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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, November 16, 2009.

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

Recess.

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

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

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—
Resolutions (filed by Ms. Chandler) “commending the Pleasant Street Neighborhood Network Center on its tenth anniversary”;
and
Resolutions (filed by Mr. O’Leary) “congratulating the Martha’s Vineyard Center for Dispute Resolution on its twenty-fifth anniversary.”

Communications.

The Clerk read the following communications:

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

November 16, 2009.

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

Dear Mr. Clerk:

On Tuesday November 10th, 2009 I was unable to attend Formal Session due to a personal health issue.

Therefore, I was not present for the roll call votes on accepting the Conference Committee report on House No. 4329, engrossing Senate No. 2177, adopting the Resolution in opposition to a speech at the University of Massachusetts-Amherst by Ray Luc Levasseur, and enacting House No. 4130. Had I been present, I would have voted in the affirmative in all four instances.

I would appreciate your assistance with the printing of this communication in the Senate Journal.

*With every good wish,
JAMES E. TIMILTY,
Bristol and Norfolk.*

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

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

November 16, 2009.

The Honorable William Welch
Clerk
Massachusetts State Senate
State House
Boston, MA 02133

Dear Mr. Clerk:

I write regarding a vote taken on November 5, 2009 to suspend the rules for H. 4310 which is entitled "An Act to Ensure the Rights of Veterans and Service members." At the time the vote was taken, I was unfortunately at an event outside of the State House and was unable to cast my vote. If I had been in the Chamber, I would have voted "Yes."

Thank you for your prompt attention to this matter.

*Sincerely,
STEVEN A. TOLMAN,
State Senator.*

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

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

November 16, 2009.

The Honorable William Welch
Clerk
Massachusetts State Senate
State House
Boston, MA 02133

Dear Mr. Clerk:

I write regarding votes taken during the Formal Session on November 10, 2009. I was absent from the Chamber attending an event outside the State House at the time the votes were taken. If I had been in the Chamber, I would have voted in the affirmative to accept the Senate Resolution condemning the invitation by the University of Massachusetts to Ray Luc Levasseur. Further I would have voted in the affirmative to enact H. 4310, An Act to Ensure the Rights of Veterans and Service members.

Thank you for your prompt attention to this matter.

*Sincerely,
STEVEN A. TOLMAN,
State Senator.*

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

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

November 16, 2009.

The Honorable William Welch, Clerk
Massachusetts State Senate
State House
Boston, MA 02133

Dear Mr. Clerk:

On Thursday November 5, 2009 I was absent from the Chamber during formal session because I was home recovering from injuries I sustained in early October. Unfortunately I missed several roll calls. Had I been present in the chamber, I would have voted in the following manner.

No. 145 — H 4136 — Norton Land Transfer — Yea;
No. 146 — H4182 — Nantucket Land restrictions — Yea;
No. 147 — H4310 — Veterans and Servicemen Benefits — Yea;
No. 148 — S2193 — Veteran and Servicemen Benefits — Yea;

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record. Thank you in advance for your assistance.

Sincerely,
JAMES B. ELDRIDGE,
State Senator,
Middlesex and Worcester.

On motion of Ms. Menard, the above communication was ordered printed in the Journal of the Senate.

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 authorizing a special meeting of the town council of the city known as the town of Randolph for the purpose of selecting a town manager (House, No. 4299).

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

PAPERS FROM THE HOUSE.
Engrossed Bills.

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

Establishing a town administrator and a municipal finance department in the town of Douglas (see House, No. 1894);

Establishing a department of public works in the town of Hadley (see House, No. 1913);

Designating a certain bridge in the town of Danvers as the Danversport Bridge (see House, No. 3335, changed);

Authorizing the town of Fairhaven to assess certain betterments (see House, No. 3473);

Authorizing the town of Fairhaven to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (see House, No. 4237); and

Relative to clean energy (see House, No. 4253, amended).

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill authorizing the town of Harwich to convey certain recreational land (House, No. 4314),— was read a second time and ordered to a third reading.

The Senate Bill relative to education reform (Senate, No. 2201),— **was read a second time.**

Pending the question on ordering the bill to a third reading, the pending amendment, previously recommended by the

committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was considered.

After debate, Mr. Buoniconti moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX: notwithstanding any general or special law to the contrary, a charter school cap in any district shall only be increased pursuant to a popular referendum in support of such an increase by the voters of said district.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seventeen before two o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (*yeas 22 — nays 16*) [**Yeas and Nays No. 153**]:

YEAS.

