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## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Thursday, June 24, 2010.*

Met at three minutes past twelve o'clock noon (Mr. Brewer in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Brewer), members, guests and employees then recited the pledge of allegiance to the flag.

#### *Distinguished Guests.*

There being no objection, the Chair (Mr. Brewer) handed the gavel to Ms. Spilka for the purpose of an introduction. Ms. Spilka then introduced, in the rear of the Chamber, Daisy Troop 2973 from Hopkinton. The group consists of a group of girls around the age of 7 that have just finished the Center School in Hopkinton and will be attending Elwood School next year. The Daisy Troop goes on trips, learn about nature and science, explore the arts and their communities and perform community service. They were accompanied by Troop Leader Amy Hanson. The Senate welcomed them with applause and they withdrew from the Chamber. They were also guests of Representative Carolyn Dykema of Holliston.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. DiDomenico for the purpose of an introduction. Mr. DiDomenico then introduced, in the rear of the Chamber, the 5th grade class from the Warren Prescott School in Charlestown. The class was on a field trip to the State House learning about the different aspects of state government. They were accompanied by teachers; Ms. Tina Champagne, Ms. Michelle Dickie and Ms. Ann Connolly. They were also accompanied by parents; Ruth Raphael, Stephanie Goldberg and Lindy Williamson. The class was welcomed with applause and withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Petrucci for the purpose of an introduction. Mr. Petrucci then introduced, in the rear of the Chamber, former NFL player Jermaine Wiggins from East Boston. He was recognized for being on the Patriots 2001 Super Bowl Championship Team and for having played for the Panthers, Jets and Vikings. Jermaine Wiggins was applauded for his accomplishments, 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 Ms. Candaras for the purpose of an introduction. Ms. Candaras then introduced, in the rear of the Chamber, childhood friend Joseph Palumbo and his wife Ellen from Las Vegas. Senator Candaras and Joseph attended Teaneck High School in New Jersey. The Senate welcomed them with applause and they withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced, in the rear of the Chamber, YMORE; Youth of Massachusetts Organizing for a Reformed Economy. This group is a coalition of young people from the greater Boston area who stand up for the interests of teens in suburban and urban communities. The Senate applauded their accomplishments and withdrew from the Chamber.

*Petitions.*

Petitions were presented and referred, as follows:

By Mr. Tarr, a petition (accompanied by bill, Senate No. 2516) of Bruce E. Tarr and Harriette L. Stanley (by vote of the town) for legislation to provide for the establishment of a fire department in the town of Newbury [Local approval received];

**Under Senate Rule 20, to the committee on Municipalities and Regional Government. Sent to the house for concurrence.**

By Mr. Eldridge a petition (subject to Joint Rule 12) of James B. Eldridge, Cory Atkins and William M. Straus for the adoption of resolutions for legislation relative to free speech for people.

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

**PAPERS FROM THE HOUSE**

A Resolve extending the time within which the special commission established to make an investigation and study relative to designating 1,000 Great Places in the Commonwealth shall file its final report (House, No. 4517,-- on House, No. 4424); and A Bill establishing a sick leave bank for Bethany M. Tsiropoulos, an employee of the Massachusetts Rehabilitation Commission (House, No. 4752,-- on petition);

**Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

*Bills*

Prohibiting funeral homes from selling lists (House, No. 263,-- on petition);

Relating to the standard fire insurance policy (House, No. 960,-- on petition);

Relative to continuing education of insurance producers (House, No. 963, changed,-- on petition);

Relative to the determination of condominium common area interest (House, No. 1235,-- on petition);

Relative to continuing education requirements for real estate brokers and sales persons (House, No. 4169,-- on petition);

Protecting nursing home residents (House, No. 4637,-- on House, No. 4270);

Authorizing the Bristol county commissioners to borrow money for the repair of sewer extension facilities at the Bristol County Agricultural High School (House, No. 4763,-- on petition); and

Relative to time-share ownership (House, No. 4803,-- on House, No. 1287);

**Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

*Bills*

Relative to William J. Higgins, an employee of the town of Nantucket (House, No. 1125,-- on petition) [Local approval received];

Relative to property tax exemptions in the town of Ashland (House, No. 1904, changed,-- on petition) [Local approval received];

Authorizing the treasurer of the town of Dennis to borrow in anticipation of reimbursements from betterments assessed (House, No. 4244,-- on petition) [Local approval received];

Authorizing the town of Sherborn to use certain town forest land (House, No. 4585,-- on petition) [Local approval received];

Validating the election of a charter commission in the city of Everett (House, No. 4739,-- on petition) [Local approval received];

**Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

*Reports*

Of the committee on Financial Services, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 478) of Brian A. Joyce for legislation to provide health care coverage for autism spectrum disorders;

Of the petition (accompanied by bill, Senate, No. 501) of Michael W. Morrissey for legislation relative to benefits for autism;

Of the petition (accompanied by bill, House, No. 923) of Patricia A. Haddad, James J. O'Day and others relative to insurance coverage for certain pervasive development disorders; and

Of the petition (accompanied by bill, House, No. 3809) of Barbara L'Italien, Frederick E. Berry and others relative to insurance coverage for autism;

**And recommending that the same severally be referred to the committee on House Ways and Means.**

**Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence, in the discharge of the joint committee.**

*Emergency Preamble Adopted.*

An engrossed Bill relative to debt restructuring (see House, No. 4617, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 4 to 0.**

**The bill was signed by the Acting President (Mr. Brewer) and sent to the House for enactment.**

*Orders of the Day.*

The President in the Chair, the Orders of the Day were considered, as follows:

*Bills*

Exempting the position of chief of police of the town of Great Barrington from the provisions of the civil service law (Senate, No. 2332);

Authorizing the town of Wareham to issue eight (8) additional liquor licenses (Senate, No. 2483);

Relative to certain easements in the town of Andover (House, No. 4318); and

Authorizing the town of Clinton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4734);

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

The House Bill authorizing the town of Westwood to grant 3 licenses for the sale of wine and malt beverages to food stores (House, No. 4089),-- **was read a third time.**

**Pending the question on ordering the bill to a third reading, Ms. Walsh moved that the bill be amended by striking out, in line 18, the words “located in a commercial zoning district” and inserting in place the following words:- “lawfully operating as a commercial business”.**

**The amendment was adopted.**

**The bill, as amended, was then ordered to a third reading.**

The report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill relative to safe driving (House, No. 4475) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2305), reported a “Bill relative to safe driving” (House, No. 4795), -- **was considered.**

The question on accepting the report of the committee of conference, in concurrence, was determined by a call of the yeas and nays, at eighteen minutes past twelve o’clock noon, on motion of Mr. Baddour, as follows, to wit (*yeas 37 –nays 0*) [**Yeas and Nays No. 296**]:

**INSERT ROLL CALL 296**

**The yeas and nays having been completed at twenty-four minutes past twelve o’clock noon, the report of the committee of conference was accepted, in concurrence.**

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- **was considered, the main question being on ordering it to a third reading.**

Pending the question of adoption of the Ways and Means new text (Senate, No. 2495), Mr. Richard T. Moore moved that the proposed new text be amended by inserting after section \_\_, the following new section: -

“Section X. There is hereby established and set upon the books of the Commonwealth a separate, non-lapsing revolving fund known as the State Historic Buildings Trust Fund, hereinafter called the fund. The fund shall be administered by the Massachusetts Historical Commission established pursuant to section 26 of chapter 9 of the General Laws, and the monies representing one percent of the revenues received by the Commonwealth from this act from casino gaming shall be annually credited to the fund. Said monies credited to the fund shall be available to be used for repair, renovation, historic preservation and improvements to state historic buildings including, but not limited to the Massachusetts State House on Beacon Street in the city of Boston, the Old State House on State Street in the city of Boston, and such other publicly owned historic structures and property as may be determined by the commission.”

After remarks, the amendment was *rejected*.

Mr. Buoniconti moved that the proposed new text be amended in section 13 by adding the following new subsection:-

“Section XX: Any licensee who fails to begin gaming operations more than 1 year after the date specified in its application timeline shall be subject to revocation of said license by the board, and may, after being found by the board subsequent to a hearing to have acted in bad faith in its application, be assessed a fine, collectible by the board and to be deposited in the general fund of the commonwealth, of an amount not less than \$100,000,000.”

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

Mr. Buoniconti moved that the proposed new text be amended in section 13 by adding the following new subsection:-

“Section XX: Any licensee who fails to begin gaming operations more than 1 year after the date specified in its application timeline shall be subject to revocation of said license by the board, and may, after being found by the board subsequent to a hearing to have acted in bad faith in its application, be assessed a fine, collectible by the board and to be deposited in the general fund of the commonwealth, of an amount not less than \$100,000,000.”

The amendment was *rejected*.

Mr. Buoniconti moved that the proposed new text be amended in section 13 by striking out line 1178 in its entirety and inserting in place thereof the following:-

“(b) No other gaming license shall be issued by the commission for a period of 20 years except as desired by the commission to

replace any regional license awarded under this section that is revoked or that is not renewed in accordance with subsection (e) of this section.”

The amendment was *rejected*.

Mr. Buoniconti moved that the proposed new text be amended in line 878, by striking out the number “4” and inserting in place thereof the number “5”.

The amendment was *rejected*.

