producing products; and does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literacy, historical or similar projects. Nothing in this section shall be construed to provide for an exemption from local taxation of the machinery of a corporation deemed to be a research and development corporation which is not deemed to be a manufacturing corporation.

For purposes of this section and section 38, the development and sale of standardized computer software shall be considered a manufacturing activity, without regard to the manner of delivery of the software to the customer.

SECTION 28A. Section 52 of said chapter 63, as so appearing, is hereby amended by striking out the first 4 sentences and inserting in place thereof the following 2 sentences:— If any of the provisions of this chapter imposing an excise on business corporations as defined in subsection (1) of section 30 are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme court of the United States or of the supreme judicial court of the commonwealth, such portion of the provisions as was found to be unconstitutional or inoperative shall be null and void and shall become inapplicable to such corporations. In such event, the provisions of law, whether pursuant to this chapter or chapter 62, that (a) were applicable to such business corporations immediately prior to the enactment of the provision found to be unconstitutional or inoperative and (b) became inoperative or inapplicable in connection with the enactment of the provision found to be unconstitutional or inoperative, shall thereupon be revived and become operative and applicable in respect to such business corporations and shall be continued in full force and effect from the first day of January antedating by six years the first day of January of the calendar year in which such final judgment, order or decree is entered, to the same extent as if the provision found to be unconstitutional or inoperative had not been enacted.

SECTION 28B. Said section 52 of said chapter 63, as so appearing, is hereby further amended by striking out the last 3 sentences and inserting in place thereof the following 3 sentences:— Excises declared invalid by reason of the foregoing premises, which were assessed on or after the date when predecessor provisions of laws are revived, made operative or applicable or continued in force as herein provided, shall, to the extent that such excises have been paid and are unrefunded, be credited against the taxes assessed for the same period under the provisions of laws revived and again made operative, applicable and continued in force; provided, that if such credit exceeds the taxes due, the excess shall be refunded upon warrant of the commissioner to the state treasurer. There shall be no further or other recovery of the amounts thus credited or refunded. If any provision of this chapter other than the provisions imposing an excise shall be declared unconstitutional or inoperative, the remaining provisions shall not be affected thereby.

SECTION 28C. Subsection (1) of said section 52A of said chapter 63, as so appearing, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) 'Utility corporation' means every business corporation that is (i) an electric company and gas company subject to chapter 164; (ii) a water company and aqueduct company subject to chapter 165; (iii) a telephone and telegraph company subject to chapter 166; (iv) a railroad and railway company subject to chapter 160; and every business corporation qualified under section 131A of said chapter 160 to acquire, own and operate terminal facilities for steam, electric or other types of railroad; (v) a street railway subject to chapter 161; (vi) an electric railroad subject to chapter 162; (vii) a trackless trolley company subject to chapter 163; (viii) a pipe line company engaged in the transportation or sale of natural gas within the commonwealth; and (ix) every foreign corporation which is not subject to the above chapters but which does an electric, gas, water, aqueduct, telephone, telegraph, railroad, railway, street railway, electric railroad, trackless trolley or bus business within the commonwealth and has, prior to January 1, 1952 been subject to taxation under sections 53 to 60, inclusive.

SECTION 28D. Said chapter 63 is hereby amended by inserting after section 68A, the following section:—

Section 68B. In general, a business corporation as defined in section 30 is subject to an excise under section 39, as provided therein, and as modified by section 32D in the case of S corporations and by section 38T in the case of entities qualifying under section 501 of the Code. Notwithstanding this general rule or any other provision of this chapter, the excise under section 39 shall not apply in the case of a business corporation that is: (1) a financial institution, as defined in section 1, that is subject to excise under section 2 or 2B; (2) a security corporation as defined in section 38B and subject to excise under that section; (3) a corporate trust subject to excise under section 38U; (4) a utility corporation as defined in section 52A and subject to excise under that section; (5) an insurance company subject to excise under sections 20-29E; (6) an urban redevelopment corporation subject to excise under section 10 of chapter 121A; (7) a corporation described in sections 10 or 18 of chapter 157; (8) a corporation described in section 1 of chapter 171; (9) a corporation or other entity that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year; or (10) a business corporation otherwise expressly exempted from the excise under this chapter by any other provision of the General Laws.

SECTION 28E. Section 10 of chapter 63B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 3, the word 'domestic'."; and further moved to amend by inserting after Section 65 the following 2 sections:—

"SECTION 65A. It is the intent of provisions of this act that modify the tax treatment of corporate trusts to create general conformity with federal classification rules. It is also the intent of these provisions to ensure that any tax-free earnings and profits accumulated by an entity formerly treated as a corporate trust be subject to tax under chapter 62 or chapter 63 of the General Laws. To that end, the commissioner of revenue may adopt reasonable rules, by regulation or otherwise, to determine the method or methods by which previously untaxed amounts will be taxed to the entity, its successor, or its direct or indirect owners, partners, or beneficiaries. The commissioner may also determine reasonable transition rules for entities, including but not limited to corporate trusts and qualified subchapter S subsidiaries, and the successors, and direct or indirect owners, partners, or beneficiaries of such entities, whose tax classification is altered by this act. Such transition rules may include providing for non-recognition of gain or loss in the event of a conversion of an entity's Massachusetts tax status resulting from the provisions of this act, with corresponding adjustments to basis or other tax attributes if and as determined by the commissioner to be appropriate.

SECTION 65B. Notwithstanding any provisions of this act to the contrary, in any case in which a federal consolidated return group included, on October 27, 2004, an entity doing business in the commonwealth that was treated as a partnership for Massachusetts income tax purposes but as a corporation for federal income tax purposes and the owners of such entity were corporations reporting their Massachusetts corporation excise on a combined return pursuant to section 32B of chapter 63, the owners of such entity, or the principal reporting corporation within the Massachusetts combined return group in which such owners participate, may elect to continue to treat such entity as a partnership, provided that (a) such initial election must be made on or before the due date, including extensions, of the principal reporting corporation's corporate excise return for its first taxable year beginning on or after January 1, 2006, and may not be made by application for abatement, and (b) the owners of such entity or the principal reporting corporation must establish, to the satisfaction of the commissioner (subject to such rules or regulations as he may prescribe) that the organization and operation of such entity in a manner so as to be treated as a partnership for Massachusetts tax purposes but as a corporation for federal tax purposes was not intended to, did not, and would nor be expected to result in material avoidance of Massachusetts tax. Such election, if made, shall be binding in the year of election and in the subsequent nine taxable years (representing a total of 120 months in the event of any short taxable periods), unless the commissioner in his discretion, based on a valid business purpose, grants prior written permission to the group to terminate such election. This election is renewable as long as the owners of the entity or the principal reporting corporation continue to prove the partnership treatment was not intended to, did not, and would not be expected to result in material avoidance of the Massachusetts tax.

The benefits of an election under this section shall not be transferable. The Commissioner may terminate the effectiveness of the election in the event of one or more transactions having the effect of a change of ownership or control, whether direct or indirect, of the partnership, if he determines that such transactions were intended to, or may, have the effect of material avoidance of

Massachusetts tax.”
After remarks, the amendment was adopted.
The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed [For text of Senate amendments, see Senate, No. 2156, printed as amended]
Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Rowley to lease certain conservation land (see House, No. 1721) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-four minutes before five o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 62]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

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

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

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4200), which on Thursday, June 23, 2005, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4230) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 1599-7780 (Reserve for Essex County District Attorney's Office) was considered as follows:

"1599-7780
For a reserve for the costs of rent and relocation for the eastern district attorney's office; provided further, that no less than $118,000 shall be expended for the Norfolk district attorney's office ..... $1,358,000".

The question on passing Item 1599-7780, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before five o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 63]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **35.**
O'Leary, Robert A.	

NAYS.

Hedlund, Robert L.	Lees, Brian P. — **3.**
Knapik, Michael R.	

The yeas and nays having been completed at three minutes before five o'clock P.M., Item 1599-7780, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1599-0042 (Child Care Salary Reserve) was considered as follows:

"1599-0042
For a reserve to improve the quality of the commonwealth's child care system by enabling child care providers to better attract and retain quality staff; provided, that payments from this reserve shall be distributed by the department of early education and care to increase reimbursement rates for subsidized child care; provided further, that the increases shall be directed to expenditures for salaries, benefits, and stipends for professional development of child care workers; and provided further, that such increases may be allocated to adjust rates of reimbursement paid to each provider by the same percentage across the commonwealth ..... $12,500,000".

The question on passing Item 1599-0042, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before five o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 64]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at one minute before five o'clock P.M., Item 1599-0042, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1599-4408 (Welfare Reform Reserve) was considered as follows:

"1599-4408
For a reserve for costs incurred to comply with the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193), or any successor federal statute, including but not limited to, state work participation requirements, subsequent to the expiration of the commonwealth's federal welfare waiver on September 30, 2005, or with any additional costs or requirements imposed as a result of any legislation enacted by the general court subsequent to reauthorization of the federal temporary aid for needy families block grant; provided, that not less than $6,000,000 shall be made available to the department of transitional assistance for additional services in item 4401-1000, the employment services program, administered within the department; provided further, that not less than $6,000,000 shall be made available to the department of early education and care for additional child care vouchers and contracts, according to the provisions of item 3000-4050 and for the administration of the vouchers and contracts by child care resource and referral agencies, according to the provisions of item 3000-2000; provided further, that the secretary of administration and finance, the commissioner of the department of transitional assistance and the commissioner of the department of early education and care, shall, not later than January 15, 2006, jointly issue a preliminary report, and not later than April 1, 2006, issue a final report on planned expenditures from this item, on any federal actions impacting the state transitional assistance program, and on any legislative proposals the department may recommend in response to the actions; provided further, that, if the reports include legislative or administrative recommendations in response to federal actions, the reports shall include a description of all new requirements proposed to be imposed on recipients of transitional aid to families with dependent children as a result of federal actions, an analysis of the individuals proposed to be subject to work requirements as a result of the actions, including an analysis of which individuals may reasonably be expected to obtain employment with proper assistance and which require an alternative plan or strategy for achieving self-sufficiency, and a detailed plan for addressing the needs of any recipient who would be subject to work requirements under such proposal; provided further, that the reports shall be provided to the chairpersons of the house and senate

ways and means committees, the house and senate chairpersons of the joint committee on children and families and the house and senate chairpersons of the joint committee on education; and provided further, that nothing in the foregoing authorizes the department of transitional assistance to impose rules or requirements that are not authorized by section 110 of chapters of the acts of 1995 ..... $12,000,000".