Buoniconti, Stephen J. Knapik, Michael R.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Moore, Michael O.
Creem, Cynthia Stone Morrissey, Michael W.
Donnelly, Kenneth J. Pacheco, Marc R.
Fargo, Susan C. Rosenberg, Stanley C.
Flanagan, Jennifer L. Spilka, Karen E.
Hart, John A., Jr. Tarr, Bruce E.
Hedlund, Robert L. Timilty, James E.
Jehlen, Patricia D. Tisei, Richard R.
Kennedy, Thomas P. Tolman, Steven A. — 22.

NAYS.

Baddour, Steven A. Menard, Joan M.
Berry, Frederick E. Montigny, Mark C.
Brewer, Stephen M. Moore, Richard T.
Chang-Diaz, Sonia O'Leary, Robert A.
Downing, Benjamin B. Panagiotakos, Steven C.
Eldridge, James B. Petrucci, Anthony
Galluccio, Anthony D. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian — 16.

ABSENT OR NOT VOTING.

Brown, Scott P.— 1.

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

Ms. Candaras, Ms. Chandler and Messrs. Galluccio and Donnelly moved that the pending new draft be amended in section 3 in subsection (b) by inserting in line 136 after the word “superintendent” the following:— “ and (9) and two representatives of early education and care, one being a community based provider chosen by the department of early education and care, and one being a public school provider chosen by the superintendent.”; and in section 3 in subsection (m) by inserting in line 322 after the word “commissioner” the following:— “ and (9) and two representatives of early education and care, one being a community based provider chosen by the department of early education and care, and one being a public school provider chosen by the superintendent.”

After remarks, the amendment was rejected.

Recess.

There being no objection, at seven minutes before two o'clock P.M., the President declared a recess; and at eighteen minutes before three o'clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

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

The Senate Bill relative to education reform (Senate, No. 2201),— was considered, the main question being on ordering the bill to a third reading.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was again considered.

Mr. Brewer moved that the Senate reconsider the vote by which the Senate had adopted amendment number 1 offered by Mr. Buoniconti.

After debate, the question on reconsideration was determined by a call of the yeas and nays, at five minutes past three o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (*yeas 27 — nays 12*) [**Yeas and Nays No. 154**]:

YEAS.

Baddour, Steven A. Kennedy, Thomas P.

Berry, Frederick E. Menard, Joan M.
Brewer, Stephen M. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Chang-Diaz, Sonia Moore, Richard T.
Creem, Cynthia Stone Murray, Therese
Donnelly, Kenneth J. O'Leary, Robert A.
Downing, Benjamin B. Panagiotakos, Steven C.
Eldridge, James B. Petrucci, Anthony
Flanagan, Jennifer L. Rosenberg, Stanley C.
Galluccio, Anthony D. Tolman, Steven A.
Hart, John A., Jr. Tucker, Susan C.
Jehlen, Patricia D. Walsh, Marian — 27.
Joyce, Brian A.
NAYS.

Buoniconti, Stephen J. Morrissey, Michael W.
Candaras, Gale D. Pacheco, Marc R.
Fargo, Susan C. Spilka, Karen E.
Hedlund, Robert L. Tarr, Bruce E.
Knapik, Michael R. Timilty, James E.
McGee, Thomas M. Tisei, Richard R.— 12.

ABSENT OR NOT VOTING.

Brown, Scott P.— 1.

The yeas and nays having been completed at eight minutes past three o'clock P.M., the motion to reconsider prevailed.

Recesses.

There being no objection, at eight minutes past three o'clock P.M., the President declared a recess; and at six minutes before six o'clock P.M., the Senate reassembled, Mr. Petrucci in the Chair.

Subsequently, at five minutes before six o'clock P.M., without further action on the Orders of the Day, on motion of Mr. Knapik, the Senate recessed to meet again tomorrow at eleven o'clock A.M.

Tuesday, November 17, 2009.

[being the legislative session of
Monday, November 16, 2009.]

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

Reports of Committees.

By Mr. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, that the Senate Bill financing health care through moral obligation bonds (Senate, No. 554),— ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2207) [Estimated cost— \$0];

Under Senate Rule 26, referred to the committee on Ethics and Rules.

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition (accompanied by bill, Senate, No. 1504), a Bill relative to comprehensive wind energy siting reform (Senate, No. 2206);

Read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE.