Mr. Brewer moved to amend the proposed new text in lines 2101 to 2102 by striking the following words:- “recommendations for”; by inserting in line 2105 after “communities” the following:- “including but not limited to the impact on local resources as a result of new housing construction and potential necessary changes to affordable housing laws, increased education costs and curriculum changes due to population changes in the region, development and maintenance of infrastructure related to increased population and utilization in the region, and public safety impacts resulting from the facility,”; and by inserting in line 2107 after the word “committees” the following words:- “The subcommittee shall review annually the expenditure of funds from the Community Mitigation Fund and make recommendations to the board relative to appropriate and necessary use of community mitigation funds. The subcommittee shall submit updated regulations relating to community mitigation annually to the gaming policy advisory committee and the board. The board shall promulgate such regulations as advised by the subcommittee.” After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at four minutes past one o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 21 – nays 18*) [**Yeas and Nays No. 297**]:

INSERT ROLL CALL “297”

**The yeas and nays having been completed at ten minutes past one o’clock P.M., the amendment was adopted.**

Messrs. Brewer and Eldridge and Ms. Fargo moved to amend the proposed new text in section 7 of proposed Chapter 23K by inserting after line 727 the following:-

“(30) to ensure that all environmental laws and regulations are followed and that impact on natural resources in the host and surrounding communities as a result of a gaming facility is mitigated.”;

In line 899 by striking subsection 11 of section 12 of proposed Chapter 23K in its entirety and inserting in place thereof the following:-

“(11) shall comply with state and local building codes and local ordinances and bylaws;

(11a) Notwithstanding any provisions of Massachusetts General Law to the contrary, the construction of a new gaming facility or the reuse of an existing structure or facility for the purposes of establishment of a gaming facility shall require a review under M.G.L. c. 30, §§ 61-62H: Massachusetts Environmental Policy Act; 301 CMR 11.00.”; and

By striking subsection 14 of section 16 of proposed Chapter 23K and inserting in place thereof the following:

“(14) whether the proposal utilizes sustainable development and high performance design principles, including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the strength energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of the Executive Office of Energy and Environmental Affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to conserve water and manage storm water; (v) demonstration that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources identified by the division of energy resources under section 11F of chapter 25A; and (vii) developing an on-going plan to sub-meter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;”.

The amendment was adopted.

Mr. Brewer moved to amend the proposed new text in line 2079 by striking the word “may” and inserting in its place thereof the following word:- “shall”.

After remarks, the amendment was adopted.

Mr. Brewer moved to amend the proposed new text in line 2078 by inserting after the words “gaming establishment” the following words:- “as defined by ‘host community’ and ‘surrounding community’ in section 1 of Chapter 23K”.

After remarks, the amendment was adopted.

Messrs. Tolman and DiDomenico and Ms. Fargo moved to amend the proposed new text by striking out section 46 (a) and (b) of section 13 in their entirety and insert the following in place thereof:-

“(a) There shall be a gaming policy advisory committee consisting of 14

members: 1 of whom shall be the governor, or the governor’s designee, who shall serve as chair; 1 of whom shall be the chair of the commission; 1 of whom shall be the chair of the board; 1 of whom shall be the senate president or the president’s designee; 1 of whom shall be the speaker of the house of representatives or the speaker’s designee; 1 of whom shall be the commissioner of public health or the commissioner’s designee; and 7 of whom shall be appointed by the governor, 3 of whom shall be representatives of gaming licensees, 1 of whom shall be a representative of a federally recognized Native American tribe in the commonwealth, 1 of whom shall be a representative of organized labor who shall be selected from a list of three names proposed by the President of the Massachusetts AFL-CIO, and 3 of whom shall be appointed from the vicinity of each gaming establishment upon determination of the licensee and site location by the commission. The committee may designate

subcommittees to examine community mitigation, compulsive gambling, and gaming impacts on cultural and tourism. Members of the committee shall serve for 2 year terms. The committee shall meet at least once annually 2081 for the purpose of discussing matters of gaming policy. The recommendations of the committee concerning gaming policy made under this section are advisory and shall not be binding on the commission and board.

(b) There shall be a subcommittee on cultural facilities under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative of the Massachusetts cultural coalition; 1 of whom shall be a representative from the Massachusetts cultural council; 1 of whom shall be a representative of the board; and 2 of whom shall be appointed by the governor, 1 of whom shall have professional experience in the gaming entertainment booking industry and 1 of whom shall be a representative of organized labor who shall be selected from a list of three names proposed by the President of the Massachusetts AFL-CIO. The subcommittee shall develop recommendations for regulations to be developed by the board to address cultural mitigation, including but not limited to: the relationship between gaming entertainment venues and currently existing performing arts centers in the commonwealth and standards for granting waivers of the requirements in section 45.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at fourteen minutes past one o’clock P.M., on motion of Mr. Tolman, as follows, to wit (yeas 39 – nays 0) [Yeas and Nays No. 298]:

INSERT ROLL CALL “298”

The yeas and nays having been completed at nineteen minutes past one o’clock P.M., the amendment was adopted.

Messrs. Richard T. Moore, Montigny and Brewer, Ms. Chandler, Ms. Fargo and Ms. Creem move to amend the proposed new text by striking, in its entirety, section 39.

During debate, Mr. Hedlund moved that Senate Rule 61A, prohibiting smoking in the Chamber, be suspended.

After remarks, the question on suspending the rule was determined by a call of the yeas and nays, at twenty-five minutes before two o’clock P.M., as follows, to wit (yeas 0 – nays 39) [Yeas and Nays No. 299]:

INSERT ROLL CALL “299”

The yeas and nays having been completed at twenty-one minutes before two o’clock P.M., the Senate Rule 61A was not suspended.

The pending amendment, previously moved by Mr. Richard T. Moore, et al, by striking, in its entirety, section 39,-- was again considered.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before two o’clock P.M., on motion of Mr. Richard T. Moore, as follows, to wit (yeas 24 – nays 15) [Yeas and Nays No. 300]:

INSERT ROLL CALL “300”

The yeas and nays having been completed at one minute past two o’clock P.M., the amendment was adopted.

Messrs. Brewer and Hedlund moved to amend the proposed new text in section 13, in paragraph (c) of section 15 of proposed chapter 23K by adding the following sentence:- “The board shall hold the public hearing within the host community; provided, however, that the host community may request that the board hold the hearing in another city or town upon request by a majority of members of the town council, or in a city having a Plan D or Plan E charter, the city manager and the city council and in any other city the mayor and city council and in towns a majority vote of those present and voting at a town meeting and approval by the board of selectmen.”; and by striking out proposed section 15(d) and replacing it with the following language:

“(d) The public hearing shall provide the board the opportunity to address questions and concerns relative to the proposal of an applicant for a gaming license including the breadth and quality of the gaming area and amenities, the integration of the establishment into the surrounding community, the extent of required mitigation plans, as well as receive input from members of the public from the impacted community or communities. During the hearing, along with allowing members of the public to give verbal testimony, the board may take the opportunity to read into the record letters of support, opposition or concern from members of the public.”

After remarks, the amendment was adopted.

Mr. Tisei moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“SECTION X. Notwithstanding any general or special law to the contrary, any resident of the Commonwealth required to report gambling earnings as income on their state income tax form shall be allowed to offset those winnings by claiming an itemized deduction for any gambling losses sustained during the taxable year for which they are filing, to the extent allowable under federal law; provided, however, that the individual must also itemize these deductions on his federal income tax return.”

After debate, the amendment was rejected.

Mr. Brewer and Ms. Fargo moved to amend the proposed new text by inserting at the end a new section:

“SECTION XXXX: The executive office of administration and finance shall complete a comprehensive cost/benefit analysis of expanding gaming in the Commonwealth. The analysis will include but not be limited to expected revenues, including income and property tax revenues, licensing fees, and regional economic development; job creation; welfare utilization; infrastructure expansion and maintenance thereof; municipal and regional mitigation compensation; state and regional oversight expenses, including additional state and regional personnel, equipment, and overtime compensation; and social mitigation, including gambling addiction services, domestic violence services and financial counseling. The executive office of administration and finance shall complete the analysis and submit the report to the senate committee on ways and means, the house committee on

ways and means and the joint committee on economic development and emerging technologies by July 1, 2011. No license for a gaming establishment shall be issued prior to the completion of the analysis. Should the analysis find that expenses exceed projected revenues, no gaming license shall be issued.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes before three o'clock P.M., on motion of Ms. Tucker, as follows, to wit (yeas 13– nays 26) [Yeas and Nays No. 301]:

INSERT ROLL CALL “301”

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

Mr. Joyce moved that the proposed new text be amended, in subsection (a) of section 13, by inserting in line 916 after the word “federally” the following words: - “or state”; in subsection (a) of section 13, by inserting in line 917 after the word “federally” the following words: - “or state”; in subsection (a) of section 13, by inserting in line 918 after the word “federally” the following words: - “or state”; in subsection (a) of section 46, by inserting in line 2076 after the word “federally” the following words: - “or state”; and in subsection (b) of section 69, by inserting in line 2782, after the word “federally” the following words: - “or state”. The amendment was rejected.

Mr. Tisei moved to amend the proposed new text by adding after paragraph (7) in section 16 the following: -

“(7A) Preference shall be given to any site on state owned land, in excess of 200 acres with direct access to an interstate highway. The state shall enter into a lease agreement with a private operator for a sum of money in addition to all other gaming licenses and revenues. The proceeds of that lease shall be used for toll mitigation on the western turnpike.”

After remarks, the amendment was rejected.

Messrs. Eldridge and Brewer and Ms. Chang-Diaz, Ms. Fargo and Ms. Creem moved that the proposed new text be amended in line 885 by striking subsection (7) of Section 12 in its entirety and inserting in place thereof the following:-

“(7) has received a certified and binding vote in favor of such license on a ballot question at an election in the host community and in any community abutting the host community and any community within 15 miles of the proposed gaming establishment; provided further that such binding votes shall be conducted not less than 90 days after the execution of a signed agreement between the host community and the applicant as provided in subsection (10); provided further that any city, town, or district that holds an election shall be reimbursed for its expenses related to the election by the applicant. The applicant shall submit to the commission certified letters from the clerk of the host community and all abutting communities and/or communities within 15 miles of the proposed facility with a true copy of the vote taken by each community;.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes past three o'clock P.M., on motion of Mr. Eldridge, as follows, to wit (yeas 9 – nays 30) [Yeas and Nays No. 302]:

INSERT ROLL CALL “302”

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

Messrs. Petruccelli, Morrissey, McGee, Tarr, DiDomenico and Hart and Ms. Flanagan moved to amend the proposed new text by inserting at the end of section 16(a) of Section 13 in line 1163 the following: “; and

(17) how well the proposal preserves and enhances the live horse racing industry in the commonwealth and its operational and economic sustainability, including the preservation and development of jobs within the racing industry and related agricultural industries, or including the preservation and enhancement of purse programs in the commonwealth”.