The question on passing Item 1599-4408, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes past five o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 65]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
McGee, Thomas M.	Spilka, Karen E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	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 five minutes past five o'clock P.M., Item 1599-4408, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1775-0100 (Operational Services Division Administration Account) was considered as follows:

“1775-0100
For the operation of the operational services division; provided, that the division shall expend funds for the purpose of achieving savings pursuant to provisions included in this act; provided further, that notwithstanding any general or special law to the contrary, the division of purchased services of the operational services division which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2006 by increasing the final fiscal year 2005 price by the rate of inflation as determined by the division; provided further, that the division shall also adjust prices for Extraordinary Relief, as defined in 808 CMR 1.06(4); provided further, that the department shall accept applications for Program Reconstruction in fiscal year 2006; provided further, that programs for which prices in fiscal year 2005 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2006 the full price calculated for fiscal year 2005 adjusted by the rate of inflation as determined by the division; provided further, that upon the request of a program, the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers; and provided further, that the division shall determine said minimum price for out-of-state purchasers by identifying the most recent price calculated for the program and applying the estimated rates of inflation which are established by December 1 of each year pursuant to section 274 of chapter 110 of the acts of 1993 in a compounded manner for each fiscal year following the most recent calculated price ..... $2,033,309”.

The question on passing Item 1775-0100, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at six minutes past five o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 66]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.

Morrissey, Michael W. Walsh, Marian
Murray, Therese Wilkerson, Dianne —
38.

NAYS — 0.

The yeas and nays having been completed at nine minutes past five o'clock P.M., Item 1775-0100, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2000-0100 (Office of the Secretary of Environmental Affairs) was considered as follows:

"2000-0100
For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the Affairs. coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control chapter program, and a central data processing center for the secretariat; provided, that the secretary of environmental affairs may enter into interagency agreements with any line agency within the secretariat, whereby the line agency may render data processing services to said secretary; provided further, that the comptroller may allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided further, that the secretary shall file a plan with the house and senate committees on ways and means and to the joint committee on the environment, natural resources and agriculture 90 days prior to the initiation of any proposal or plan that would consolidate any function with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided further, that the plan shall include, but not be limited to the following: (1) an identification of the employees that would be affected by consolidation and the item of appropriation that they are paid from, (2) the savings or efficiencies to be realized, (3) the improvements to the services expected, and (4) the source and amount of funding necessary to accomplish the consolidation; and provided further, that the secretary shall provide a 90 day notice prior to the implementation of any memorandum of understanding, interagency service agreements, or other contacts, or agreements that would enable such consolidation of services to take place; provided further, that $75,000 shall be expended for a study of traffic patterns during rush hour commutes on department of conservation and recreation controlled roadways serving Lynn, Swampscott and Nahant; 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; provided further, that not less than $50,000 shall be transferred to the Boston Harbor Islands Alliance for costs associated with the new visitor contact station known as the Harbor Park Pavilion on Parcel 14 of the Rose Kennedy Greenway; provided further, that funds may be expended for volunteer water monitoring grants; provided further, that not less than $50,000 shall be expended for new flood insurance rate maps for Salisbury beach; and provided further, that $150,000 shall be expended for a coastal water quality and natural resource monitoring program in Buzzards Bay administered by the Coalition for Buzzards Bay
..... $6,309,486".

The question on passing Item 2000-0100, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at ten minutes past five o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 67]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P. — **3.**
Knapik, Michael R.	

The yeas and nays having been completed at thirteen minutes past five o'clock P.M., Item 2000-0100, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2310-0200 (Division of Fisheries and Wildlife) was considered as follows:

"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 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; and 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; provided further, that funds may be expended to supplement the natural heritage and endangered species program; provided further, that $50,000 in matching funds

shall be provided to the National Marine Life Center for wetland restoration; provided further, that the executive office shall conduct a study on the severity of invasive weeds in the commonwealth's bodies of natural water; provided further, that said study shall include, but not be limited to the costs associated with full clean-up and eradication, a priority list of projects, an analysis of future environmental concerns stemming from invasive weeds, and plans for communities to prevent future growth of invasive weeds; provided further, that the executive office shall also conduct a study of the advantages and disadvantages of future maintenance of invasive weeds in the state; and provided further, that the executive office shall report to the general court the results and recommendations, if any, together with drafts of legislation necessary to carry out recommendations into effect by filing the same with the clerk of the house of representatives, the house and senate committees on ways and means, and the joint committee on environment, natural resources and agriculture on or before the last Wednesday of February 2006 ..... $8,700,000".

The question on passing Item 2310-0200, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes past five o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 68]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **36.**

NAYS.

Knapik, Michael R.	Lees, Brian P. — **2.**

The yeas and nays having been completed at sixteen minutes past five o'clock P.M., Item 2310-0200, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 2800-0100 (Department of Conservation and Recreation) was considered as follows:

“2800-0100
For the operation of the department of conservation and recreation; provided, that said department shall enter into an interagency service agreement with the department of state police to provide police coverage on department of conservation and recreation properties and parkways; provided further, that not less than $100,000 shall be expended within thirty days of receipt of said funds, for the maintenance of the facility and animal upkeep of the mounted unit in the Blue Hills Reservation, which are not subject to said reimbursement to the department; provided further, that the department of state police shall reimburse said department of conservation and recreation for costs incurred by said department including, but not limited to vehicle maintenance and repairs, the operation of department of state police buildings and other related costs; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions of the division performing construction activities for the department of conservation and recreation shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that notwithstanding the provisions of section 313 of chapter 7 of the General Laws, the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of said department; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 14, 2006; provided further, that notwithstanding the provisions of any general or special law or administrative bulletin to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the operational services division; 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; provided further, that no funds shall be expended from this item for personnel overtime costs; provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation; provided further, that the department of conservation and recreation shall provide the house and senate committees on ways and means with a 30 day notice before any inter subsidiary transfers or interagency service agreements and the reason for said transfer; provided further, that no funds shall be expended for deputy commissioner positions; provided further, that no funds shall be expended for deputy associate commissioners; provided further, that the department shall maintain and retain all operations, programs, real property and employees related to the Connecticut River Action Program to promote the conservation and protection of the unique natural resources present in the Connecticut river valley; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and means not later than October 6, 2005 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, designated by fiscal year, and the positions of all hall time equivalent, personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004, August 1, 2004, March 1, 2005 and August 1, 2005, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by object class and object code of all expenditures or allocations from items of appropriations under the executive office of environmental affairs in fiscal years 2004 and 2005 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, their annual salaries and their duties, (5) the number of full time equivalent positions, that have been eliminated due to said merger, including the name, position, annual salary and documentation that said employee is no longer employed by the department because their position had been eliminated by the merger, (6) any efficiencies that have been achieved from said merger, including a list of internal support services such as finance, human resources, planning, engineering, and management, (7) a list of the staff that were reassigned or terminated because of the merger, (8) details of how the management staff have been reassigned and how they have adopted to said merger, (9) a list of all duplicative efforts and inefficient systems that have been eliminated, (10) a list of any resources that have been shared such as vehicles, heavy equipment, and computer systems, (11) a list of any other efficiencies that have been achieved because of the merger; provided farther, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways and means not later than October 6, 2005, that shall include, but not be limited to, the following: (1) the number of full time equivalent positions delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2006 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2006 inclusive delineated by fiscal year, program and item of appropriation and, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001; and provided further, that notwithstanding any general or special law to the contrary, the department shall enter into a maintenance contract with a suitable vendor for the purposes of daily trash removal on Revere Beach from May 30, 2005, to September 5, 2005, inclusive, and said maintenance contract shall be funded through proceeds received by the city of Revere and the department of conservation and recreation pursuant to section 29 of chapter 236 of the acts of 2002 and section 2 of this act $5,477,272

After debate, the question on passing Item 2800-0100, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-seven minutes before six o'clock P.M., as follows, to wit (yeas 29 — nays 9) **[Yeas and Nays No. 69]**:

YEAS

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.
Havern, Robert A.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — **29.**
McGee, Thomas M.	

NAYS.

Brown, Scott P.	Panagiotakos, Steven C.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tucker, Susan C. **— 9.**
O'Leary, Robert A.	

The yeas and nays having been completed at twenty-four minutes before six o'clock P.M., Item 2800-0100, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4260) of Ronald Mariano relative to independent licensed insurance providers; **Under suspension of Joint Rule 12, to the committee on Financial Services.**

Petition (accompanied by bill, House, No. 4259) of Bradley H. Jones, Jr. and others relative to the provision of water services to the town of Reading by the Massachusetts Water Resources Authority;
Under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.

Petition (accompanied by bill, House, No. 4261) of Kathleen M. Teahan and others relative to the retirement classification of certain fire fighters in the Bureau of Forest Fire Control;
Under suspension of Joint Rule 12, to the committee on Public Service.