Bills

Authorizing the City of Newton Retirement Board to grant a superannuation retirement allowance to Frank Albano (House, No. 4117,— on petition) [Local approval received]; and

Pertaining to the issuance of bonds or notes by the city of Worcester (House, No. 4265,— on petition) [Local approval received];
Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Recess.

There being no objection, at two minutes past eleven o'clock A.M., the Chair (Mr. Rosenberg) declared a recess; and at nine minutes past twelve o'clock noon, the Senate reassembled, the President in the Chair.

Communication.

The Clerk read the following communication:

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

November 17, 2009.
Mr. William F. Welch
Clerk of the Massachusetts Senate
State House, Room 335
Boston, MA 02133
Dear Mr. Clerk:

On Monday, November 16, 2009, due to a long standing commitment, I was unable to be present in the Senate Chamber for two roll call votes. Had I been present I would have voted:

In the affirmative on Amendment #1 Charter School Cap to S.2201, An Act Relative to Education Reform.

In the negative on reconsideration of Amendment #1 Charter School Cap to S.2201, An Act Relative to Education Reform.

I respectfully request that a copy of this communication be printed in today's Senate Journal. Thank you for your attention to this matter.

Sincerely,

SCOTT BROWN,
State Senator.

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

PAPER FROM THE HOUSE.

The Senate Bill preserving publicly-assisted affordable housing (Senate, No. 2190),— came from the House passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4335.

The rules were suspended, on motion of Ms. Tucker, and the House amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

At twelve minutes past twelve o'clock noon, Mr. Baddour doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (all 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 President and laid before the Governor for his approbation, to wit:

Authorizing the Devens Enterprise Commission to grant a license for the sale of all alcoholic beverages to be drunk on the premises (see Senate, No. 2049);

Authorizing the town of Templeton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see Senate, No. 2063); and

Relative to the lease of property at Sandwich High School (see Senate, No. 2075).

An engrossed Bill authorizing a special meeting of the town council of the city known as the town of Randolph for the purpose of selecting a town manager (see House Bill, printed in House, No. 4299) (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 it was signed by the President and laid before the Governor for his approbation.

A petition (accompanied by bill, House, No. 4343) of Aaron Michlewitz, Jeffrey Sanchez and Sonia Chang-Diaz for legislation relative to the membership of the Franklin Foundation, commonly known as the Franklin Institute of Boston,— was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Higher Education.

Orders of the Day.

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

The Senate Bill relative to education reform (Senate, No. 2201),— was considered, the main question being on ordering the bill to a third reading.

After remarks, the pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was again considered.

Mr. Downing moved that the proposed new draft be amended in line 928 of section 6 by inserting after "charter" the following: — "unless said charter school is the only charter school located within a geographic county of the Commonwealth".

The amendment was rejected.

Mr. Downing moved that the proposed new draft be amended by inserting at the end thereof the follows:—

“SECTION __. Notwithstanding any special or general law to the contrary, the department of elementary and secondary education shall study the possibility of allowing students living outside of Massachusetts who are eligible to attend public schools operating in the same geographic area as a charter school or a regional charter school, to also be eligible to attend said charter or regional charter school. The department shall examine the necessary rules and regulations for the necessary to implement this change which shall include, but is not limited to, collection of out-of-state tuition from students living outside of Massachusetts and attending a commonwealth charter school, collection of tuition from foreign exchange students attending a commonwealth charter school, and reimbursement of commonwealth charter schools for services rendered to foreign exchange students and students living outside of Massachusetts. The department shall issue its report and any recommendations to the Joint Committee on Education no later than August 15, 2010.”

The amendment was adopted.

Mr. Hart moved that the proposed new draft be amended by inserting the following new section:—

“SECTION XX. The department of education shall commission a study to examine the feasibility and cost of requiring every school district to provide alternative education to any student excluded from a public school or any student who is otherwise identified as at-risk and whose needs are not being met in the traditional school setting.”

After remarks, the amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX. Notwithstanding any general or special law to the contrary, the department of education shall conduct a study of the cost of implementing an education program for all middle and high school children in the Commonwealth whereby said children receive a minimum of five hours of substance abuse and addiction awareness education during each middle and high school year.

Said report shall be submitted no later than April 1, 2010 to the house committee on ways and means, the senate committee on ways and means, the executive office of administration and finance, and the joint committee on mental health and substance abuse.”

After remarks, the amendment was adopted.