After remarks, the amendment was adopted.

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There being no objection, during consideration of the Orders of the Day, the following matter was considered:

PAPER FROM THE HOUSE

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4601) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2470), reported, in part a “Bill authorizing the conveyance of certain parcels of land” (House, No. 4801),-- came from the House, and was read.

The rules were suspended, on motion of Mr. Panagiotakos, and the report of the committee of conference was considered; and, after remarks, accepted, in concurrence.

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Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Mr. Eldridge moved to amend the proposed new text in line 1087 by adding after the word “license” the following:-

“(iv) recommend approval with additional conditions.”; and in line 1100, by addition after the word “license” the following:-  
“(iv) grant the application for a gaming license with additional conditions”.

The amendment was rejected.

Mr. Eldridge and Ms. Creem moved that the proposed new text be amended in line 288 by inserting the following new definition:-

“‘Impact fee’ shall include any agreement in writing between a host community or surrounding community and the applicant which specifies without limitation any direct payments or other commitments by the applicant to provide the host community or surrounding community with new or upgraded infrastructure, capital or operating costs for transportation, education, or public safety, or to minimize impacts on the environment, water and sewer infrastructure, or to meet the increased demand for housing, social programs, and municipal services. The cost of these payments or agreements shall not be awarded from the Mitigation Trust Fund. Any such agreement shall not disqualify a host community or surrounding community from making application to the Mitigation Trust Fund for further mitigation.”;

In line 352 by striking the definition of “surrounding communities” in its entirety and inserting in place thereof the following:-

“‘Surrounding communities’ all cities or towns which are eligible to receive funds from the Gaming Mitigation Trust Fund established under this chapter, including a host community, any abutting community, any community contiguous to or touching upon any land of an abutting community, and any other community determined by the Board to experience or be likely to experience impacts from the development or operation of a gaming establishment, including municipalities, regardless of proximity, from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.”

In line 715 by striking subsection (25) in its entirety and inserting in place thereof the following:-

“(25) to determine which municipalities are the surrounding communities of a proposed gaming establishment, provided that the host community, any abutting community, and any community contiguous to or touching upon any land of an abutting community shall be determined to be surrounding communities for the purposes of this chapter, and provided further that any other community likely to experience impacts from the development or operation of a gaming establishment, including municipalities, regardless of proximity, from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment shall be determined to be surrounding communities.”; in line 719 by inserting after the words “to provide” the following:- “grants and”; in line 891 by striking the word “provide” and inserting in place thereof the following:- “demonstrate an ability to pay and commit to paying”; in line 892 by striking the word “pay” and inserting in place thereof the following:- “demonstrate an ability to pay and commit to paying”; in line 1064 by adding after the word “public” the following:- “, written recommendations from the gaming policy advisory committee, subcommittee on community mitigation and the local community mitigation advisory committee, written recommendations from the secretary of energy and environmental affairs who shall use the results of the MEPA review process as guidance.”; in line 1065 by adding after the words “political boundaries” the following:- “The board shall make the determination within 60 days of commencing a review of the applicant’s entire application.” in line 2095 by striking the number “7” and replacing it with the number “9”; in line 2101 after the word “association” adding the following:- “1 of whom shall be a representative of the Massachusetts Association of Regional Planning Agencies; and 1 of whom shall be a representative of the Massachusetts Association of Planning Directors”; in line 2074 by adding after the words “commissioner’s designee” the following:-

1 of whom shall be the secretary of energy and environmental affairs, or his designee”; in line 2332 by adding after the words “Trust Fund and, shall” the following:- “annually”; in line 2335 by adding after the word “transportation” the following:- “, municipal services, impacts on the environment, water and sewer infrastructure.”; in line 2344 by adding at the end of subsection (4) the following:-

“(c) Communities requesting resources from the Gaming Mitigation Trust Fund shall submit a written request for funding to the Board before August 31 of each year. The Board shall hold a public hearing in the region of a gaming establishment by October 31 of each year to provide communities with the opportunity to present their request for funds. The Subcommittee on Community Mitigation and the Local Mitigation Advisory Committee shall provide written recommendations to the Board prior to the distribution of funds. The Board shall distribute funds to eligible communities based on demonstrated need by December 31 of each year.

(d) The board may also, at its discretion, distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than one municipality, provided that said entity shall submit a written request for funding in the same manner as a municipality would be required to submit under subsection (c) herein.”; and

In line 1106 by adding at the end of subsection (j) the following:-

“(k) Additional cities and towns in the vicinity of a gaming establishment may at any time submit a written request to the Board to become a surrounding community. The written request shall include a description of the legitimate impacts resulting from, or likely to result from, the construction or operation of a gaming establishment. The Board shall meet within sixty days of the submission of said written request, and shall determine whether a community has or likely will experience a legitimate impact resulting from the construction or operation of a gaming establishment in its vicinity. If so determined, the Board shall admit the community as a surrounding community. The community may then appoint a voting representative to the Local Community Mitigation Advisory committee. The Local Community Mitigation Advisory Committee shall issue a written determination on each request to become a surrounding community.

(l) In the event that the Board votes not to admit a community, the affected community may submit a written request to the secretary of energy and environmental affairs to become a surrounding community. The written request shall include a description of the legitimate impacts resulting from, or likely to result from, the construction or operation of a gaming establishment. The secretary shall determine whether a community has or likely will experience a legitimate impact resulting

from the construction or operation of a gaming establishment in its vicinity, after review of the written request of the community and the written determination of the Local Community Mitigation Advisory Committee. The community shall be admitted to the Local Community Mitigation Advisory Committee if so determined by the secretary, and the community may then appoint a voting representative to the committee;”.

The amendment was rejected.

Mr. Petruccelli moved to amend the proposed new text by inserting at the end of clause (7) of section 12(a) of Section 13 in line 890 the following:- “; provided further that, upon the signing of an agreement between the host community and the applicant as provided in subsection (10), and on the request of the applicant, the city or town clerk shall set a date certain for an election on said ballot question in the host community; provided further that, at such election, any question submitted to the voters shall be worded as follows:- ‘Shall the (city/town) of \_\_\_\_\_ permit the Massachusetts Gaming Commission to authorize a gaming facility to be located at \_\_\_\_ [description of site] \_\_\_\_? YES \_\_\_\_ NO \_\_\_\_’; provided further that, if a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, such host community shall be taken to have voted in favor of the applicant’s license”.

After remarks, the amendment was adopted.

Mr. Tisei moved to amend the proposed new text by adding at the end thereof the following section: -

“SECTION X. Section 23 of chapter 10 is hereby amended by striking the text contained therein and inserting in place thereof the following: - There shall be a state lottery commission, hereinafter called the commission, consisting of the Massachusetts Gaming Control Board.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at fourteen minutes before four o’clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 6 – nays 33) [Yeas and Nays No. 303]:

INSERT ROLL CALL “303”

Ms. Menard 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 ten minutes before four o’clock P.M., the amendment was rejected.

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There being no objection, during consideration of the Orders of the Day, the following matters were considered:

#### PAPERS FROM THE HOUSE

##### Engrossed Bills.

The following engrossed bills (the first two of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation, to wit:

Authorizing the town of Milton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (see Senate, No. 141, amended);

Relative to the financial condition of the city of North Adams (see Senate, No. 2422);

Amending the charter of the town of Millis to establish an appointed board of assessors (see House, No. 4473, amended); and

Relative to floor finishing products (see House, No. 4565, amended).

##### Emergency Preambles.

An engrossed Bill designating a playground at the marine park in South Boston as the Michael Joyce Memorial Playground (see Senate, No. 2435), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

An engrossed Bill relative to assault and battery on health care providers (see House, No. 1696, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 5 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Thomas Troy, an employee of the Suffolk County Sheriff’s Department (see House, No. 4530, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 10 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Rick Leclair, an employee of the Department of Children and Families (see House, No. 4698, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the



requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-  
Resolutions (filed by Ms. Fargo) "honoring Stephen Shestakofsky on the occasion of his retirement from the Massachusetts Medical Society";

Resolutions (filed by Mr. Hedlund) "honoring Executive Officer Shawn C. Cody of the 101st Army National Guard Engineer Battalion on his safe return home from military action";

Resolutions (filed by Mr. Richard T. Moore) "memorializing Congress of the United States to take immediate action to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program";

Resolutions (filed by Mr. Morrissey) "honoring Lieutenant Colonel Charles Cody, Battalion Commander of the 101st Army National Guard Engineer Battalion, on his safe return from military action"; and

Resolutions (filed by Mr. Panagiotakos) "congratulating Ellen Harde of Westford on being named the 2010 Person of the Year by the Westford Kiwanis Club."

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

June 24, 2010

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

Dear Mr. Clerk:

On Wednesday, June 23rd I was absent from the Chamber for a short period of time, thereby missing a roll call vote regarding the engrossment of S. 2338 - An Act Establishing An Organ Donation Registration Fund. Had I been present for that vote I would have been recorded in the affirmative.

I respectfully request that this communication be printed in the Senate Journal. Thank you in advance for your assistance in this matter.

Sincerely,

BENJAMIN B. DOWNING, State Senator  
Berkshire, Hampshire and Franklin District

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

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4812) of James J. O'Day relative to copying fees for medical records;

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

Petition (accompanied by bill, House, No. 4811) of Lydia Marie XinZhen Brown relative to the curriculum taught at municipal police training schools;

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

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Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Ms. Tucker moved to amend the proposed new text in section 13, in the proposed chapter 23K, section 5, by inserting at the end thereof the following new subsection:-

"(x) prescribe the procedure for holding public hearings and seeking public input on the process for siting gaming establishments and the review of all applications for a gaming license before any license is awarded or renewed. "

After remarks, the amendment was adopted.