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

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4200), which on Thursday, June 23, 2005, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4230) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 2820-0100 (Division of Urban Parks and Recreation — Operation) was considered as follows:

"2820-0100
For the administration, operation and maintenance of the division of urban parks and recreation, including for the maintenance, operation and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody and control of the division, flood control activities of the division, purchase of all necessary supplies and related equipment, and the civilianization of crossing guards located at division intersections where state police previously performed such duties; provided, that the parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that not less than $3,902 shall be expended on additional school crossing guards for the corner of Mystic avenue and Shore drive in the city of Somerville; provided further, that the school crossing guards for the corner of Mystic avenue and Shore drive in the city of Somerville shall be named the Senator Charles E. Shannon Crossing Guard Corps; provided further, that not less than $380,000 shall be expended for the purposes of installing lighting at the Stadium at Dilboy field along state highway route 16 in the city of Somerville, pursuant to the construction and renovation project authorized by chapter 352 of the acts of 2004; provided further, that $45,000 shall be expended on the maintenance of Red Rock park on Lynn Shore drive, in the city of Lynn; provided further, that $60,000 shall be expended for funding of current employees of the bureau of forest fire control under their new reclassification firefighter services; provided further, that $225,000 shall be expended for maintenance and infrastructure repair of the southwest corridor park; provided further, that $50,000 shall be expended for flood mitigation at Fellsmere pond; provided further, that not less than $50,000 shall be expended for the purposes of trash removal on Revere beach between May 30th and September 5th, which shall match proceeds generated pursuant to section 29 of chapter 236 of the acts of 2002; provided further, that $297,000 shall be expended for the James Michael Curley Recreation Center in the city of Boston; provided further, that $40,000 shall be provided for 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; and 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 provided further, that the commissioner shall develop a capital project plan to enact the recommendation of the traffic study, including design and implementation; provided further, that $95,000 shall be allocated for a private contractor to maintain the department of conservation and recreation Lynn Shore Drive facility; provided further, that the commissioner shall submit this plan for the next fiscal year budget following the completion of the traffic study; provided further, that $250,000 shall be expended for the creation and maintenance of a linked trail system for local and state parks along the Back River in the towns of Weymouth and Hingham to complete the project created in chapter 149 of the acts of 2004; 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; 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 ..... $23,608,929".

The question on passing Item 2820-0100, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 70]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
McGee, Thomas M.	Spilka, Karen E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	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 twenty minutes before six o'clock P.M., Item 2820-0100, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 23 (Quincy IGT) was considered as follows:

SECTION 23. Notwithstanding any general or special law or regulation to the contrary, including section 407 of chapter 149 of the acts of 2004, which is superseded by this section, the executive office of health and human services shall expend, subject to the availability of federal financial participation, an amount not less than $34,984,000 and not more than $40,000,000 from the medical assistance intergovernmental transfer account in the Uncompensated Care Trust Fund and from allowable certified public expenditures made by the city of Quincy for the benefit of Quincy Medical Center hereinafter referred to as the hospital for supplemental Title XIX rate payments to the hospital. The payments shall be established in accordance with Title XIX of the federal Social Security Act or any successor federal statute, any regulations promulgated thereunder, and the commonwealth's title XIX state plan. No payment authorized under this section shall be made to the hospital unless: the hospital has executed the executive office's then-current acute hospital request for applications and contract; the city of Quincy makes an intergovernmental funds transfer of not more than $5.393 million; the hospital agrees that the portion of the payment it receives pursuant to this section that is attributable to the city's intergovernmental funds transfer and the federal matching funds associated with such transfer will, when received by the hospital, not be transferred to any third party other than an agent of the hospital for investment purposes or in the ordinary course of the hospital's providing patient care services; and the hospital repays directly to the commonwealth, rather than to the city of Quincy, the entire amount of the state loan due from the city of Quincy pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003. The hospital's repayment of the state loan as provided for in this section shall extinguish the city's obligation to the commonwealth under said chapters 101 and 47. The city's intergovernmental funds transfer and the proceeds of the hospital's repayment of the state loan, as provided for in this section, shall be credited to the medical assistance intergovernmental funds transfer account in the Uncompensated Care Trust Fund and shall be administered in accordance with the provisions of this section and of subsection (o) of section 18 of chapter 118G of the General Laws. Upon the hospital's payment of the state loan, the comptroller shall transfer from said account an amount that is not less than $2,662,200 for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. Upon the hospital's payment of the state loan, the comptroller shall also transfer an amount not less than 30 per cent of the remaining funds made available for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. The hospital's repayment of the state loan, as provided for in this section, and the division's making the supplemental payments authorized by this section may occur simultaneously. Any federal funds received by the commonwealth as a result of supplemental payments made to the hospital through certified public expenditures of the city of Quincy shall be dedicated for a payment to the city of Quincy.

The question on passing Section 23, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes before six o'clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 71]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **34.**

NAYS.

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Tisei, Richard R. — **4.**

The yeas and nays having been completed at sixteen minutes before six o'clock P.M., Section 23 stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1000-0001 (Office of the State Comptroller) was considered as follows:

"1000-0001
For the office of the state comptroller for the purpose and cost of compliance with the Single Audit Act of 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 2006 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of the audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of $750,000 to other items of appropriation for the cost of the audit; provided further, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be retained and expended from a separate item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of $1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided further, that 60 days before entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this section; and provided further, that the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws ..... $8,448,692".

The question on passing Item 1000-0001, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at a quarter before six o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 72]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.

Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
McGee, Thomas M.	Spilka, Karen E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	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 twelve minutes before six o'clock P.M., Item 1000-0001, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1107-2400 (Office on Disability) was considered as follows:

"1107-2400
For the office on disability; provided, that $125,000 shall be used to develop training materials for employees working in the state house on the Americans With Disabilities Act, including how to assist people with disabilities within the state house ..... $730,280".

The question on passing Item 1107-2400, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes before six o'clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 73]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.

Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **34.**

NAYS.

Brown, Scott P.	Knapik, Michael R.
Hedlund, Robert L.	Lees, Brian P. — **4.**

The yeas and nays having been completed at nine minutes before six o'clock P.M., Item 1107-2400, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 3000-1000 (Department of Early Education and Care Administration) was considered as follows:

"3000-1000
For the administration of the department of early education and care and the costs of field operations and licensing provided through the department; provided, that funds from this item shall be expended to develop an implementation plan for a workforce development system in collaboration with the board and chancellor of higher education, pursuant to section 5 of chapter 15D of the General Laws; provided further, that funds from this item shall be expended on the development and piloting of a kindergarten readiness assessment system that is educationally sound; provided further, that funds from this item shall be expended on the development of a comprehensive evaluation system for all early education and care programs in the commonwealth; provided further, that, not later than November 30, 2005, the department shall report to the secretary of administration and finance, the chairpersons of the joint committee on education, and the chairpersons of the house and senate ways and means committee on the information technology needs of the department, including the cost of a comprehensive database of early childhood educators and providers for the purpose of enhancing the workforce development system, and a database of children both waiting for and receiving early education and care services which is compatible with the SIMS database, and any other relevant database at the department of education or the executive office of health and human services; provided further, that the report shall also include an analysis of the costs associated with the development of a comprehensive and scientifically valid longitudinal study of the effectiveness of various early education and care programs and services, including but not limited to, comprehensive and consistent pre-school services provided to children from the age of two years and nine months through entrance into kindergarten; provided further, that the department shall report quarterly to the joint committee on education, the joint committee on children and families, the house and senate committees on ways and means, and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized early education and care programs and services; provided further, that notwithstanding chapter 66A of the General Laws to the contrary, the department of early education and care, the lead agencies of community partnership councils, the child care resource and referral agencies, the department of education, the department of transitional assistance, the department of social services, and the department of public health may share with each other personal data regarding the parents and children who receive services provided under early education and care programs administered by the commonwealth for waitlist management, program implementation and evaluation, reporting, and policy development purposes; provided further, that the commissioner of the department of early education and care may transfer funds between items 3000-1000, 3000-2000, 3000-4000, 3000-4050, 3000-5000, 3000-7050, 3000-7060, and 3000-7070, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that no more than 5 percent of any item may be transferred in fiscal year 2006; and provided further, that the department shall consult with the department of education and the executive office of health and human services to ensure continuity in the grant process ..... $9,570,077".

The question on passing Item 3000-1000, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before six o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 74]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.

Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at six minutes before six o'clock P.M., Item 3000-1000, contained in Section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 3000-6000 (Department of Early Education and Care — Quality Expenditures) was considered as follows:

"3000-6000
For early education and care quality expenditures; provided, that, notwithstanding the provisions of any general or special law to the contrary, services funded by this item shall be provided by the department of early education and care established pursuant to chapter 15D of the General Laws; provided, that not less than $1,321,145 shall be expended for activities to increase the supply of quality early education and care for infants and toddlers; provided further, that not less than $1,000,000 shall be expended for resource and referral services provided through item 3000-2000; provided further, that not less than $234,248 shall be expended for school-age child care activities; provided further, that no funds from this item shall be used to fund capital assets or equipment for for-profit providers or agencies; provided further, that no funds shall be expended for the DD object class expenses of the department, out of state travel, bottled water, chargebacks, office equipment, prior year deficiencies, or the Virtual Gateway system; and provide. further, that no funds shall be expended, obligated or transferred from this item prior to the submission of written certification by the commissioner to the house and senate committees on ways and means that all planned expenditures and allocations from this item shall have no fiscal impact beyond fiscal year 2006 ..... $4,120,403".

The question on passing Item 3000-6000, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, at five minutes before six o'clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 75]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.

Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **34.**

NAYS.