Mr. Morrissey moved that the proposed new draft be amended in section 3, by striking the third sentence of subsection g and inserting in place thereof the following:— “The agreement shall be subject to ratification by a majority of the bargaining unit members in the school who will be subject to such agreement and by a majority of the school committee.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX. Notwithstanding the provisions of any general or special law to the contrary, the department of education shall establish an education apprentice program for those individuals seeking vocational education training in the commonwealth and are ineligible to enter a vocational program due to entrance requirements.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX. Chapter 65 Section 27 of the Massachusetts Session Laws of 2009, is hereby amended after the words, ‘that provides (i) a comprehensive 4-year high school education and (ii) a structured plan of recovery,’ by striking the following:— ‘(b) A school district shall transfer the state average chapter 70 per pupil allotment to a Recovery High School for a student meeting the following criteria:’ and inserting in place thereof:— ‘(b) A school district shall transfer the state average foundation budget per pupil to a Recovery High School for any student meeting the following criteria:’.”

The amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by striking out section 5, subsection (s) and inserting in place thereof the following new section:—

“(s) The school committee of each district where a Horace Mann charter school is located shall develop a plan to disseminate innovative practices of the charter school to other public schools within the district subject to the provisions of any contract between the Horace Mann charter school and a third party provider.

The commissioner of elementary and secondary education shall annually record and submit to the joint committee on education on successful innovative programs of charter schools and may provide technical assistance for school districts to replicate the programs. Additionally, the commissioner of elementary and secondary education shall issue a report on past innovative programs used in successful practices for charter schools implemented in public schools in the commonwealth. Each charter school and sending districts shall be required to demonstrate a good faith effort to collaborate on the sharing of innovative practices. Successful innovative programs shall be made publicly available, both in print and electronically.”

The amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“Whereas, the Massachusetts economy has changed dramatically over the past five years and green technology and sustainable building jobs represent a sizable portion of our economy. And, whereas green jobs and the green technology sector will continue to increase in number and size and provide high paying long term jobs for Massachusetts’ workforce.

A study shall be conducted relative to the necessity of training Massachusetts students in innovative vocational fields such as sustainable energy technology and environmentally-friendly building practices. The study shall be conducted by the department of education, in conjunction with the department of labor and the executive office of environmental affairs. The study shall explore the creation of a new vocational school specializing in sustainable energy technologies and environmentally friendly building practices, and amending the existing vocational schools’ curriculum to include education about sustainable energy

technologies and environmentally friendly building practices. For the purposes of this study sustainable energy technologies shall be considered to be the areas of wind, wave, geothermal, tidal and solar power as well as biofuel energy options. For the purposes of this study environmentally friendly building practices shall be considered LEED certified practices which will prepare vocational education students for emerging technologies jobs.

The result of said study shall be filed with the clerks of the House and the Senate not later than July 15, 2010.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended in section 6, by inserting after the words “shall be considered to be public agents authorized to supervise and control the charter school.” the following new language:— “the board of trustees of a Massachusetts charter school shall annually submit to the Department of Education, and post electronically, a copy of the school’s charter, members of the board of trustees, and an itemized list of private contributions to the school.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended in subsection (c) of section 3, by striking the words “(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn,” and replacing it with:—

“(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn, which may also include mental health and substance abuse screening.”;

In subsection (n) of section 3, by striking the words “(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn,” and replacing it with:—

“(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn, which may also include mental health and substance abuse screening.”; and

In subsection (c) of section 4, by striking the words “(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn,” and replacing it with:—

“(1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school and ready to learn, which may also include mental health and substance abuse screening.”.

The amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“Section XX. Chapter 76 of the General Laws shall be amended by adding the following section after section 15D:

Section 15E. The department of public health in conjunction with the department of education shall promulgate rules and regulations for the testing, treatment, care, and parental counseling on autism and autism spectrum disorders. The earliest age for screening and the method of screening shall be determined and redetermined by the commissioner of public health in accordance with said regulations in light of advances in medical science. Screenings shall take place to admission into a Massachusetts public school.”

After remarks, the amendment was rejected.

Mr. Morrissey moved that the proposed new draft be amended in section 3, by striking subsection u and inserting in place thereof the following:— “The commissioner or his designee or external receiver, as applicable, shall provide a written report to the school committee, and at the request of the school committee shall present such report and respond to questions asked by members of the school committee at a public meeting on a quarterly basis to provide specific information about the progress being made on the implementation of the school’s innovation plan. One of the quarterly reports shall be the annual evaluation pursuant to subsection (v).”