Mr. Petruccelli moved to amend the proposed new text in section 13, by inserting after the word "applicant", in line 890, the

following words:- “; provided further that, for purposes of this paragraph only, if the gaming establishment will be located in a city of 125,000 or more residents according to the most recent enumerated federal census, “host community” shall mean only a ward in which the gaming establishment is to be located for the purpose of receiving a certified and binding vote on a ballot question at an election”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes past four o'clock P.M., on motion of Mr. Petruccelli, as follows, to wit (yeas 24 – nays 15) [Yeas and Nays No. 304]:

INSERT ROLL CALL “304”

The yeas and nays having been completed at twenty-nine minutes before five o'clock P.M., the amendment was adopted. Ms. Chandler, Messrs. Michael O. Moore, Brewer and Downing and Ms. Flanagan moved that the proposed new text be amended by striking section 45 of Section 13 and inserting the following:-

“Section 45. Live entertainment in an entertainment venue in the gaming establishment with more than 1,000 seats must be approved by the board. A gaming establishment shall submit information regarding a planned performance for live entertainment in an entertainment venue in the gaming establishment with more than 1,000 seats to the board not less than 3 months prior to the performance. The board shall submit this information to the subcommittee on cultural facilities as established in Section 46(b) for a recommendation on whether to approve or deny the performance. The subcommittee may also make recommendations as to whether the performance should be approved under certain conditions, which may include, but not be limited to, a contract term requiring the live entertainment performer to perform another show in the commonwealth, not at a gaming establishment, within 6 months of performing at the gaming establishment. If the board deviates from the subcommittee’s recommendation, the board shall state its reasons for doing so in writing.”

The amendment was adopted.

Ms. Chandler, Messrs. Michael O. Moore, Brewer and Downing and Ms. Flanagan moved that the proposed new text be amended by striking section 46(b) of Section 13 and inserting the following:-

“Section 46(b). There shall be a subcommittee on cultural facilities under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative of the Massachusetts performing arts center coalition; 1 of whom shall be a representative from the Massachusetts cultural council; 1 of whom shall be a representative of the board; and 2 of whom shall be appointed by the governor, 1 of whom shall have professional experience in the gaming entertainment booking industry and 1 of whom shall be a representative of organized labor. The subcommittee shall develop recommendations for regulations to be developed by the board to address cultural mitigation, including but not limited to: the relationship between gaming entertainment venues and currently existing performing arts centers in the commonwealth and standards for granting waivers of the requirements in section 45.”

After remarks, the amendment was adopted.

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There being no objection, during consideration of the Orders of the Day, the following matters were considered:

#### PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill authorizing the conveyance of certain parcels of land (see House, No. 4801), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 5 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation, to wit:

Designating a playground at the marine park in South Boston as the Michael Joyce Memorial Playground (see Senate, No. 2435); Relative to assault and battery on health care providers (see House, No. 1696, amended);

Establishing a sick leave bank for Thomas Troy, an employee of the Suffolk County Sheriff’s Department (see House, No. 4530, amended), and

Establishing a sick leave bank for Rick Leclair, an employee of the Department of Children and Families (see House, No. 4698, amended).

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Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question

being on ordering it to a third reading.

Mr. Hart moved to amend the proposed new text in section 25(f), lines 1610 and 1611, by striking out the words “and, in consultation with the board, shall execute a memorandum of understanding with the law enforcement agency of the host community” and inserting in place thereof the following words:- “. The board in consultation with the Col. of the State Police shall execute a memorandum of understanding with the host community”.

The amendment was rejected.

Mr. Hart moved to amend the proposed new text in section 12 in the first sentence, line 61, by adding the words “including members of the host community’s police department” after the words “establish a gaming enforcement unit”.

The amendment was rejected.

Ms. Tucker moved to amend the proposed new text by inserting, in section 70 after (a) subsection 3 , the following:- “\$5,000,000 to the Massachusetts Gambling Impact Foundation to be used for start-up and operational costs;”; by inserting in section 13 after “Chapter 23K The Massachusetts Gaming Commission and Massachusetts Gaming Control Board,” the following words: “and “the Massachusetts Gambling Impact Foundation”; by inserting into section 13, subsection 1 after the definition of “Foreign Business,” the following:- “Foundation, the Massachusetts Gambling Impact Foundation created in section x”; by inserting into section 13, after subsection 3, the following:- “In order to serve as an advocate for the public interest and to ensure that the implementation of the legislation is transparent, accountable, open, and honest, there shall be an independent foundation of five members who shall conduct a cost benefit analysis of gaming in the Commonwealth every two years. The foundation shall, every two years, provide to the House of Representatives, the Senate, the Governor, the Attorney General, the Gaming Board, and the Gaming Commission a comprehensive report of the social and economic impacts of gaming in each region and the Commonwealth. Such report shall include recommendations for legislative, regulatory, and budgetary changes, including, if appropriate, the elimination of the expansion of this act or the sunseting of this act. No license shall be awarded prior to the submission of the first report.

(a) The foundation shall consist of five members who shall be appointed by the state auditor and selected from the following: 1 member selected from a list of three people submitted by the Massachusetts Taxpayers Foundation; 1 member selected from a list of three people submitted by the Metropolitan Area Planning Council; 1 member selected from a list of three people submitted by the Massachusetts Municipal Association; and 2 members shall be on the faculty of a public or private college or university who are experienced in conducting independent cost/benefit analyses. No member shall have any financial interest in any gaming licensee or gaming vendor. 3 members shall serve a term of 3 years and 2 members shall serve a term of two years. The appointed members of the foundation shall be individuals who have knowledge or expertise whether by experience or training, in matters to be studied by the foundation.

Any vacancy that occurs during the life of the foundation shall be filled in the same manner as the original appointment no later than 60 days after the vacancy occurs. The foundation shall consult with, but not limited to: government, police, department of public works, the chamber of commerce, cultural establishments, and the school department in each host community and surrounding communities.

(b) The foundation shall meet at the call of the chairperson. The initial meeting of the foundation shall be conducted not later than 30 days after the appointment of the last member of the foundation, or not later than 30 days after the date on which appropriated funds are available for the foundation, whichever is later.

(c) It shall be the duty of the foundation to conduct a comprehensive legal and factual study of the social and economic impacts of gambling in Massachusetts on – (i) State, local, and Native American tribal governments; and

(ii) Communities and social institutions generally, including individuals, families, and businesses within such communities and institutions.

The matters studied by the foundation shall include, but not be limited to: -

(i) a review of existing Federal, State, local and Native American tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;

(ii) an assessment of the relationship between gambling and levels of crime, and of existing enforcement and regulatory practices that are intended to address any such relationship;

(iii) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions, and the economy;

(iv) an assessment of the impacts of gambling on individuals, families, businesses, social institutions, and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;

(v) an assessment of the extent to which gaming has provided revenues to other state, local, and Native American tribal governments, and the extent to which possible alternative revenue sources may exist for such governments; and

(vi) an assessment of the costs of added infrastructure, police force, losses to lottery, increased unemployment and dependency on subsidies, etc.

(vii) the costs of implementing Ch. 23K

(d) The foundation shall have all of the following powers necessary and convenient to carry out and effectuate its purposes, including, but not limited to: the following:

(i) to adopt officers and hire employees;

(ii) to adopt an official seal;

(iii) to hold hearings, take testimony, and receive evidence as the foundation considers necessary to carry out its duties under this section;

(iv) to issue subpoenas and compel the attendance of witnesses at any place within the commonwealth, administer oaths, and

require testimony under oath;

(v) to secure directly from the board, commission, or any state department or agency such information as the foundation considers necessary to carry out its duties.

(vi) to apply for and accept subventions, grants, loans, advances, and contributions;

(vii) to enter into agreements or other transactions with any person, including, but not limited to any public entity or other government instrumentality or authority in connection with its powers and duties under this chapter; and

(viii) to provide and pay for advisory services and technical assistance as may be necessary;

(e) The members of the foundation shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of the foundation member's duties, including reimbursement for travel; however that such reimbursement shall not exceed \$500 annually.”

The amendment was rejected.

Ms. Tucker moved to amend the proposed new text by inserting after section 73 the following new section:-

“Section 73A. Notwithstanding any general or special law, rule or regulation to the contrary, gaming operations shall supply the Massachusetts gaming control board, hereinafter the board, with customer tracking data collected or generated by loyalty programs, player tracking software, player card systems, online gambling transactions, and any other such information system. The board shall contract with an experienced non-profit research entity to develop an anonymizing system that automatically removes from the data (a) personally identifying information, including player name, street address, bank or credit information, and last four zip code digits, in compliance with section 2 of chapter 93H of the General Laws and (b) game identifying information, including game name and device manufacturing company, in protection of corporate intellectual property. The data shall retain information on player characteristics, including but not limited to gender, age, and region of residence, player behavior, including but not limited to frequency of play, length of play, speed of play, denomination of play, amounts wagered, and, if applicable, number of lines or hands played, and characteristics of games played, including but not limited to reel configuration, RTP, volatility index, and denomination. The board shall convey the anonymized data to the Inter-University Consortium for Political and Social Research (ICPSR), which operates to archive and make available public-use files for the social science research community. ICPSR will make the data available to qualified researchers for the purposes of (1) conducting analyses that improve understanding of how gambling addiction develops and progresses; (2) developing evidence-based harm minimization strategies; (3) developing evidence-based systems to monitor, detect, and intervene in high-risk gambling. The board will be responsible for requesting reports on researcher analyses of the behavioral data, which could inform suggestions to the Legislature on more effective regulation of state gambling operations. The board will have the authority to directly initiate studies assessing the effectiveness of any specific measures, programs, or interventions which the State puts in place in gaming operations, and which might be illuminated through the behavioral data in question.”

After remarks, the amendment was adopted.

Messrs. Montigny and Brewer, Ms. Fargo and Ms. Creem moved to amend the proposed new text in section 63, line 2289, by striking the number:-“25” and inserting in its place the number:-“30”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before five o'clock P.M., on motion of Mr. Montigny, as follows, to wit (yeas 8 – nays 31) [Yeas and Nays No. 305]:

INSERT ROLL CALL “305”

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

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There being no objection, during consideration of the Orders of the Day, the following matter was considered:

PAPER FROM THE HOUSE

A Bill making a corrective change relative to the town of Millbury and payment of a certain bill (printed in House, No. 4684,-- being a message from His Excellency the Governor),--was read.