Brown, Scott P.	Knapik, Michael R.
Hedlund, Robert L.	Lees, Brian P. — **4.**

The yeas and nays having been completed at two minutes before six o'clock P.M., Item 3000-6000, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0300 (Division of Medical Assistance Administration) was considered as follows:

"4000-0300
For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are en to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated herein shall be expended for the administrative, contracted services and non-personnel systems costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided further, that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E of the General Laws shall be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed

current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house multiple agencies within the secretariat shall be performed within existing resources: provided further, that funds appropriated herein shall be expended for the administrative, contracted services and non-personnel systems costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided further. that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E of the General Laws shall be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, to providers by item of appropriation from which said payments were made; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, for fiscal year 2006 the definition of a rural hospital shall mean an acute care hospital as defined under section twenty-five B of chapter 111 of the General Laws and licensed under said chapter 111, which: (1) has been designated by the executive office as a rural hospital based on bed size, city or town population, and population density of the city, town, service area or county as determined by the executive office through regulation; or (2) is a hospital currently designated as a Critical Access Hospital by the Federal Department of Health and Human Services in accordance with federal regulations and state requirements; provided further, that the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed at certain hospitals or by community health centers which are funded in whole or in part by federally permissible in-kind services or provider donations from the hospitals or health centers, shall be credited to this item and may be expended without further appropriation in an amount specified in the agreement with each donating provider hospital or health center; provided further, that the federal financial participation received from claims filed based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the so-called “covering kids initiative” and in accordance with the federal revenue criteria in 45 CFR 74.23 or any other federal regulation which provides a basis for federal financial participation, shall be credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement with the organizations participating in the initiative; provided further, that a hospital with a unit designated as a pediatric specialty unit, or which maintains a level 1 burn and trauma center for pediatrics as defined in this item shall be exempt from the inpatient and outpatient efficiency standards being applied to their rate methodology; provided further, that notwithstanding section 1 of chapter 118G of the General Laws or any general or special law to the contrary, for fiscal year 2006 the definition of a ‘pediatric specialty unit’ shall mean a level 1 burn and trauma center for pediatrics or a pediatric unit of an acute care hospital in which the ratio of licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20; provided further, that in calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds, and the total of all licensed hospital beds shall include the total of all licensed acute care hospital beds, consistent with Medicare’s acute care hospital reimbursement methodology as put forth in the Provider Reimbursement Manual Part 1, Section 2405.3G; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that federal reimbursements received for administrative expenditures made pursuant to this item shall be credited proportionally to the General Fund and the Children’s and Seniors’ Health Care Assistance Fund, established under section 2FF of chapter 29 of the General Laws, in the same percentages as expenditures are made from this item; provided

further, that in fiscal year 2006, the executive office of health and human services shall include within its MassHealth covered services comprehensive dental benefits which were in effect on January 1, 2002, for pregnant women and mothers until their youngest child reaches the age of 3; provided further, that in fiscal year 2006, the executive office of health and human services shall include within its MassHealth covered services smoking and tobacco use cessation treatment and information for pregnant women and mothers until their youngest child reaches the age of 3; provided further, that smoking and tobacco use cessation treatment and information benefits shall include nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician; provided further, that the executive office shall take all necessary steps to ensure that the comprehensive dental benefits and smoking and tobacco cessation treatment and information benefits shall be eligible for federal reimbursement; and provided further, that the executive office shall promulgate regulations establishing the smoking and tobacco use cessation treatment and information benefit program; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003, except as provided in item 4000-1401; provided further, that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that in calculating rates of payment for children enrolled in MassHealth receiving inpatient services at acute care pediatric hospitals and pediatric specialty units as defined in section 1 of chapter 118G of the General Laws, the executive office 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% of the expenses incurred in providing services to those children: provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2005; provided further, that said executive office in fiscal year 2006 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; provided further, that not later than September 1, 2005, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing reasons for increases in chargebacks between fiscal years 2005 and 2006 for all 17 executive office cluster agencies including, but not limited to, service rates used in determining each charge type, number of staff hours per agency per service type, and a subsequent explanation as to how the increases result in a cost savings for each agency and the commonwealth, and why there is no subsequent decrease in either the cluster agency's or the executive office's administrative costs; and provided further, that the report shall provide a detailed explanation and crosswalk of the transition of both funding and staff members from each agency to the executive office in fiscal years 2005 and 2006 for consolidation of centralized services; provided further, that the executive office, in consultation with the division of health care finance and policy, shall submit a report on the implementation of the "virtual gateway" project; provided further, that the report shall include, but not be limited to: (i) a list of providers that used the virtual gateway system in hospital fiscal year 2005; (ii) a list of providers who are scheduled to receive the virtual gateway system in hospital fiscal year 2006; (iii) an assessment of the current capability of the virtual gateway to screen eligibility for multiple health and human services benefits; (iv) the number of applications for MassHealth filed through the virtual gateway delineated by provider and MassHealth program; (v) the approval rate of MassHealth applications filed through the virtual gateway compared to applications filed through other means and the impact on overall MassHealth enrollment; (vi) the average time required for approval of applications filed through the virtual gateway; (vii) an assessment of the impact of the virtual gateway system on free care costs at participating providers compared to non-participating providers in hospital fiscal year 2005; (viii) a survey of participating hospitals measuring the decreased or increased administrative costs for hospital staff; and (ix) the total state cost of the virtual gateway project in state fiscal years 2005 and 2006 and the amount of expected federal participation received for those expenditures; provided further, that the executive office shall submit its report to the chair of the house and senate committees on ways and means, and the chair of the joint committee on health care financing not later than February 1, 2006; provided further, that in determining the inpatient and outpatient nonacute hospital rates of payment, the executive office and its contractors shall utilize a payment methodology so that rates of payment are not less than those in effect during fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, the executive office shall adopt regulations which restrict eligibility and covered services only after public notice and hearing ..... $126,159,490".

The question on passing Item 4000-0300, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute before six o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 76]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **36.**

NAYS.

Knapik, Michael R.	Lees, Brian P. — **2.**

The yeas and nays having been completed at six o'clock P.M., Item 4000-0300, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0500 (MassHealth Managed Care) was considered as follows:

"4000-0500
For health care services provided to medical assistance recipients under the executive office's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the executive office; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly

stated herein; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap; provided further, that the secretary shall submit a report to the house and senate committees on ways and means which shall include MassHealth enrollment in a managed care organization as of July 1, 2005 compared to said enrollment on December 1, 2005; provided further, that said report shall be submitted not later than December 15, 2005; provided further, that the secretary of health and human services and the commissioner of mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the executive office to administer the mental health and substance abuse benefit; provided further, that such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health; provided further, that in conjunction with the new medicaid management information system project, said executive office study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that said secretary shall report to the house and senate committee on ways and means not later than February 1, 2006 the results of said study, any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further, that not less than $12,000,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units, including pediatric chronic and rehabilitation long-term care hospitals as allowable under federal law; and provided further, that $11,700,000 shall be expended on disproportionate share payments to high public payer hospitals ..... $2,102,005,676”.

The question on passing Item 4000-0500, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute past six o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 77]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian

Murray, Therese Wilkerson, Dianne —

38.

NAYS — 0.

The yeas and nays having been completed at three minutes past six o'clock P.M., Item 4000-0500, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0600 (MassHealth Long-Term Care Services) was considered as follows:

"4000-0600
For health care services provided to medical assistance recipients under the department's senior care plan; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than $9,240,000 shall be expended for a demonstration project known as the 'community choices' initiative; provided further, that under the demonstration, eligible MassHealth enrollees in the section 2176 elder care waiver shall be covered for any needed community services, including case management, from among those services available under the waiver or under the commonwealth's Title XIX state plan, for the purpose of delaying or preventing an imminent nursing home admission; provided further, that elders enrolled in the waiver at risk of imminent nursing home admission shall be provided information about the availability of such services; provided further, that for elders who have been determined to be at such imminent risk, have chosen to remain in the community, and for whom community care is medically appropriate, the department shall establish a funding level that, on a monthly average basis, is equal to 50 per cent of the median monthly per capita expenditure made by the department for nursing facility services provided to elders; provided further, that such funding level may include the costs of needed waiver services or other needed community services available to the elders under the state plan; provided further, that the executive office shall enter into an agreement with each aging service access point participating in the demonstration, which shall describe a system to be followed by each aging service access point, in accordance with state law and requirements under Title XIX of the Social Security Act, for coordination of both waiver and non-waiver community services needed by such eligible elders; provided further, that each aging services access point receiving funds under the demonstration project shall submit monthly reports to the executive office of health and human services and to the executive office of elder affairs on the care provided and the service expenditures made under the 2176 elder care waiver and such other information as specified by the department and the executive office; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the 'community choices' initiative in fiscal year 2006 delineated by federal poverty level; provided further, that the report shall be submitted not later than February 1, 2006; provided further, that in the event the division of health care finance and policy conducts or utilizes an audit of nursing facilities' calendar year 2002 base year costs for the purpose of reducing rates below levels that would be in effect in the absence of the audit, the division shall disallow no more than $22,000,000 in the aggregate in fiscal year 2006 rates; provided further, that notwithstanding any general or special law to the contrary, the regulations, criteria and standards for determining admission to and continued stay in a nursing home in fiscal year 2006 shall not be more restrictive than those regulations, criteria and standards in effect on January 1, 2004 until the executive office of health and human services and the executive office of elder affairs submit a multi-year plan to the house and senate committees on ways and means and the joint committee on health care financing detailing the suggested timeline for phasing in changes to nursing home clinical criteria, provided that these changes shall not adversely affect current nursing home residents and shall not jeopardize the effectiveness of the 2176 home and community based waiver; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or nonacute chronic disease hospital that provides kosher food to its residents, the department, in consultation with the division, in recognition of the unique special innovative program status granted by the executive office, shall for any nursing home or nonacute chronic disease hospital that provides kosher food to its residents, establish the lower of (1) actual increased cost; or (2) up to a $5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food and shall apply such increase effective July 1, 2003; provided further, that not less than $75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003; 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; provided further, that the department shall in correlation with the senior care options program explore options for enrolling the senior care population into managed care programs through federal waivers or other necessary means; provided further, that the secretary of elder affairs may transfer not more than 3 per cent of funds appropriated in this item to item 4000-0620; provided further, that the executive office shall provide written notice to the house and senate committees on ways and means not less than 30 days prior to any transfer; 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 15 per cent more than the fiscal year 2005 medicaid reimbursement per patient day received by such a facility; 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; and 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 ..... $1,890,925,627".