After remarks, the amendment was rejected.

Ms. Chandler and Messrs. Michael O. Moore and Richard T. Moore moved that the proposed new draft be amended by inserting after section ___ the following new section:—

“SECTION X. The Department of Education shall provide technical assistance to any school or district that receives competitive grant funding distributed pursuant to the American Recovery and Reinvestment Act in order to assist those schools or districts in developing a long-term plan to sustain any initiatives supported by American Recovery and Reinvestment Act competitive grant funding.”

After remarks, the amendment was adopted.

Mr. Tolman moved to amend the proposed new draft in section 3 by inserting the following subsection at the end thereof:—

“(z) In schools designated as underperforming and chronically underperforming, the commissioner and the superintendent shall hire a licensed social worker to facilitate the recommendations of the innovation plans as they pertain to the social, behavioral and mental health of a student or parent, child welfare, substance abuse issues, or any other issues that may be under the purview of a licensed social worker.”; and in section 4 by inserting the following subsection at the end thereof:—

“(k) In schools designated to an external receiver by the commissioner and the board, the external receiver shall hire a licensed social worker to facilitate the recommendations of the innovation plans as they pertain to the social, behavioral and mental health of a student or parent, child welfare, substance abuse issues, or any other issues that may be under the purview of a licensed social worker.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX. Recognizing that school districts and municipalities are unable to adequately plan an education budget because of the volatility of special education costs, and in an effort to help school districts and municipalities with their growing concern regarding extraordinary and unanticipated special education cost, the Commonwealth will devise an insurance policy for municipalities in school districts which will allow them to be reimbursed for special education costs that exceed 25% of the dollar

amount obtained by the formula below: The average special education expenditures for the commonwealth over the last three years, divided by the average number of public school students in the commonwealth over the last three years, multiplied by the number of students in a particular school district or municipality.”

The amendment was rejected.

Mr. Michael O. Moore moved that the proposed new draft be amended in section 4 by deleting subsection (j).

After remarks, the amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by adding at the end thereof the following new section:—

“Section XX. The Department of Education in partnership with the Department of Public Health and the Bureau of Substance Abuse Services shall conduct a study relative to substance abuse in the commonwealth’s public school system. The study shall include, but not be limited to, the following: the number of expulsions and suspensions related to substance use, the approximate number of students suffering with a substance use disorder, the substance abuse and prevention and education programs currently in place, the implementation of a system to facilitate the placement of students in a Massachusetts Recovery High School, the need to open additional Recovery High Schools, the implementation of Screening Brief Intervention and Referral and Treatment or ‘SBIRT’ programs in schools, and substance abuse training for school employees.

Said report shall be submitted no later than January 10, 2011 to the joint committee on education, and joint committee on mental health and substance abuse.”

The amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“Section XX. SECTION 1. Chapter 71 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following paragraph at the end of section 38G:—

The board of education shall promulgate revisions to the Regulations for Educator Licensure and Preparation Program Approval (currently 603 CMR 7.00) to provide an Advanced Certificate in Transition Services which shall include both coursework and a practicum for previously licensed special education teachers and rehabilitation counselors to develop the competencies necessary to serve as transition coordinators. The requirements for the Advanced Certificate in Transition Services, as promulgated by the board, can also be used to satisfy the requirements for a professional license.

SECTION 2. Chapter 71 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting section 3B at the end of section 3A.

A school committee shall employ transition coordinators with an Advanced Certificate in Transition Services. A school committee school shall employ the number of such transition coordinators necessary to adequately plan, coordinate, and provide transition services for the number of children with disabilities ages, 14-22 enrolled in its school district. The department shall promulgate regulations to implement the provisions of this section.”

The amendment was rejected.

Mr. Tisei moved that the proposed new draft be amended by striking in line 767 the words “or greater percentage”.

The amendment was rejected.

Mr. Tarr moved that the proposed new draft be amended by inserting after section X the following new section:—

“SECTION XX. Notwithstanding any general or special law to the contrary, the Department of Education is hereby authorized and directed to study the inequities resulting from the past and current applications of the educational funding methodology contained in Chapter 70 of the general laws as established in the Education Reform Act of 1993 and subsequently modified from time to time.