There being no objection, the rules were suspended, on motion of Ms Chandler, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

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Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Messrs. McGee and DiDomenico moved to amend the bill in section 13, subsection 13(a)(13), in line 971, by inserting after the word “development” the words “, and capital and routine maintenance; and (v) a responsible contractor policy and the specific qualifications required for all contractors and subcontractors on the project;”.

After debate, the amendment was adopted.

Mr. McGee moved to amend the bill in section 13, line 994, by adding after the word “license” the following: “; and whether the applicant would agree to hire any qualified greyhound kennel owners, greyhound kennel workers, or other former greyhound

track employees who lost their jobs as a result of the passage of chapter 388 of the Acts of 2008; provided, however, that all employees within the gaming establishment shall be subject to all other requirements and conditions of employment under this chapter”.

The amendment was adopted.

Mr. McGee moved to amend the proposed new text in section 3, in line 12, by adding after the word “repealed” the following: “provided any unexpended funds in the greyhound adoption trust fund as of December 31, 2009 shall be expended for the greyhound adoption program”.

The amendment was rejected.

Mr. Hedlund moved that the proposed new text be amended by inserting in line 338 after the word “machine” the words “that is domestically made”.

Ms. Spilka rose to a point of order, which, being stated was that the amendment, which requires all slot machines to be made in the United States was unconstitutional.

The President ruled that the point of order was well-taken, and the amendment was laid aside.

Mr. Hedlund and Ms. Fargo moved that the proposed new text be amended by striking out lines 396 and 397 in their entirety and inserting in place thereof the following:-

“(i) No commissioner or immediate family member of a commissioner shall be actively engaged or have a pecuniary interest in an applicant for a license under this chapter or any gaming licensee.”

The amendment was rejected.

The President in the Chair, Ms. Menard moved to amend the proposed new text by inserting at the end thereof the following new section:-

## “SECTION X. MINIMUM LABOR STANDARDS AT GAMING FACILITIES

### I. MINIMUM REQUIREMENTS

#### A. MINIMUM WAGES

Gaming Facilities shall ensure that Employees receive compensation of at least the following:

##### Minimum Compensation

The hourly compensation for each Employee shall be such that if the Employee worked an average of at least 1800 hours in a twelve month period he or she would earn no less than a minimum of 300% of the Federal Poverty Guidelines for a family of four, as published by the United States Department of Health and Human Services in the Federal Register as of March 1, 2010.

##### Credit for Health Benefits

‘Health benefits’ credited towards the minimum compensation shall consist of that sum paid by the Employer for providing medical, dental and/or vision care for the employee and/or his/her spouse and dependents.

##### Inflation Adjustments

The State shall publish a bulletin by March 1st of each year announcing the annually adjusted compensation rates necessary for employees to earn a minimum of 300% of the Federal Poverty Guidelines for a family of four. Such rates shall take effect upon publication. Such bulletin will be distributed to all employers covered by this statute and to any other person who has requested to receive such notice. An employer shall provide written notification of the rate adjustments to each of its employees and to its subcontractors, who shall provide written notices to each of their employees, if any, and make the necessary payroll adjustments by July 1 following the State's notice of the adjustment.

#### B. PAID LEAVE FOR JURY DUTY

Each Gaming Facility shall ensure that Employees are provided with paid leave for jury duty.

#### C. PAID SICK LEAVE

Each Gaming Facility shall provide paid leave for illnesses for potentially-contagious conditions. Use of such leave may not be grounds for discipline, including points against a no fault absenteeism policy.

#### CHILD CARE

Each Gaming Facility shall provide on its premises a licensed child care facility for employees' children under the age of 13. An employer may make the facility also available to children of the facility guests, but not to the exclusion of the child of any employee. The employer may charge an hourly fee to an employee for use of the facility. For each child of an employee, such fee shall not exceed 5% of the employee's wage rate. The hourly fee shall not be increased if the employee works overtime and is therefore compensated at a higher rate of pay. The employer's facility shall provide each child with at least one wholesome, nutritious and complete meal for each period of eight hours, or fraction thereof, the child is in the facility, without additional charge or fee to the employee.

#### RETALIATION AND DISCRIMINATION BARRED; NO WAIVER OF RIGHTS

An employer shall not discharge, reduce the compensation of or otherwise discriminate against any employee for making a complaint to the Commission, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this chapter. Any discipline against an employee within 90 days of his having engaged in such protected activity shall be presumed retaliatory unless the employer proves the contrary by clear and convincing evidence.

### II. DEFINITIONS

The following definitions shall apply throughout this Chapter:

For these purposes, ‘Gaming Facility’ includes not only the licensed facility directly operated by the licensee but also any food & beverage outlets or hotels operated in conjunction with such licensed facility, even if operated by a separate employer.

'Employee' shall be broadly construed to include anyone permitted by the operator to regularly engage in providing services to guests

'Compensation' consists of wages or salaries, health benefits, and a credit for gratuities or service charges received up to the dollar amount creditable against the minimum wage under MGL Chapter 151 (7).

4. 'Paid leave' means leave during which the Employee receives at least the Employee's regular rate of pay as defined by the Fair Labor Standards Act.

### III. ENFORCEMENT

A penalty shall be imposed for each day of violation of at least one hundred dollars per day for each worker affected and not more than one thousand dollars per day for each worker affected, the amount to be determined by the court.

In addition to the ordinary remedies for license violations, if any person believes a Gaming Facility has violated this Chapter, they may bring a civil action for injunctive relief, to collect damages for all persons injured by the violation, and collect penalties for the Agency. A prevailing plaintiff in such an action shall be entitled to recover from the facility their expenses in pursuing the action, including reasonable attorneys fees.

The remedies set forth herein are not exclusive of any other remedies available at law, which shall include those set forth in Section 20 of MGL Chapter 151. Pursuit of administrative remedies shall not be a prerequisite for pursuing judicial relief. Any waiver by an individual of any provision of this Chapter shall be void and unenforceable, except that Employees are not barred from entering into a written valid collective bargaining agreement waiving provisions of this Chapter if such waiver is set forth in clear and unambiguous terms.

E The agency shall have the right to inspect and copy payroll records of Gaming Facilities and to interview employees on premises to determine if the facility is in compliance with this Chapter. The agency shall have the right to delegate this inspection and visitation authority to one or more nonprofit organizations on the condition that they do not disrupt business.

G. If any provision or application of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Chapter in order to preserve the maximum permissible effect thereof."

The amendment was rejected.

Mr. Tisei moved to amend the proposed new text by adding at the end thereof the following section: -

"SECTION X. All proceeds from the licensing of a resort casino in the southeastern portion of the commonwealth, along with all tax revenue generated by said casino shall be utilized for the construction of any railway extension in the southeast corridor, the so-called, South Coast Rail extension, upon completion of final payment for such project all tax revenues from said casino shall be deposited in the state lottery and gaming fund."

After debate, the amendment was rejected.

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### Suspension of Senate Rule 38A.

Mr. Petrucci moved that Senate Rule 38A be suspended to allow the Senate to meet beyond the hour of 8:00 P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

### Recess.

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

### Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Messrs. Tolman and DiDomenico moved that the proposed new text be amended by adding the following new section:--

"There shall be established a special commission to investigate and study the differences between opioid addiction and gambling addiction. The commission shall consist of 3 members of the senate, 2 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 2 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader; and 5 members to be appointed by the governor; 1 of whom shall be a representative from the bureau of substance abuse services; 1 of whom shall be the chair of the department of psychiatry at the University of Massachusetts Medical School; and 1 of whom shall be the director of the interagency council on substance abuse and prevention. The chairman of the commission shall be one of the members appointed by the president of the senate or the speaker of the house of representatives.

The study shall include, without limitation, a review and analysis of: whether the neuro-receptors in the brain that are connected with opioid abuse are the same as those connected with gambling addiction; what triggers a gambling addiction; what are the long-term side effects of gambling addiction, are those similar to opioid addiction; what treatment options are available for gambling addiction; and what is the feasibility of including gambling addiction treatment programs in the Commonwealth.

The commission shall consult the department of public health, the executive office of public safety and security, and other entities as appropriate. The commission shall submit a report of its findings and recommendations, together with legislation, if

any, necessary to implement said recommendations, by filing the same with the clerks of the house of representatives and the senate, the joint committee on mental health and substance abuse and the house and senate committees on ways and means not later than January 1, 2011.

The amendment was rejected.

Messrs. Hart and DiDomenico moved to amend the proposed new text in section 65 by inserting following at the end of line 2759: "Furthermore, (i) said commission shall establish a deadline for submission of applications for gaming licenses under Chapter 23K to be not later than 60 days after the commission publishes the form of application as required by section 13 of Chapter 23K; and (ii) said commission shall conduct a public hearing on any applications for gaming licenses under Chapter 23K not later than 60 days after the deadline for filing such applications."

The amendment was rejected.

Mr. O'Leary moved to amend the proposed new text by striking section 21 and inserting the following new section: -

"SECTION 21. (a) No gaming licensee, establishment, nor any person acting on behalf of a licensee or establishment shall: (i) be permitted to issue credit to a patron of a gaming establishment; (ii) cash any check, make any loan or otherwise provide or allow to a person any credit or advance of anything of value, or which represents value, to enable a person to place a wager; or (iii) release or discharge debt, either in whole or in part, or make a loan which represents any losses incurred by a player in gaming activity, without maintaining a written record of the release or discharge under the rules of the commission. Nothing in this section shall prohibit an establishment from accepting credit cards for non-gaming related purchases.

(b) The commission shall establish by regulation, under section 5, procedures and standards for approving promotional gaming credits; provided, that, no such credit shall be reported as a promotional gaming credit by an operator of a gaming establishment unless the operation can establish that the credit was issued by the gaming establishment and received from a patron as a wager at a game in the gaming establishment; provided, further, that such promotional gaming credit shall not be taxable for purposes of determining gross income.