The question on passing Item 4000-0600, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at four minutes past six o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 78]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at six minutes past six o'clock P.M., Item 4000-0600, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4000-0112 (Matching Grants to Municipalities) was considered as follows:

"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 $2,000,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs; 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 be expended for programs and improvements at the Haverhill YWCA; 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 including, but not limited to, capital projects in the town of Norwood, the West Roxbury section of Boston, East Boston, Woburn, Bedford and in other cities and towns within the greater Boston area; 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 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; provided further, that no less than $125,000 shall be expended for the Greater Worcester YMCA Youth Programs; provided further, that not less than $50,000 shall be expended for the Chelsea YMCA for building rehabilitation purposes; provided further, that not less than $40,000 shall be expended for the Saugus YMCA; provided further, that not less than $50,000 shall be expended to the Franklin Community Action Corporation for youth service; provided further, that not less than $150,000 shall be expended for nonprofit Youth Services in Andover; provided further, that not less than $25,000 shall be expended for the Southwick Recreation Center, Inc.; and provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amount distributed in fiscal year 2006 by March 1, 2006 ..... $3,610,000”.

The question on passing Item 4000-0112, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past six o’clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 79]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.

Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
Knapik, Michael R.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P. — **3.**
Hedlund, Robert L.	

The yeas and nays having been completed at nine minutes past six o'clock P.M., Item 4000-0112, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4190-0102 (Holyoke Soldiers' Home Pharmacy Co-payment Retained Revenue) was considered as follows:

"4190-0102
The Soldiers' Home in Holyoke may expend for the outpatient pharmacy program an amount not to exceed $225,000 from co-payments which it may charge to users of the program; provided, that no co-payments shall be imposed or required of any person which exceed the level of co-payments charged in fiscal year 2005; provided further, that no funds appropriated in this item shall be expended until the superintendent has submitted a report to the secretary and the house and senate committees on ways and means detailing projected expenditures for fiscal years 2006 and 2007 and any and all assumptions used to project outpatient pharmacy spending for the outpatient pharmacy program from this item and item 4190-0100 by September 1, 2005; provided further, that said superintendent shall submit a report to said secretary and the house and senate committees on ways and means that shall include, but not be limited to, demographic information on said outpatient pharmacy users, including age and insurance status, utilization information for the outpatient pharmacy, including the number of generic prescriptions filled, the number of brand name prescriptions filled, the number of 30-day supplies of generic drugs dispensed, the number of 30-day supplies of brand name drugs dispensed, and a description of said Soldiers' Home's drug utilization review program for the first two quarters of fiscal year 2006; provided further, that said report shall be submitted not later than January 16, 2006; and provided further, 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 Soldiers' home 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 ..... $225,000".

The question on passing Item 4190-0102, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at ten minutes past six o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 80]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.

Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at twelve minutes past six o'clock P.M., Item 4190-0102, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4403-2000 (Transitional Aid to Families with Dependent Children) was considered as follows:

"4404-2000
For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law, or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2005; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be 2~ per cent below the otherwise applicable payment standard, in fiscal year 2006, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify all teen parents receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5; provided further, that a $40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of $150 shall be provided to each child eligible under this program in September, 2005; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September, 2005; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the 3 month period after such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care;

provided further, that the department shall provide oral and written notification to all recipients of their child care benefits on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits, transitional benefits and post-transitional benefits; provided further, that the department shall work with the department of early education and care to ensure that both recipients currently receiving benefits and former recipients during the 1 year period after termination of benefits are provided written and verbal information about child care services; provided further, that the notice shall further advise recipients of the availability of food stamps benefits; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the text of and basis for such proposed changes; and provided further, that not less than $418,074 shall be expended for the purposes of the operation of the Transportation Assistance Program operated by the Traveler's Aid Society ..... $312,868,845".

The question on passing Item 4403-2000, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past six o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 81]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
McGee, Thomas M.	Spilka, Karen E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	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 a quarter past six o'clock P.M., Item 4403-2000, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4403-2120 (Emergency Assistance Family Shelters) was considered as follows:

"4403-2120
For certain expenses of the emergency assistance program as follows: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers; and (vi) voucher shelters; provided, that eligibility shall be limited to families with income at or below 130 per cent of the federal poverty level; provided, however, that any family whose income exceeds 130 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 130 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow some or all of the portion of their income which exceeds 130 per cent of the federal poverty level; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further that the family shall be allowed to withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that eligible households shall be placed in shelters as close as possible to their home community unless a household requests otherwise; provided further, if the closest available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date unless the household requests otherwise; provided further, that eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any nonshelter benefit; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; provided further, that the department shall make every effort to insure that children receiving services from this item shall continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso; provided further, that notwithstanding any other general or special law to the contrary, the department shall immediately provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department; provided further, that the department shall not impose unreasonable requirements for third-party verification and shall accept verifications from the family whenever reasonable; provided further, that the department shall within 30 days of the effective date of this act revise its regulations to implement the preceding proviso: provided further, that in promulgating, amending or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated in this item; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item; provided further, that nothing in the preceding proviso shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means an unduplicated count of families who apply for emergency assistance funded family shelter during the fiscal year; provided further that the report shall include the total number of applications received, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the number of families who are approved for shelter benefits within 12 months of an initial denial, the home community of families receiving shelter, the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, the reasons that families exit shelters, including reasons for voluntary departure and termination, exiting families' housing plans, including type of housing arrangements, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter; provided further, that the report shall also include a status report on the outcomes of department-funded homelessness prevention initiatives, providing information on the nature and total cost of each such initiative, the number of families served by

each such initiative, the average cost per family of each such initiative, the affordability and stability of housing or alternative shelter placements for prevention program recipients, including type of housing arrangement, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of state-funded homeless prevention programs; and provided further, that not less than $179,381 shall be obligated for capital projects and related facility upgrades at the Crossroads Family Shelter in East Boston ..... $73,600,000”.

The question on passing Item 4403-2120, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at sixteen minutes past six o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 82]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
Knapik, Michael R.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**
Nuciforo, Andrea F., Jr.	

NAYS.

Lees, Brian P. — **1.**

The yeas and nays having been completed at eighteen minutes past six o'clock P.M., Item 4403-2120, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4408-1000 (Emergency Aid to the Elderly, Disabled and Children) was considered as follows:

"4408-1000
For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for such aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefor; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or noncitizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates the individual's capacity to support himself and which has been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under chapter 118 and under the separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that no person incarcerated in a correctional institution shall be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other

disability screening process or costs associated with verifying disability for this program; provided further, that the department shall promulgate emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted in this item at the payment standard in effect for the foriiier general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated in this item; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing in this item shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency aid to the elderly, disabled and children program, or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available in this item shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available in this item; and provided further, that notwithstanding any general or special law this item to the contrary, 60 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes ..... $70,079,481".

The question on passing Item 4408-1000, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes past six o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 83]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**
Nuciforo, Andrea F., Jr.	

NAYS.

Hedlund, Robert L.—
1.

The yeas and nays having been completed at twenty-one minutes past six o'clock P.M., Item 4408-1000, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4510-0600 (Environmental and Community Health Hazards Programs) was considered as follows:

"4510-0600
For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter 482 of the acts of 1993, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists and the administration of the division of environmental epidemiology and toxicology for the purposes of chapter 470 of the acts of 1983, the 'Right-to-Know' law; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of 100 per cent of the amounts so expended; provided further, that $100,000 shall be expended for a renal disease program administered by the National Kidney Foundation of Massachusetts, Rhode Island and Vermont for nutritional supplements and early intervention services for those affected by renal disease and those at risk of renal disease; provided further, that not less than $100,000 shall be expended for the purposes of research and prevention activities associated with Lyme Disease, so called, to be conducted by the Barnstable County Department of Health and the Environment; provided further, that not less than $14,800 shall be allocated to the Franklin Regional Council of Governments for costs associated with the regional public health program; provided further, that not less than $81,000 shall be expended for the maintenance of a statewide lupus database; provided further, that $150,000 shall be expended for the ALS registry created by section 26 of chapter 140 of the acts of 2003; provided further, that $195,000 shall be expended for the purpose of the director of the bureau of environmental health assessment of the department of public health to continue an environmental risk assessment of the health impacts of the General Lawrence Logan Airport in the East Boston section of the city of Boston on any community that is located within a 5 mile radius of the airport and is potentially impacted by the airport; provided further, that the assessment may include, but not be limited to, examining incidences of respiratory diseases and cancers and performing medical and laboratory tests and examinations of residents of these communities; provided further, that the bureau shall report its findings together with any recommended response actions by the commonwealth to the house and senate committees on ways and means not later than February 1, 2006; and provided further, that no funds appropriated in this item shall be expended for the purpose of siting or locating a low-level radio-active waste facility in the commonwealth ..... $3,453,403".