Said study shall include but not be limited to a) inequities between communities arising from the utilization of local educational authority spending prior to 1993 as a factor in determining a community’s ability to pay for education in subsequent years, b) inequities caused by an over-reliance on the property value in a community in calculating a community’s ability to pay for education, and c) inequities produced by other elements involved in measuring the ability to pay for education or the accurate cost of education in a particular community.

The results of said study, together with any necessary legislative recommendations to eliminate inequities in state educational funding for local school districts, shall be filed with the clerks of the House and Senate not later than February 15, 2010.”

The amendment was rejected.

Messrs. Richard T. Moore and Brewer moved that the proposed new draft be amended by inserting after section __, the following new section:—

“SECTION __. Notwithstanding any other provision of general or special laws, the department of elementary and secondary education is hereby authorized and directed to investigate and study the adequacy of educational secondary school programs offered to students in their district of residence who apply, but are not selected, for admission to vocational-technical secondary education programs and, provided further, that said department shall develop recommendations for developing an educational program, or programs, designed to meet the career needs of such students and to encourage completion of requirement for a high school diploma including, but not limited to, a cost analysis and method of providing sustained funding. Said department shall report on its findings not later than December 31, 2012 to the joint committee on education, the joint committee on labor and workforce development, and the house and senate committees on ways and means.”

After remarks, the amendment was adopted.

Mr. Tarr moved to amend the proposed new draft by inserting after section X the following new section:—

“SECTION XX. Section 7A of Chapter 71 of the General Laws is hereby amended by inserting at the end thereof the following paragraph:— ‘Every school district shall establish, subject to the approval of the school committee, standards for the length of commute for any student utilizing school transportation. Such standards should seek to minimize the average length of a

commute within the district, and must include a maximum permissible time for any student's commute.”

The amendment was rejected.

Mr. Tarr moved that the proposed new draft be amended by inserting after section X, the following new section:—

“SECTION XX. Chapter 71B of the General Laws as so appearing is hereby amended by inserting after Section 5A the following new section:—

Section 5B. Special education standard tuition and rates for services provided through approved private day or residential schools set by the Operational Services Division shall take effect on July 1 of each fiscal year.”

The amendment was rejected.

Ms. Menard in the Chair, Ms. Fargo moved that the bill be amended in section 3, by striking out, in line 134, the words “representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and”; and inserting in place thereof the following text:— “a department of elementary and secondary education licensed school nurse and representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and”;

In section 3, by striking out, in line 208, the words “and (15) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).” and inserting in place thereof the following text:— “(15) provide for adequate access to department of elementary and secondary licensed school nurses; and (16) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).”;

In section 3, by striking out, in line 319, the words “representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and” and inserting in place thereof the following text:— “a department of elementary and secondary education licensed school nurse and representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and”;

In section 3, by striking out, in line 396, the words “and (15) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).” and inserting in place thereof the following text:— “(15) provide for adequate access to department of elementary and secondary licensed school nurses; and (16) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).”;

In section 4, by striking out, in line 536, the words “representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and” and inserting in place thereof the following text:— “a department of elementary and secondary education licensed school nurse and representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and”;

In section 4, by striking out, in line 611, the words “and (15) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).” and inserting in place thereof the following text:— “(15) provide for adequate access to department of elementary and secondary licensed school nurses; and (16) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).”; and

In section 6, by striking out, in line 757, the words “(15) procedures for evaluation and professional development for teachers and administrators; and (16)” and inserting in place thereof the following text:— “(15) procedures for evaluation and professional development for teachers and administrators; (16) the number and qualification of department of elementary and secondary education licensed school nurses to be employed; and (17)”.

After remarks, the amendment was rejected.

Mr. Tarr moved that the proposed new draft be amended in section 6 by inserting at the end thereof the following additional subsection:—

“(pp) The board of education shall develop procedures and guidelines for the waiver of any regulations implementing this section; provided, that no waivers shall be issued except at the written request of the charter applicant or at the written request of the board itself, both of which shall only be for exceptional circumstances. Said waivers must be accompanied by a written explanation of the reasons for the waiver, and may only be issued by a 2/3 vote of the board.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes before two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 155]:

YEAS.

Baddour, Steven A. Knapik, Michael R.

Berry, Frederick E. McGee, Thomas M.

Brewer, Stephen M. Menard, Joan M.

Brown, Scott P. Montigny, Mark C.

Buoniconti, Stephen J. Moore, Michael O.

Candaras, Gale D. Moore, Richard T.

Chandler, Harriette L. Morrissey, Michael W.