(c) Debt collections under this section and debt collection regulations promulgated under section 5 shall be limited to key gaming employees or attorneys acting directly on behalf of gaming licensees; provided further that a key gaming employee shall be prohibited from making any such collections if the key gaming employee serves as a junket representative for the gaming establishment."

The amendment was rejected.

Messrs. O'Leary and Brewer moved to amend the proposed new text by striking in line 2805 the figure "\$15,000,000" and inserting in place thereof the following figure: - "\$45,000,000".

The amendment was rejected.

Mr. O'Leary moved to amend the proposed new draft by inserting in line 506 the following: "said criteria shall be developed in consultation with the subcommittee on community mitigation and the local community mitigation advisory committees established under section 46. If the board declines to pursue the subcommittee or local community advisory committee's recommendations, the board shall submit a detailed report to the subcommittee, local community advisory committee and the commission explaining why the recommendations have been rejected"; in line 2137, by striking the word:, "may" and inserting in place thereof the word: "shall"; and in line 2141, by striking the word:, "may" and inserting in place thereof the word: "shall".

The amendment was rejected.

Mr. Eldridge moved to amend the bill in line 2289 by striking section 63 in its entirety and inserting in place thereof the following:-

"Section 63. (a) A licensee shall pay a daily tax of 25% on gross gaming revenues, provided that taxes imposed under this section shall be remitted to the board by a licensee the day following each day of wagering and provided further that the board shall remit such revenues received to the commonwealth on a daily basis and deposit into the Gaming Revenue Fund, as established in Section 64;

(b) In addition, a licensee shall pay a daily tax of 5% on gross gaming revenues, provided that taxes imposed under this section shall be remitted to the board by a licensee the day following each day of wagering and provided further that the board shall remit such revenues received to the commonwealth on a daily basis and deposit into the Gaming Economic Development Fund, created in Section 2CCCC of Chapter 29; provided further that such revenues shall be used for small business lending, small business technical assistance, and a small business grant program with priority given to small businesses located within 30 miles of the gaming establishment.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-three minutes before eight o'clock P.M., on motion of Mr. Eldridge, as follows, to wit (yeas 10 – nays 27) [Yeas and Nays No. 306]:

INSERT ROLL CALL "306"

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

Mr. Eldridge moved that the bill be amended in line 1392 by inserting at the end thereof the following new subsection:-

"(x) No licensee shall permit on its premises any credit card or ATM machine which would permit a patron to obtain a cash advance on said patron's credit card. Similarly, no service shall be permitted on the premise of a licensed gambling establishment which would permit a patron to receive funds via wire transfer."

After debate, the amendment was rejected.

Ms. Jehlen moved that the proposed new text be amended in section 35 by inserting the following new subsection:-

"(l) The Board shall pursue an interstate compact for the purposes of sharing information regarding the excluded persons list."

After remarks, the amendment was adopted.

Mr. Eldridge moved that the proposed new text be amended in line 1514 by inserting after the words "gaming establishment" the following new subsection:-

“(g) On an annual basis, each gaming licensee shall report to the commission the number of debt collection processes on patrons that are initiated, and the total amount recovered by the licensee. Notwithstanding any general or special laws to the contrary, this report shall be considered public record.”

The amendment was adopted.

Mr. Eldridge moved that the proposed new text be amended in line 338 by inserting the following new definition:-

“‘Rewards card,’ a card issued to patrons that tracks the amount of money and/or time spent gaming in order to determine the value of provisions or complimentary services to their patrons.”; in line 1958 after the words “section 36.” adding the following:-

“(a)”;

“(b): Licensees are required to issue a monthly statement to each patron who has been issued a rewards card or participates in a cashless wagering system by the gambling establishment, including total bets, wins and losses.

(c): On an annual basis, licensees are required to report to the commission the amount of money spent and lost by patrons who have been issued a rewards card or who have participated in a cashless wagering system, aggregated by zip code.

Notwithstanding any special or general laws to the contrary, this report shall be considered public record.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes past eight o'clock P.M., on motion of Mr. Eldridge, as follows, to wit (yeas 9 – nays 30) [Yeas and Nays No. 307]:

INSERT ROLL CALL “307”

The yeas and nays having been completed at eleven minutes past eight o'clock P.M., the amendment was rejected.

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There being no objection, during consideration of the Orders of the Day, several matter were considered as follows:

#### PAPERS FROM THE HOUSE

##### Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4601) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2470), reported, in part, a “Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements” (House, No. 4800) -- came from the House, and was read.

The rules were suspended, on motion of Mr. Panagiotakos, and the report was considered forthwith.

After remarks, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at twelve minutes before nine o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 33- nays 7) [Yeas and Nays No. 308]

INSERT ROLL CALL “308”

The yeas and nays having been completed at eight minutes before nine o'clock P.M., the report of the committee of conference was accepted, in concurrence.

##### Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill authorizing the conveyance of certain parcels of land (see House, No. 4801) (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 two minutes before nine o'clock P.M., as follows, to wit (yeas 39 - nays 0) [Yeas and Nays No. 309]:

Yeas:- 39

INSERT ROLL CALL [309]

Nays:- 0

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

Engrossed Bill.



An engrossed Bill making a corrective change relative to the town of Millbury and payment of a certain bill (see House Bill, printed in House, No. 4684) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the President and laid before the Governor for his approbation.

#### Engrossed Bill Returned with Recommendation of Amendment

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to regional school district budgets (see House, No. 4775) [being the text of section 4 of the Supplemental Appropriation Bill (see House, No. 4579, amended)] [for message, see House, No. 4774],-- came from the House with an amendment in the form approved by the committee on Bills in the Third Reading.

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

The rules were suspended, on motion of Mr. DiDomenico, and the Governor's amendment was considered forthwith; and was adopted, in concurrence.

Sent to the House for re-enactment.

#### Report of a Committee.

Mr. Berry, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill establishing a regional public safety communications and dispatch center in the towns of Cohasset, Hingham, Hull and Norwell (House, No. 4610).

There being no objection, the rules were suspended, on motion of Mr. Hedlund, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows:

"An Act establishing a regional public safety communications and dispatch center for the towns of Cohasset, Hingham, Hull and Norwell".

#### Matter Taken Out of the Notice Section of the Calendar.

The President requested that there being no objection, the Senate Bill to protect motor vehicle owners' and independent repairers' right to repair (Senate, No. 2268) be taken out of the Notice Section of the Calendar,-- but objection was made thereto by Mr. Tisei.

The bill was returned to the committee on Bills in the Third Reading.

#### Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Messrs. Kennedy, Pacheco and Ross moved to amend the proposed new text by substituting a new text entitled "An Act establishing expanded gaming in the Commonwealth, as follows:

SECTION 1. SECTION 13. Section 1 of chapter 23K is hereby amended by striking in lines 258 and 259 the following: "Gaming License", a license issued by the commission that permits the licensee to operate a gaming establishment with table games and slot machines.", and adding in place thereof the following: "Gaming License", is a gaming resort license or a gaming limited license that is issued by the commission."; and by inserting the following new definitions:

"Gaming resort license", a license issued by the commission that permits the licensee to operate a gaming establishment with table games and slot machines."

"Gaming limited license", a license issued by the commission that permits the thoroughbred horse racing facility, the harness horse racing facility and each greyhound racing facility, to operate a gaming establishment with up to 750 slot machines and simulcast wagering pursuant to chapter 128C."

"Greyhound racing facility", the greyhound racing facility located in Suffolk county, and the greyhound racing facility located in Bristol county, that were licensed pursuant to chapter 128A to conduct live greyhound racing in calendar year 2009 and are licensed pursuant to chapter 128C to conduct simulcast wagering."

"Harness horse racing facility", the harness horse racing facility located in Norfolk county that was licensed pursuant to chapter 128A to conduct live harness horse racing in calendar year 2009, is licensed pursuant to chapter 128A to conduct live harness horse racing and is licensed pursuant to chapter 128C to conduct simulcast wagering. "

"Thoroughbred horse racing facility", the thoroughbred horse racing facility located in Suffolk county that was licensed pursuant to chapter 128A to conduct live running horse racing in calendar year 2009, is licensed pursuant to chapter 128A to conduct live running horse racing and is licensed pursuant to chapter 128C to conduct simulcast wagering."

SECTION 2. SECTION 13, Section 12(a), of chapter 23K is hereby amended in line 867, by inserting after the word "gaming", the following: "resort"; and by adding at the end thereof the following new subsection:

“Section 12 (b). Upon each qualified applicant meeting the applicable requirements of this chapter, the commission shall issue 1 gaming limited license to each thoroughbred horse racing facility, harness horse racing facility and greyhound racing facility. No other persons are qualified to receive a gaming limited license; provided, however, that such exclusivity shall not include the interests of the commonwealth in compacting with any federally recognized Native American tribe for gaming rights in the commonwealth. For a period of 15 years, the commission shall not allow more than 750 slot machines at each gaming establishment that is operating pursuant to a gaming limited license. Notwithstanding the foregoing, and upon approval by the commission, a limited gaming licensee may merge its license with another limited gaming licensee or with a gaming resort licensee; provided however, if a limited gaming licensee elects to merge with another limited gaming licensee, then the 1 gaming establishment that survives after the merger shall not be allowed more than 1,500 slot machines. No qualified applicant shall receive a gaming limited license unless the applicant meets the following initial criteria and clearly states as part of an application that the applicant shall:

- (1) agree to be a state lottery reseller for the purpose of lottery, multi-jurisdictional lottery and keno games, and to demonstrate that state lottery and keno games are readily accessible to its guests;
- (2) prior to beginning operations, invest not less than \$75,000,000 into the applicant's gaming establishment. The investment required under this section shall be made within 4 years of receiving a gaming license; provided, however, that not less than \$50,000,000 shall be invested within 2 years of receiving a gaming license.
- (3) meet the bonding requirement for a gaming limited license as set by the board;
- (4) have a debt to equity ratio of not more than 4 to 1 when the application is submitted;
- (5) own or acquire within 60 days after a license has been awarded, the land where the gaming establishment is proposed to operate;
- (6) demonstrate an ability to pay and commit to paying the licensing fee of at least \$15,000,000 and the operating licensing payment of 40 percent of all gross gaming revenues;
- (7) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; provided, that, the vote must take place after the effective date of this chapter; provided further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the host community and applicant as provided in subsection (10); provided, further, that the city, town or district that holds an election shall be reimbursed for its expenses related to the election by the applicant;
- (8) provide a community impact fee to the host community;
- (9) pay for infrastructure costs of the host and surrounding communities incurred in direct relation to the construction and operation of a gaming establishment;
- (10) provide to the commission a signed agreement between the host community and the applicant to have a gaming establishment located within the host community; provided, that the agreement shall include the community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;
- (11) comply with state and local building codes and local zoning ordinances;
- (12) formulate for board approval and abide by an affirmative-action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including a person with a disability, under the laws of the commonwealth; and
- (13) pay to the commission a non-refundable application fee in the amount of \$250,000.”