The question on passing Item 4510-0600, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-two minutes past six o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 84]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at twenty-four minutes past six o'clock P.M., Item 4510-0600, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4512-0200 (Administration of Substance Abuse Services) was considered as follows:

"4512-0200
For the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that not less than $45,000 shall be expended in grants for the Framingham Coalition for the Prevention of Drug and Alcohol abuse; provided further, that not less than $90,000 shall be expended for Franklin Medical Center's Beacon Recovery program at the Orange Recovery House; provided further, that not less than $99,000 shall be expended for Self Esteem Boston substance abuse direct service prevention programs and provider training programs; provided further, that not less than $650,350 shall be expended for a contract with STEP, Inc., for sobriety treatment, education and prevention; provided further, that not less than $99,925 shall be expended for Latinas y Ninos to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents and mothers recently reunified with children; provided further, that not less than $100,000 shall be expended for a contract with the Bay Cove Human Services, Inc. for the purposes of establishing an independent licensed halfway house in the Charlestown neighborhood of Boston, in collaboration with the Charlestown Recovery House, Inc. for persons in recovery from alcoholism and chemical dependency; provided further, that $75,000 shall be expended to establish an Opiate Abuse Prevention and Intervention Program for Youth in the City of Melrose; provided further, that not less than $50,000 shall be expended to REACH, formerly known as the Waltham Support Committee for Battered Women; provided further, that not less than $50,000 shall be expended for the Louis D. Brown Peace Institute for homicide victims' family support services and anti-violence advocacy programs; provided further, that not less than $250,000 shall be expended for the Latino After School Initiative; provided further, that not less than $75,000 shall be expended for the Tynan Community Centers Adolescence Wellness Program in the South Boston section of City of Boston; provided further, that not less than $125,000 shall be expended for the operation of the Barnstable Action for New Directions (BAND) program facilitated by Gosnold Society of Cape Cod Inc. in conjunction with the Barnstable district court and the Cape and Islands district attorney; provided further, that not less than $200,000 shall be provided to the Boston municipal court and other district courts to fund treatment coordinators for the drug court program to treat nonviolent, substance-abusing offenders; provided further, that not less than $833,000 shall be expended for the Volunteers of America Rebound Youth Residential Recovery Program at Long Island Hospital in the city of Boston for substance abuse and rehabilitation services to youths with addictions; provided further, that not less than $90,000 shall be expended for a batterer prevention program in the city of New Bedford; provided further, that not less than $100,000 shall be expended for the maintenance and operation of the Intensive Outpatient Program at the South Boston Collaborative for the purposes of responding to adolescent suicide clusters and drug abuse in the South Boston section of the City of Boston; provided further, that not less than $961,324 shall be expended to Gavin Foundation for a male adolescent residential facility for substance abuse and rehabilitation services and for an adjoining female adolescent residential facility for substance abuse and rehabilitation services, totaling 28 beds located in the South Boston section of the City of Boston; provided further, that not less than $319,500 shall be expended for a contract with Gavin Foundation, Inc. to provide a Total Immersion Program in conjunction with the Probation Department of the South Boston Division of the district courts, the Quincy Division of the district courts, the Somerville Division of the district courts, the Hingham Division of the district courts, the Brighton Division of the district courts, and other district courts and that the funding shall be expended for the maintenance of a training program by the Gavin Foundation for a statewide Total Immersion Program; provided further, that the Gavin Foundation shall be contracted to provide Total Immersion Programs stated herein; provided further, that not less than $100,000 shall be expended on the Russian Teens-at-Risk program operated by the Jewish Family Children's Service in the cities of Boston and Lynn and the

town of Brookline; provided further, that not less than $50,000 be expended for teens through programs provided by the Ashland Recreational Department; provided further, that not less than $150,000 shall be expended for the New Beginnings program; provided further, that not less than $200,000 shall be expended for the Link House, Inc. in the town of Salisbury for purposes of establishing transitional housing for women in recovery from substance abuse; provided further, that the amount of $150,000 shall be expended for the Northern Educational Services, Inc., so-called, outreach and prevention program in Springfield; provided further, that not less than $60,000 shall be provided to Project COPE, Inc. in Lynn for the prevention and education of the problems associated with OxyContin and Heroine use; provided further, that not less than $100,000 shall be expended for the Winchester Substance Abuse Coalition in the town of Winchester; and provided further, that not less than $500,000 shall be expended for an opiate education and counseling competitive grant program in Suffolk county ..... $47,599,186".

The question on passing Item 4512-0200, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes past six o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 85]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P. — **3.**
Knapik, Michael R.	

The yeas and nays having been completed at twenty-seven minutes past six o'clock P.M., Item 4512-0200, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4530-9000 (Teenage Pregnancy Prevention) was considered as follows:

“4530-9000
For teenage pregnancy prevention services; provided, that no funds shall be expended in the AA object class for any personnel-related costs; provided further, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of the grants may be used for state agency purchases of designated services identified by said community service plans; provided further, that not less than $477,643 shall be expended on those communities with the highest teen birth rates; provided further, that $100,000 shall be expended for teen pregnancy prevention services in the town of Orange; provided further, that not less than $150,000 shall be expended for the Berkshire Coalition to Prevent Teen Pregnancy program in Berkshire County; provided further, that not less than $250,000 shall be expended for the abstinence-based teen pregnancy prevention programs in the cities of North Adams and Pittsfield; provided further, that of said $250,000, not less than $125,000 shall be expended for said program in the city of Pittsfield; provided further, that the department shall contract directly with vendors of teenage pregnancy prevention services; provided further, that not less than $15,000 shall be provided to Girls, Inc. of Lynn for teen pregnancy prevention; and provided further, that not less than $100,000 shall be expended for teen pregnancy prevention services in the city of Springfield ..... $2,000,000”.

The question on passing Item 4530-9000, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes past six o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 86]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at twenty-nine minutes before seven o’clock P.M., Item 4530-9000, contained in Section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4570-1500 (Early Breast Cancer Detection & Research) was considered as follows:

“4570-1500
For an early breast cancer detection program, mammographies for the uninsured, and a breast cancer detection public awareness

program; provided, that no funds shall be expended in the AA object class for any personnel-related costs; and provided further that not less than $107,500 shall be expended for Silent Spring Institute to complete the Household Exposure Study ..... $3,392,333".

The question on passing Item 4570-1500, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes before seven o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 87]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**

NAYS.

Lees, Brian P.	Tarr, Bruce E. — **2.**

The yeas and nays having been completed at twenty-six minutes before seven o'clock P.M., Item 4570-1500, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 5095-0015 (State Psychiatric Hospitals and Community Mental Health Centers) was considered as follows:

"5095-0015
For the operation of adult inpatient facilities, including the community mental heath centers; provided, that in order to comply with the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close psychiatric hospitals managed by the department and shall endeavor within available resources to discharge clients residing in the inpatient facilities to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that no action to reduce the client population of the Worcester or Westborough facilities for the sole purpose of closing the hospital shall be undertaken,

and no steps shall be taken to close the institution through attrition, layoffs or any other means until a study of the hospital building plan is completed and the General Court shall have approved the closure of Worcester State Hospital and Westborough State Hospital; and provided further, that the department may allocate funds in an amount not to exceed $5,000,000 from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities ..... $159,881,738".

The question on passing Item 5095-0015, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes before seven o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 88]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P. — **3.**
Knapik, Michael R.	

The yeas and nays having been completed at twenty-three minutes before seven o'clock P.M., Item 5095-0015, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

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

"5930-1000
For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, hereinafter 'ICF/MRs', managed by the department and shall endeavor, within available resources, to discharge clients residing in the ICF/MRs to residential services in the community if the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client

transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include information relative to the status of residents of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2006; provided further, that the Fernald development Center shall not be closed before October, 2005 to ensure adequate community, client, and family member input into the closure planning process; provided further, that the department of mental retardation shall submit a plan regarding community transitions from ICF/MRs by January 1, 2006 to the house and senate committees on ways and means; provided further, that said plan shall detail the transition of clients from said school to appropriate settings; provided further, that the plan shall include consideration for the transition of employees of said school into community setting with their clients in order to ensure continuity of service wherever possible; provided further, that said plan shall be subject to the approval of the house and senate committees on ways and means; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item ..... $165,986,286".

The question on passing Item 5930-1000, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-two minutes before seven o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 89]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P. — **3.**

Knapik, Michael R.

The yeas and nays having been completed at twenty minutes before seven o'clock P.M., Item 5930-1000, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 6010-0003 (1CS — Mass Highway Billboard Retained Revenue) was considered as follows:

"6010-0003
The department of highways may expend revenues collected up to $7.000,000 from revennue generated from promotiona programs; provided, that funds collected are to be used for the Revenue management of that program and for highway maintenance costs; provided further, that the department shall prepare a report delineating the proposed allocation of funds to be expended for the management of that program and highway maintenance costs; provided further, that the report shall be filed with the house and senate committees on ways and means 30 days prior to any encumbrance of the funds; and provided further, that the program and any expenditures made pursuant to the program must comply with all statutes, rules and regulations governing billboards, signs and other outdoor advertising devices $7,000,000

Highway Fund ..... 100.0% ".

The question on passing Item 6010-0003, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes before seven o'clock P.M., as follows, to wit (yeas 31 — nays 7) **[Yeas and Nays No. 90]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tolman, Steven A.
Montigny, Mark C.	Tucker, Susan C.
Moore, Richard T.	Walsh, Marian
Morrissey, Michael W.	Wilkerson, Dianne — **31.**
Murray, Therese	

NAYS.

Brown, Scott P.	Resor, Pamela
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — **7.**
Lees, Brian P.	

The yeas and nays having been completed at sixteen minutes before seven o'clock P.M., Item 6010-0003, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 6000-0100 (Executive Office of Transportation and Construction Secretary's Office) was considered as follows:

"6000-0100
For the office of the secretary of transportation; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to and Construction families with dependent children program pursuant to item 4401-1000; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further., that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30. 2006 and the last day of each subsequent fiscal year; provided further, that no less than $25,000 shall be expended for costs associated with the special transportation finance commission established under section 13 of chapter 196 of the acts of 2004; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that the office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further. that the reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0002 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate the information for full-time employees, part-time employees and contracted personnel; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements $229,158

Highway Fund ..... 100.0% ".