SECTION 3. SECTION 13, Section 17.(a) of chapter 23K is hereby amended in line 1166 by inserting after the word "gaming", the following: "resort"; and in line 1167 by inserting after the number "1", the following: "gaming resort"; and in line 1172 by inserting after the word "Gaming" the following: "resort", and in line 1176 by inserting after the word "gaming", the following: "resort"; and in line 1263

And by inserting at the end of Section 17.(a) the following: "Nothing in this chapter shall preclude a licensee of a gaming limited license from applying for and receiving a gaming resort license."

SECTION 13, Section 17.(i) of chapter 23K is hereby amended in line 1263 by inserting after the word "establishment", the following: "operating pursuant to a gaming resort license"; and in line 1264 by inserting after the word "establishment", the following: "operating pursuant to a gaming resort license".

SECTION 13, Section 17.(j) of chapter 23K is hereby amended in line 1265 by inserting after the word "gaming", the following: "resort"; and in line 1269 by inserting after the word "gaming", the following: "resort".

SECTION 13, Section 17.(k) of chapter 23K is hereby amended in line 1275 by inserting after the word "gaming", the following: "resort"; and in line 1276 by inserting after the word "gaming", the following: "resort".

SECTION 4. SECTION 13, Section 17 of chapter 23K, is amended by inserting the following new sections at the end thereof:

(l) Any gaming resort license or gaming limited license that is issued to the qualified thoroughbred horse racing facility and to the qualified harness horse racing facility shall be contingent upon the requirements of this section. The licensee shall complete its annual live racing season pursuant to chapter 128A; provided, the licensee shall maintain any racing facility on the premises which includes the gaming establishment; provided, further, the licensee shall increase the number of live racing days to a minimum of 125 days according to the following schedule:

- (i) in the first calendar year of operation a licensee shall hold 105 racing days;
- (ii) in the second calendar year of operation a licensee shall hold 115 racing days; and
- (iii) in the third calendar year of operation a licensee shall hold 125 racing days.

The commission shall suspend the gaming license of the licensee that does not conduct live racing for the minimum number of

days set forth in the schedule. The commission may allow the licensee to increase the number of live racing days if the licensee is holding a minimum of 125 racing days within 3 years of receiving its gaming license. After 3 years of operation, and in consultation with the parties to the purse agreement, the commission may adjust the amount of required racing days based on fields, demand and racing performance.

Each licensee shall have an annual purse agreement in effect by December thirty-first of each year for the following year's racing; provided, however, that if the parties to a purse agreement cannot in good faith negotiate an agreement by December thirty-first, the purse agreement shall be arbitrated by the commission.

If the thoroughbred horse racing facility or harness horse racing facility is issued a gaming resort license, then such license shall be contingent upon the licensee's continued satisfaction of the provisions of this section; provided, further, such gaming resort licensee shall also continue to pay the amounts into the Massachusetts race horse development fund that were required pursuant to the gaming limited license.

If the thoroughbred horse racing facility and the greyhound racing facility located in Suffolk county seek a merged gaming limited license, then each applicant shall apply for a merged license with their initial application to the commission. The commission shall approve any merger agreement provided all parties to the merger are otherwise qualified for licensure. Upon approval by the commission, the thoroughbred horse racing facility may merge its gaming limited license with the gaming limited license issued to the greyhound racing facility located in Suffolk county and locate the total number of slot machines allotted to each licensee at the gaming establishment of the thoroughbred horse racing facility.

(m) Any gaming resort license or gaming limited license that is issued to the qualified greyhound racing facility shall be contingent upon the requirements of this section. The licensee shall maintain a simulcast license pursuant to chapter 128C and shall continue to simulcast live thoroughbred, harness or greyhound races. The commission shall suspend the gaming license of the licensee that fails to comply with the foregoing simulcast requirements.

(n) Each licensee of a gaming limited license shall invest not less than \$75,000,000 into the licensee's gaming establishment within 4 years of receiving a gaming license; provided, however, that not less than \$50,000,000 shall be invested within 2 years of receiving a gaming license. If the commission approves the merged gaming limited license between the thoroughbred horse racing facility and the greyhound racing facility located in Suffolk county, then the 1 gaming establishment the results shall invest not less than \$150,000,000 into the licensee's gaming establishment within 4 years of receiving a gaming license; provided, however, that not less than \$100,000,000 shall be invested within 2 years of receiving a gaming license.

(o) All taxes imposed under this section shall be remitted to the board by a licensee on the day following the day of wagering. Each gaming limited licensee shall pay a daily tax of 40 percent on gross gaming revenues. The board shall transfer these payments into the Local Aid Stabilization Fund established by section 16; provided, further, all amounts paid into the Local Aid Stabilization Fund by each gaming limited licensee shall not be subject to the limits established by section 72.

(p) The thoroughbred horse racing facility and the harness horse racing facility shall each pay a daily assessment of 8 percent of gross gaming revenue, and each greyhound racing facility shall each pay a daily assessment of 10 percent of gross gaming revenue, to the Massachusetts race horse development fund established by section 76. If the commission approves the merged gaming limited license between the thoroughbred horse racing facility and the greyhound racing facility located in Suffolk county, then the resulting gaming establishment shall pay a daily assessment of 9 percent of its gross gaming revenue to the Massachusetts race horse development fund.

SECTION 5. SECTION 13, Section 63.(a), of chapter 23K is hereby amended in line 2289, by inserting after the word "licensee", the following: "holding a gaming resort license".

SECTION 6. The following new sections are inserted:

SECTION 76 (a) There is hereby established a Massachusetts race horse development fund which shall be administered by the commission. The commission shall make distributions from the Massachusetts race horse development fund to each gaming licensee who conducts live horse racing pursuant to chapter 128A and the requirements of this chapter.

(b) Funds shall be distributed in proportion to the gross gaming revenue of each gaming licensee who conducts live horse racing pursuant to chapter 128A and the requirements of this chapter, and shall be allocated as follows:

(1) 80 per cent shall be deposited weekly into an interest-bearing account and shall be used to fund purses for live races at each gaming licensee consistent with the purse agreements of the horsemen and with the advice and consent of the horsemen.

(2) for the thoroughbred horse racing facility, 16 per cent shall be deposited on a monthly basis into the Massachusetts thoroughbred breeding program authorized by the commission pursuant to section 2 of chapter 128.

(3) for the harness horse racing facility, 8 per cent shall be deposited on a monthly basis into a standardbred breeding program authorized by the commission pursuant to section 2 of chapter 128 and an additional 8 per cent shall be deposited on a monthly basis into a standardbred breeder development program authorized by the commission.

(4) 4 per cent shall be deposited monthly and used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers who operate at the gaming establishment and for the benefit of the organization's members, their families, employees and others in accordance with the organization's rules and requirements, as approved by the commission. The organization shall select the banking institution to receive such funds, subject to the commission's approval. The commission shall determine the amount to be paid annually for health insurance, life insurance and other benefits to the organizations representing thoroughbred jockeys and standardbred drivers.

After remarks, the amendment was rejected, by a vote of 5 to 20.

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There being no objection, during consideration of the Orders of the Day, one matter was considered as follows:

## PAPER FROM THE HOUSE

### Emergency Preamble Adopted.

An engrossed Bill making appropriations for the fiscal year 2011 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. 4800), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 12 to 0.

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

### Orders of the Day.

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

The House Bill establishing expanded gaming in the Commonwealth (House, No. 4619),-- was considered, the main question being on ordering it to a third reading.

Mr. Pacheco, Ms. Menard and Mr. Joyce moved that the proposed new text be amended by adding at the end thereof the text of Senate document numbered 2521, relative to extended simulcasting.

Pending the adoption of the above amendment, Messrs. Kennedy, Pacheco, Ross and Petruccelli moved that the proposed amendment be amended by striking out the text of the above amendment in its entirety and inserting in place thereof the following text:

By inserting after section 59 the following 19 sections:-

SECTION 59A. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 1 of chapter 167 of the acts of 2009, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59B. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words "July 31, 2010", inserted by section 2 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59C. The introductory paragraph of section 13 of said chapter 494 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 3 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59D. Section 15 of said chapter 494 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 4 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59E. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 5 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59F. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of 1991 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 6 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59G. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words "July 31, 2010", inserted by section 7 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59H. The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 8 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59I. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words "July 31, 2010", inserted by section 9 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59J. The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words "and until July 31, 2010", inserted by section 10 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2012.

SECTION 59K. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out the words "July 31, 2010", inserted by section 11 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59L. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out the words "July 31, 2010", inserted by section 12 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59M. Section 20 of chapter 449 of the acts of 2006 is hereby amended by striking out the words "July 31, 2010", inserted by section 13 of said chapter 167, and inserting in place thereof the following words:- July 31, 2012.

SECTION 59N. Section 24 of chapter 167 of the acts of 2009 is hereby amended by striking out the words "July 31, 2010" and inserting in place thereof the following words:- July 31, 2012.

SECTION 59O. Notwithstanding section 2 of chapter 128A of the General Laws and sections 1, 2 and 2A of chapter 128C of the General Laws or any other general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county licensed to conduct live racing pursuant to said chapter 128A and simulcast wagering pursuant to said chapter 128C in calendar year 2009, shall remain licensed as greyhound racing meeting licensees until July 31, 2012; provided, however, that the days between January 1, 2010 and July 31, 2012 shall be dark days under said chapter 128C and the licensees shall continue to be precluded from conducting live racing during that period and as provided in chapter 388 of the acts of 2008; provided further, that all simulcasts shall comply with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3001 et seq. or other applicable federal law; provided further, that all simulcasts from states which have racing associations that do not require approval in compliance with the Interstate Horse Racing Act of 1978, 15

U.S.C. Sec. 3004 (a) (1) (A), except simulcasts during the month of August, shall require the approval of the New England Horsemen's Benevolent and Protective Association prior to being simulcast to a racing meeting licensee within the commonwealth; and provided further, that if the association agrees to approve the simulcast for 1 racing meeting licensee, it shall approve the simulcast for all otherwise eligible racing meeting licensees.

SECTION 59P. Notwithstanding any general or special law or rule or regulation to the contrary, there shall be a Racing Stabilization Fund that shall be administered by the undersecretary for consumer affairs and business regulation within the executive office of housing and economic development. The fund shall consist of all revenues dedicated pursuant to sections 16 to 23, inclusive, of chapter 167 of the acts of 2009. In fiscal year 2010, and each fiscal year thereafter the undersecretary shall transfer from the fund an amount not less than \$300,000 to the department of public health for a compulsive gamblers' treatment program. In fiscal year 2010, and each fiscal year thereafter, not more than \$300,000 may be expended to assist efforts to secure alternative employment and retraining opportunities for displaced workers impacted by the passage of chapter 388 of the acts of 2008. The state racing commission, or a successor agency, shall report to the undersecretary, the executive office for administration and finance and the house and senate committees on ways and means not later than the last day of each month, of the projected program revenue, program expenses and operating costs associated with overseeing simulcasting through July 31, 2012. In the event of a deficit, the undersecretary may transfer from the fund an amount not to exceed \$100,000 for the operating costs of the commission. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund; provided, however, that the undersecretary shall distribute to owners and lessees of greyhound dogs who have raced in calendar year 2009 for the humane care, maintenance and adoption of those greyhound dogs, a sum equal to 1 per cent of the total amount wagered at each racing meeting licensee within the commonwealth acting as a guest track and simulcasting a live greyhound race from a host track from outside the commonwealth provided, however, that before any such amount is distributed, the undersecretary shall develop a method and criteria by which to distribute such funds in an equitable manner among dog owners. The undersecretary shall distribute to kennel owners who housed greyhound dogs who have raced in calendar year 2009 for the humane care, maintenance and adoption of those greyhound dogs, a sum equal to 1.5 per cent of the total amount wagered at each racing meeting licensee within the commonwealth acting as a guest track and simulcasting a live greyhound race from a host track from outside commonwealth; provided, however, that before any amount is distributed, the undersecretary shall develop a method and criteria by which to distribute such funds in an equitable manner among kennel owners; and provided further, the undersecretary shall begin payments to kennel owners in January 2010. Such payments shall be paid on a biweekly basis beginning on January 4, 2010.

SECTION 59Q. Notwithstanding any general or special law to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall report monthly to the state racing commission, or a successor agency, on their net and gross revenue, including an itemization of premiums received, fees received and any amounts dedicated to purse accounts, the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund. The report shall include the number of part-time and full-time staff employed by the licensees at the close of the previous month. The report shall also include the total amount of premiums paid to the harness horse meeting licensees located in Norfolk county and the running horse meeting licensee located in Suffolk county. Failure to file the report on the tenth day of each month shall be cause for suspension of the greyhound meeting license. The state racing commission, or a successor agency, shall forward all such reports to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development. The greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall also prepare a report of all funds received and disbursed for calendar years 2008, 2009, 2010 and 2011; provided, however, the report for calendar years 2008 and 2009 shall be filed with the state racing commission, or a successor agency, not later than June 30, 2010, the report for calendar year 2010 shall be filed not later than April 1, 2011, and the report for calendar year 2011 shall be filed not later than April 1, 2012. The state racing commission shall forward the reports to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development."

SECTION 59R. The state racing commission shall study the distribution of funds under section 59P of this act and examine and analyze the monthly reports and the annual report submitted by greyhound meeting licensees under section 59Q of this act. The commission shall report to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development not later than January 1, 2011 on the extent to which current and displaced workers of greyhound meeting licensees have been assisted with retaining and alternative employment; the number of workers so assisted; the number of owners and lessees of dogs and the number of kennel owners that have been assisted with funds distributed from the fund, the number of dogs previously in the care of such recipients that have been adopted since January 1, 2010 and the number of dogs currently in the care of or owned or leased by such recipients. The report shall include an evaluation of the effectiveness of the racing stabilization fund and legislative recommendation for maintaining the continued economic viability of the greyhound licensees.

SECTION 59S. The undersecretary may expend funds from the racing stabilization fund established in section 59P for the relief of economic hardship experienced by greyhound meeting licensees. The undersecretary shall develop a method and criteria by which a greyhound meeting licensee may request funds in order to retain jobs and avoid the displacement of employees.; and By inserting after section 72 the following section:-

"SECTION 72A. Sections 59A to 59Q, inclusive, shall expire on July 31, 2012."

During debate, Mr. Ross made the following comments:

Madame President, through you and to the members, I like the style of the Senator from Hampden and Hampshire and I love the way he rips things from the headlines to make his case, to state a point.

When I got back to the district last night I had the chance to read my local paper, and here today, ripped from the front page of the Attleboro Sun Chronicle was an article entitled "North sees figures in double digits". The article goes on to claim that the worst news was in North Attleborough where the rate of unemployment has now jumped to 10.3% and in neighboring Plainville, home of Plainfield Racecourse, the rate remains high at 10.4%

I knew for many this debate, Casino's Slots, is really an issue of jobs and the biggest bang for the buck. How we can maximize the states take on an expansion of gaming in the Commonwealth.

What many don't see however is the failure to capture the low hanging fruit of investment already made by businesses that are here in our state. With a nearly century old history of supporting the Commonwealth with sustained gaming revenue, our racecourses' have already laid a foundation upon which to capitalize on their investment.

But once again we are about to turn our backs on our existing Massachusetts business and the thousands of jobs that they already provide to working class men, women and their families from across the State.

From the 72 Horse Farms on 3000 acres of open land, to the providers of feed, harness and tack, and to those who manufacture whips in Chicopee, businesses that have a firm foundation with a track record that we can bet on, the racing industry has a storied history that they can be proud of.

At the public hearing on this bill, I stayed for the entire hearing, and I was not encouraged by the prospects of what this bill in reality can deliver on. With competing interests for a piece of the gaming pie, there will be many disputes that inevitably will lead to what can only be anticipated as years of litigation and delay. If as some believe, we indeed are in a continued economic decline, then building something from the ground up, at three different localities within the state, will be even more challenging than at first imagined. Attempts by many desperate communities to capture needed revenue to stop the hemorrhaging from our own debt and loss of state aid that has been a mainstay of governmental services will lead them into this legal morass.

I have been in business for thirty-five years, a business run by my father for thirty-five years before me. We have seen good times and bad, but the reason we are still in business is because we have been able to take risks where we should, perhaps grow a bit more slowly at times than we would have liked, but realized that shooting for the moon, pulling the arm on the one armed bandit and hoping for a big payoff rarely happens.

We know what we have with our tracks here in the Commonwealth, and we know the quality families that derive their livelihoods from them, and from the benefits that the host communities have had reliably over the decades. In Plainville, you name it and Plainridge has been involved. Her employees are good citizens that serve the Town actively and have taken leadership roles in the local Lions Club and regularly take the lead in charitable and other causes.

Madame President, I tell you and the members, that as surely as the sun rises in the east and sets in the west, that our continued habit of disloyalty to the local business communities that have been the backbone of the commonwealth will continue to be the Achilles heel for our great commonwealth. Until we recognize the great contribution of employment, reliability, and multi-generational tax revenue reliability, as something worthy of inclusion, of reward for their investment, I fear even more greatly today than just yesterday for the Commonwealth's economic future. When you no longer trust those amongst you who have invested in your future, when you will sacrifice them for the promise of large international gaming interests that have no desire to pump money into our Commonwealth but rather to suck it out ..... I find this to be a sad day. My father taught me to never put all my eggs in one basket, that diversification actually enhances your chance of success, but also never to trust a man who is willing to accept your revenue but then offers you nothing in return.

Madame President, today we have turned our backs on the Thousands of hard working taxpaying citizens who work at our racecourses and on their nearly century old industry that has maintained a presence in our state. Madame President, I pray for all of those affected, and as someone who voted just two months ago on what I believe to be the much more common sense House bill, I hope that a conference committee might have the forethought and foresight to recognize that slots at the track should be a big part of the jobs bill that we are trying to create, keeping jobs from yesterday and today and adding to them for our tomorrows. To throw good jobs away today, for jobs that are years away doesn't make sense to me as a business man, and I guess Charles Bulfinch probably felt a tinge of some distrust in our ability when he carved the motto over our heads, God Save the Commonwealth of Massachusetts."

On motion of Ms. Spilka, the above remarks were ordered printed in the Journal of the Senate.

After debate, the question on adoption of the further amendment (Kennedy, et al) was determined by a call of the yeas and nays, at five minutes past ten o'clock P.M., on motion of Mr. Kennedy, as follows, to wit (yeas 28 – nays 10) [Yeas and Nays No. 310]:

INSERT ROLL CALL "310"

The yeas and nays having been completed at nine minutes past ten o'clock P.M., the further amendment was adopted. The pending amendment (Pacheco, et al), as amended (Kennedy, et al) was then considered, and it was adopted.

There being no objection, during consideration of the Orders of the Day, one matter was considered as follows:

PAPER FROM THE HOUSE

Engrossed Bill.

An engrossed Bill making appropriations for the fiscal year 2011 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. 4800), (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

At ten minutes past ten o'clock P.M., the President declared a recess and the Senate recessed until eleven o'clock A.M., on Friday, June 25th.