The question on passing Item 6000-0100, contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at a quarter before seven o'clock P.M., as follows, to wit (yeas 32 — nays 6) **[Yeas and Nays No. 91]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
McGee, Thomas M.	Spilka, Karen E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	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 fourteen minutes before seven o'clock P.M., Item 6000-0100, contained in Section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7003-0605 (Massachusetts Manufacturing Extension Partnership) was considered as follows:

"7003-0605
For the operation and maintenance of the Massachusetts Manufacturing Extension Partnership for the purpose of maintaining and promoting manufacturing as an integral part of the Massachusetts economy ..... $850,000".

The question on passing Item 7003-0605, contained in Section 2, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes before seven o'clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 92]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela

Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **37.**
Nuciforo, Andrea F., Jr.	

NAYS.

Hedlund, Robert L.— **1.**

The yeas and nays having been completed at ten minutes before seven o'clock P.M., Item 7003-0605, contained in Section 2, stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7003-0702 (Workforce Development One-time Grants) was considered as follows:

"7003-0702
For grants to be administered by the department of workforce One-time Grants development; provided, that not less than $900,000 shall be expended on the Massachusetts Service Alliance; provided further, that not less than $500,000 shall be expended for a high school science teacher training program in biotechnology by Commonwealth Corporation; provided further, that not less than $450,000 shall be expended for education, career development and employment service programs operated by the Urban League of Massachusetts; provided further, that not less than $400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than $350,000 shall be provided to the town of Blackstone for the Lake Hiawatha area; provided further, that not less than $300.000 shall be expended for the Jewish Memorial Hospital for the purposes of employee skills training and development; provided further, that not less than $300,000 shall be expended to provide employment, training and job placement by Year Up of Boston; provided further, that not less than $300,000 shall be expended for a hospital skill training program operated by the Commonwealth Corporation; 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; 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; provided further, that not less than $250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further; that not less than $250,000 shall be expended for the Center for Women & Enterprise; provided further, that not less than $250,000 shall be expended on the. Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than $250,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business but the grant shall require a 200 per cent match from the private sector; provided further, that not less than $200,000 shall be expended on the welfare-to-work employment mentoring program to be operated by the Jewish Vocational Service and the Women's Union in the city of Boston; 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: provided further, that not less than $200,000 shall be expended to the Western Massachusetts Enterprise Fund; provided further, that not less than $200,000 shall be expended on the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned by or employ income-eligible residents; provided further, that not less than $200,000 shall be expended for the Massachusetts Career Development Institute, In (MCDI) in Springfield; provided further, that not less than $195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than $150,000 shall be expended for a Farm Workers' Council serving low income people and the Hispanic population in western Massachusetts; provided further, that not less than $139,500 shall be expended for Just-a-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than $135.000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than $127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than $105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further, that not less than $100,000 shall be provided to the Workforce Investment Association of Ma.

Inc. for the purpose of assisting administrators, career center directors, and fiscal agents; provided further, that $100,000 shall be expended for the Boston Health Care and Research Training Institute; provided further, that not more than $100,000 shall be expended for both the Reunion Center in the town of Easthampton and the Easthampton Youth Entrepreneurship Project; provided further, that not less than $100,000 shall be expended for the Hispanic Chamber of Commerce in the city of Holyoke; provided further, that not less than $100,000 shall be expended for the MetroWest/495 Corridor Partnership, as successor to the I-495 Technology Initiative; provided further, that not less than $100,000 shall be expended for the Springfield Technical Assistance Program to be operated by the Affiliated Chambers of Commerce of Springfield; 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; provided further, that not less than $95,000 shall be expended for the Mature Workers Program of the Cape and Islands Workforce Investment Board; provided further, that not less than $75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in the city of Worcester: provided that $75.000 shall be expended as a planning grant for the Springfield Health Careers Partnership Program, UMASS/Amherst School of Public Health and Health Sciences; provided further. that not less than $65.000 shall be expended for economic and workforce development opportunities in the downtown and waterfront districts in the city of Lynn; provided further, that not less than $50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than $40,000 shall be expended to enhance the economic vitality of the Santilli circle area in Everett; and provided further, that not less than $7,500 shall be provided for the Bonnie Brae Camp in the city of Gardner $7,959,000

Workforce Training Fund ..... 100.0% ”.

Pending the question on passing Item 7003-0702, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, Mr. Lees moved that this matter be laid on the table; and under the provisions of Senate Rule 24, the further consideration thereof was laid over until the next session.

Item 7004-3036 (ICS — Housing Services Contracts) was considered as follows:

“7004-3036
For housing services and counseling; provided, that not less than $1,000,000 shall be expended as grants for the operation of 9 regional housing consumer education centers operated by the regional nonprofit housing authorities; provided further, that the grants shall be through a competitive application process under criteria created by the department; provided further, that not less than $141,000 shall be expended for the Just-A-Start Corporation to administer a housing stabilization conflict management services program to prevent homelessness; provided further, that $80,925 shall be expended for the Central Massachusetts Housing Alliance; and provided further, that no funds shall be expended from this item in the AA object class for the compensation of state employees ..... $1,221,925”.

The question on passing Item 7004-3036, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nine minutes before seven o’clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 93]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.

Berry, Frederick E.	O'Leary, Robert A.
Brown, Scott P.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Hedlund, Robert L.	Lees, Brian P. — **3.**
Knapik, Michael R.	

The yeas and nays having been completed at eight minutes before seven o'clock P.M., Item 7004-3036, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7007-0500 (1CS — Massachusetts Biotech Research Institute) was considered as follows:

"7007-0500
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, 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; 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: and 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 ..... $1,010,000".

The question on passing Item 7007-0500, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before seven o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 94]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela

Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
Knapik, Michael R.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **36.**

NAYS.

Hedlund, Robert L.	Lees, Brian P. — **2.**

The yeas and nays having been completed seven o'clock P.M., Item 7007-0500, contained in Section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7010-0005 (ICS — Department of Education Administration) was considered as follows:

"7010-0005
For the operation of the department of education; 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; provided further, that the department shall report to the legislature on the feasibility of incorporating a median income component into the current chapter 70 school funding formula; provided further, that said report shall be provided to the house and senate chairs of the joint committee on education, the chairs of the house and senate committees on ways and means, and the secretary of administration and finance, no later than September 15, 2005; provided further, that funds from this item shall be expended for the salary of a deputy commissioner who shall serve as a chief operating officer for the department, and shall have responsibility for overseeing all operational details of the department, in order to ensure that all offices and divisions within said department operate according to a common strategic vision and coordinated planning process, and that all actions, public statements and decisions of deputy commissioners, assistant commissioners, and staff are consistent with said vision, and reflect board of education policy, the goals and intent of the general court, and all applicable statutory mandates and requirements of the General Laws: provided further, that not later than November 15, 2005, the department shall submit to the secretary of administration and finance, the chairs of the house and senate ways and means committees, and the house and senate chairs of the joint committee on education a report on the current organization of the department, with an operational flow chart detailing responsibilities and duties of each deputy commissioner, associate commissioner, or other person with supervisory responsibility in the department; and provided further, that said report shall detail the means by which the department shall coordinate planning and operations functions, and describe the strategic vision of the department, along with a detailed implementation plan for realizing that vision ..... $9,597,805".

The question on passing Item 7010-0005, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at one minute past seven o'clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 95]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.

Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **36.**

NAYS.

Brown, Scott P.	Hedlund, Robert L. — **2.**

The yeas and nays having been completed at three minutes past seven o'clock P.M., Item 7010-0005, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7061-0029 (1CS — Education Reform Audits) was considered as follows:

"7061-0029
For the office of educational quality and accountability established under section 55A of chapter 15 of the General Laws; provided, that not less than $100,000 shall be expended by the office to examine schools in the districts of Boston, Lawrence, Worcester, Springfield, Lowell. Fall River, New Bedford, and Brockton for the purpose of identifying the specific practices, policies, and programs that would make urban school districts successful ..... $3,435,979".

The question on passing Item 7061-0029, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at four minutes past seven o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 96]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Timilty, James E.

McGee, Thomas M.	Tisei, Richard R.
Menard, Joan M.	Tolman, Steven A.
Montigny, Mark C.	Tucker, Susan C.
Moore, Richard T.	Walsh, Marian
Morrissey, Michael W.	Wilkerson, Dianne — **35.**
Murray, Therese	

NAYS.

Brown, Scott P.	Tarr, Bruce E.— **3.**
Hedlund, Robert L.	

The yeas and nays having been completed at six minutes past seven o'clock P.M., Item 7061-0029, contained in Section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7100-0350 (1CN — Toxic Chemicals Study) was considered as follows:

"7100-0350
For an assessment at the Toxics Use Reduction Institute on the feasibility of adopting chemical or technological alternatives for the following toxic or hazardous substances lead, formaldehyde, perchloroethylene, hexavalent chromium, and di-(2 ethylhexyl)phthalate (DEHP); provided, that the assessment shall, for each named toxic or hazardous substance, identify: (1) significant uses of the toxic substance in manufacturing, consumer products and any other applications; (2) potential human health and environmental impacts; and (3) any alternative chemicals or technologies, both proven and emergent, and an analysis of their potential to serve as substitutes for any of the toxic or hazardous substances listed above, which shall include a assessment of: (a) specific applications of any alternative chemical or technology; (b) potential impacts on the environment, human health, workers, employment level and economic competitiveness of the commonwealth from adopting and implementing any alternative chemical or technology as substitutes; (c) the economic opportunities or feasibility of adopting and implementing any alternative chemical or technology as a substitute including, but not limited to, consideration of the potential effects on capital, operating and production unit costs, and product price, to result from the substitution; and provided further, that the Institute shall report its findings to the joint committee on environment, natural resources and agriculture by July 1, 2006 ..... $250,000".

The question on passing Item 7100-0350, contained in Section 2, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past seven o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 97]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.
Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.

Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at nine minutes past seven o'clock P.M., Item 7100-0350, contained in Section 2, stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7100-0700 (1CS — Office of Dispute Resolution VT 1) was considered as follows:

"7100-0700
For the operation of the office of dispute resolution at the Resolution VT 1 University of Massachusetts at Boston under section 46 of chapter 75 of the General Laws $166,440".

The question on passing Item 7100-0700, contained in Section 2, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, at ten minutes past seven o'clock P.M., as follows, to wit (yeas 33 — nays 5) **[Yeas and Nays No. 98]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **33.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Tisei, Richard R. — **5.**
Knapik, Michael R.	

The yeas and nays having been completed at twelve minutes past seven o'clock P.M., Item 7100-0700, contained in Section 2, stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7511-0101 (Public Policy Institute) was considered as follows:

“7511-0101
For the establishment and administration of the public policy institute and resource center at North Shore Community College ..... $250,000”.

The question on passing Item 7511-0101, contained in Section 2, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at thirteen minutes past seven o’clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 99]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — **34.**

NAYS.

Brown, Scott P.	Knapik, Michael R.
Hedlund, Robert L.	Lees, Brian P. — **4.**

The yeas and nays having been completed at a quarter past seven o’clock P.M., Item 7511-0101, contained in Section 2, stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8100-0000 (State Police Administration) was considered as follows:

“8100-0000
For the administration and operation of the department of state police; provided, that costs associated with the 77th and 78th state police classes shall be funded from this item; provided further, that the department shall expend funds from this item for the purpose of maximizing federal grants for the operation of a counter-terrorism unit; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; 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; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of environmental affairs at no cost to, or compensation from, that office; provided further, that not less than $2,328,946 shall be expended for the payroll costs of the state

police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2006; 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; provided further, that $100.000 shall be expended for the SCARR program; provided further, that not less than $50,000 shall be expended for patrols in Berkshire county; provided further, that $50,000 shall be expended for patrols in the Myles Standish state park in the town of Plymouth; provided further, that $75,000 shall be expended for the 5-A program in the city of Springfield; and provided further, that the department may expend funds from this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the municipal police training committee and the criminal history systems board; and provided further, that not less than $62,400 shall be expended for the state police-South Yarmouth to prevent accidents and expedite traffic flow in the town of Yarmouth $211,186,780

Highway Fund 88.20%
General Fund ..... 11.80% ”.

The question on passing Item 8100-0000, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes past seven o’clock P.M., as follows, to wit (yeas 36 — nays 2) **[Yeas and Nays No. 100]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O’Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **36.**

NAYS.

Brown, Scott P.	Hedlund, Robert L. — **2.**

The yeas and nays having been completed at twenty-two minutes past seven o’clock P.M., Item 8100-0000, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8324-0000 (Department of Fire Services Administration) was considered as follows:

"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 $100,000 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; 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; 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 ..... $10,323,098".

The question on passing Item 8324-000, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes past seven o'clock P.M., as follows, to wit (yeas 34 — nays 4) **[Yeas and Nays No. 101]**:

YEAS.

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

Morrissey, Michael W.	Wilkerson, Dianne — **34.**

NAYS.

Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — **4.**

The yeas and nays having been completed at twenty-five minutes past seven o'clock P.M., Item 8324-0000, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8800-0300 (Environmental Monitoring of Seabrook Nuclear Power Plant) was considered as follows:

"8800-0300
For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire including a continuous real-time radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of the nuclear power plant; provided, that the cost of this item, including any applicable fringe benefits and indirect costs, shall be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase power from the Seabrook nuclear power plant; provided further, that the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; provided further, that for the purposes of said item, electric companies shall be defined as all persons, firms, associations and private corporations which own or operate works or distribute electricity in the commonwealth; provided further, that the term "electric companies" shall not include municipalities or municipal light plants; provided further, that not less than $75,000 shall be expended for the upgrading and installation of updated monitoring equipment for C-10 of Newburyport this expense shall be apportioned according to the formula stated above; and provided further, that the department shall report to the house and senate committees on ways and means not later than March 1, 2006 the results of the monitoring project between the department and the citizens monitoring group, including but not limited to, the reasons for increases and decreases in radiation levels ..... $165,356".

The question on passing Item 8800-0300, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-six minutes past seven o'clock P.M., as follows, to wit (yeas 35 — nays 3) **[Yeas and Nays No. 102]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Chandler, Harriette L.
Barrios, Jarrett T.	Creedon, Robert S., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Joyce, Brian A.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.

Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **35.**
Nuciforo, Andrea F., Jr.	

NAYS.

Brown, Scott P.	Knapik, Michael R. .— **3.**
Hedlund, Robert L.	

The yeas and nays having been completed at twenty-eight minutes past seven o'clock P.M., Item 8800-0300, contained in Section 2 stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 8900-0001 (Consolidated Facilities) was considered as follows:

"8900-0001
For the operation of the commonwealth's department of correction; provided, that the department shall expend not less than $1,010,500 to cities and towns hosting facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster; provided further, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety shall report to the house and senate committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety shall report to the house and senate committees on ways and means and public safety before January 1 of each year the point score compiled by the department of correction's objective classification system for all prisoners confined in each prison operated by the department; provided further. that not less than $200.000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that not less than $40.000 shall be provided for the Dismas House in the city of Worcester; provided further, that the department shall expend not less than $500,000 to the community hosting the facility at Cedar Junction; provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the military division, the Massachusetts parole board and the sex offender registry board; 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 ..... $430,966,325".

The question on passing Item 8900-0001, contained in Section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes past seven o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 103]**:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Brown, Scott P.
Baddour, Steven A.	Buoniconti, Stephen J.

Barrios, Jarrett T.	Chandler, Harriette L.
Berry, Frederick E.	Creedon, Robert S., Jr.
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.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
Murray, Therese	Wilkerson, Dianne — **38.**

NAYS — 0.

The yeas and nays having been completed at twenty-nine minutes before eight o'clock P.M., Item 8900-0001, contained in Section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

A Bill relative to car rental transactions in the city of Revere (House, No. 4180,— on House, No. 1965),— was read.

The rules were suspended, on motion of Ms. Menard, and the bill was read a second time.

Mr. Travaglini presented an amendment, striking out all after the enacting clause and inserting in place thereof the following text:—

"SECTION 1. Notwithstanding any general or special law to the contrary, the city of Revere may by ordinance impose a surcharge of not more than $10 upon each vehicular rental transaction contract in the city. Amounts received by the city under this act shall not be considered in determining the amount of any state assistance to the city.

SECTION 2. The commissioner of revenue shall administer the surcharge imposed under section 1. Each vendor shall collect the surcharge and remit it to the department of revenue on a quarterly basis. All provisions of chapter 62C of the General Laws relative to assessment, collection, payment, abatement, verification and administration, including penalties and interest, shall, so far as pertinent, apply to this surcharge as though it were a tax enumerated in section 2 of said chapter 62C.

SECTION 3. The commissioner of revenue shall pay to the city on a quarterly basis all proceeds of the surcharge collected under section 2. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a special account to be known as the Public Safety Facility Capital Expenditure Fund into which all such payments shall be deposited. The city treasurer may invest funds in the account in the manner authorized by sections 55 and 55B of chapter 44 of the General Laws, and any interest earned on the account shall be credited to and become part of the account. Amounts appropriated from the account shall be expended exclusively for the principal and interest on loan orders incurred by the city for architectural, engineering, geotechnical and design services and for the original equipping and construction of a new public safety facility for the city. When the account contains sufficient funds for these purposes, the mayor shall so certify to the commissioner and the surcharge shall cease to be imposed.

SECTION 4. This act shall take effect upon its passage."; and by striking out the title and inserting in place thereof the following title:— "An Act authorizing a surcharge on vehicular rental transaction contracts in the city of Revere.".
The amendment was adopted.
The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.

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 Michael W. Morrissey and Ronald Mariano for legislation relative to the sale of land in Quincy by the Massachusetts Water Resources Authority.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Bonding, Capital Expenditures and State Assets.

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 Michael W. Morrissey and Robert J. Nyman for legislation relative to the sale of unweaned birds.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Community Development and Small Business.

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 Michael W. Morrissey, Robert L. Hedlund, Steven A. Tolman and John A. Hart, Jr. for legislation relative to reasonable permitting for yacht clubs on DCR property.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture.

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 Harriette L. Chandler for legislation to reduce frivolous appeals of environmental and land use permits.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, 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 Michael W. Morrissey, Brian A. Joyce and William T. Salisbury for legislation relative to worker's compensation as it relates to employees who are members of the armed services or national guard.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Labor and Workforce Development.

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 Steven A. Tolman for legislation relative to controlled-release oxycodone.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Mental Health and Substance Abuse.

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 Steven A. Tolman for legislation relative to controlled-release hydromorphone.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Mental Health and Substance Abuse.

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 Michael W. Morrissey for legislation to require a firearms licensing authority to provide a receipt for firearm license applications.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety and Homeland Security.

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 Michael W. Morrissey, Jay R. Kaufman and Antonio F. D. Cabral for legislation relative to TDD TTY telephone service.
Senate Rule 36 was suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy.
Severally sent to the House for concurrence.

Order Adopted.

On motion of Ms. Wilkerson,—

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

On motion of Mr. Tarr, at twenty-six minutes before eight o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.