Chang-Diaz, Sonia O'Leary, Robert A.

Creem, Cynthia Stone Pacheco, Marc R.

Donnelly, Kenneth J. Panagiotakos, Steven C.

Downing, Benjamin B. Petrucci, Anthony

Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Galluccio, Anthony D. Timilty, James E.
Hart, John A., Jr. Tisei, Richard R.
Hedlund, Robert L. Tolman, Steven A.
Jehlen, Patricia D. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian — 39.
Kennedy, Thomas P.

NAYS — 0.

The yeas and nays having been completed at seventeen minutes before two o'clock P.M., the amendment was adopted.
Mr. Tisei moved to amend the proposed new draft by striking in line 270 the number "3" and inserting in place thereof the number:— "2"; and in the same by striking in line 302 the number "3" and inserting in place thereof the number:— "2"
After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at four minutes before two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 5 — nays 34) [Yeas and Nays No. 156]:

YEAS.

Brown, Scott P. Tarr, Bruce E.
Hedlund, Robert L. Tisei, Richard R. — 5.
Knapik, Michael R.

NAYS.

Baddour, Steven A. Kennedy, Thomas P.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Menard, Joan M.
Buoniconti, Stephen J. Montigny, Mark C.
Candaras, Gale D. Moore, Michael O.
Chandler, Harriette L. Moore, Richard T.
Chang-Diaz, Sonia Morrissey, Michael W.
Creem, Cynthia Stone O'Leary, Robert A.
Donnelly, Kenneth J. Pacheco, Marc R.
Downing, Benjamin B. Panagiotakos, Steven C.
Eldridge, James B. Petrucci, Anthony
Fargo, Susan C. Rosenberg, Stanley C.
Flanagan, Jennifer L. Spilka, Karen E.
Galluccio, Anthony D. Timilty, James E.
Hart, John A., Jr. Tolman, Steven A.
Jehlen, Patricia D. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian— 34.

The yeas and nays having been completed at two o'clock P.M., the amendment was rejected.

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

Report of a Committee.

By Mr. Panagiotakos for the committee on Ways and Means, that the Senate Bill relative to drug mandatory minimum sentences (Senate, No. 1651), ought to pass, with an amendment substituting a new draft entitled "An Act relative to sentencing laws" (Senate, No. 2210).

Order Adopted.

Mr. Panagiotakos offered the following order, to wit:

Ordered, that notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill relative to drug mandatory minimum sentences (Senate, No. 1651) (the committee on Ways and Means to report out a new draft, Senate, No. 2210), shall be placed before the Senate for consideration of its second reading on Wednesday, November 18, 2009.

All amendments to the Ways and Means new draft (Senate, No. 2210) shall be filed electronically in the office of the Clerk of the Senate by 6:00 P.M. on Tuesday, November 17, 2009. All such amendments shall be second-reading amendments, but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Ethics and Rules.

Subsequently, Mr. Berry, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Panagiotakos, and the order was considered forthwith and adopted. Subsequently, Senate, No. 1651, with the pending Ways and Means new draft (Senate, No. 2210), was placed in the Orders of the Day for the next session for a second reading.

Orders of the Day.

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

The Senate Bill relative to education reform (Senate, No. 2201),— was considered, the main question being on ordering the bill to a third reading.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was again considered.

Mr. Galluccio and Ms. Jehlen moved that the proposed new draft be amended by inserting the following section at the end thereof:—

“SECTION 12. The department of elementary and secondary education shall study incentives that can be offered to encourage the creation of charter schools that serve a majority of students scoring in the lowest twenty percent of statewide measures that are used to designate a school as underperforming or chronically underperforming under Section 3 of this act. Not later than 12 months after the effective date of this act, the department shall submit to the Clerks of the House and Senate its detailed findings and recommendations, including but not limited to recommendations for legislation, administrative actions, and appropriations necessary to provide such incentives.”

The amendment was rejected.

Mr. Galluccio and Ms. Jehlen moved that the proposed new draft be amended by inserting in section 6, in line 1160, after the word “achievement” the following:— “As of January 1, 2012, the board shall also consider as a basis for non-renewal of a charter high school whether such school has failed to retain at least 70 percent of its students from the year of enrollment through senior year.”

The amendment was rejected.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the proposed new draft be amended by inserting at the end thereof the following section:—

“XX. Not later than six months after the receipt of any federal funding through the Race to the Top program, so-called, realized through the adoption of this act the Executive Office of Education shall report to the House and Senate Committee’s on Ways and Means and the Joint Committee on Education a detailed plan providing for the use and potential future uses of said funding along with an accounting therein.”

Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before three o’clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 157]:

YEAS.

Baddour, Steven A. Knapik, Michael R.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Menard, Joan M.
Brown, Scott P. Montigny, Mark C.
Buoniconti, Stephen J. Moore, Michael O.
Candaras, Gale D. Moore, Richard T.
Chandler, Harriette L. Morrissey, Michael W.
Chang-Diaz, Sonia O’Leary, Robert A.
Creem, Cynthia Stone Pacheco, Marc R.
Donnelly, Kenneth J. Panagiotakos, Steven C.
Downing, Benjamin B. Petrucci, Anthony
Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Galluccio, Anthony D. Timilty, James E.
Hart, John A., Jr. Tisei, Richard R.
Hedlund, Robert L. Tolman, Steven A.
Jehlen, Patricia D. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian — 39.
Kennedy, Thomas P.

NAYS — 0.

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

Ms. Spilka moved that the proposed new draft be amended by inserting at the end thereof the following section:—

“SECTION XX. (a) There is hereby established a charter school working group to study the financing of, and innovations promoted by, charter schools. The working group shall also study the obstacles which have limited the broader utilization of the

Horace Mann model of charter schools. The working group shall report its findings and conclusions to the general court and make recommendations regarding any necessary legislative and regulatory changes which are suggested by those findings and conclusions. The first meeting of the working group shall take place within 30 days after the effective date of this act.

(b) The working group shall consist of: the speaker of the house of representatives, or his designee, who shall serve as co-chair; the president of the senate, or his designee, who shall serve as co-chair; the minority leaders of the house and senate, or their designees; the house and senate chairs of the joint committee on education; the chairs of the house and senate committee on ways and means; the secretary of administration and finance, or her designee; 3 appointees of the Governor, one on which shall be a superintendent of schools; and the Secretary of Education, or his designee.

(c) In carrying out its charge, the working group shall examine, report on, and make recommendations regarding, the following matters:

- 1) the appropriateness of the financing and reimbursement provisions currently governing the financing of charter schools;
- 2) the extent to which the reimbursement provisions are effective at minimizing the adverse financial impact of charter schools on sending school districts while providing sufficient resources for the successful operation of charter schools.
- 3) the appropriateness of the percentage of net school spending directed to charter schools;
- 4) the extent to, and means by, which the dissemination of successful innovation programs developed by charter schools has occurred;
- 5) the obstacles to broader utilization of the Horace Mann model of charter schools;

(d) The working group shall solicit advice from such persons and entities as it deems necessary, including the department of elementary and secondary education, associations representing superintendents, other educational administrators, teachers, school business officers, municipal officials and charter schools.

(e) The working group shall file a report containing its recommendations, including legislation and regulations necessary to carry out its recommendations, with the joint committee on education and the clerks of the house and senate not later than 6 months following the first meeting of the working group.”

The amendment was rejected.

Mr. Tarr moved that the proposed new draft be amended in subsection (gg) of section 4 by striking the phrase “or the school has violated a provision of its charter” and inserting in place thereof the following phrase:— “, the school has violated any provision of its charter; or the board has substantially violated any provision of this section or its implementing regulations in granting the charter.”

After remarks, Mr. Tarr moved the question on adoption of the amendment be determined by a call of the yeas and the nays.

An insufficient number of members joining with him, the yeas and nays were not ordered.

The amendment was then considered, and rejected.

Mr. Tarr moved that the proposed new draft be amended in subsection (gg) of section 4 by inserting between the fourth and fifth paragraphs thereof the following paragraph:— “The board may also, on its own motion or by request, reconsider its grant of a charter and revoke or suspend said charter within six months of approval of that charter; provided, that the revocation must be accompanied by written findings explaining the action of the board; provided, that the charter applicant shall be given sufficient notice and an opportunity to be heard before the board on the matter.”

After remarks, the amendment was rejected.

Mr. Tisei moved that the proposed new draft be amended by striking in section 6 in proposed subsection (ii) the words “The reimbursement amount shall be equal to 25 per cent of the increase in the year in which the increase occurs, and 25 per cent in the second, third, fourth, and fifth years following” and inserting in place thereof the following: — “The reimbursement amount shall be equal to 100 per cent of the increase in the year in which the increase occurs; 60 per cent of that amount in the first year following; and 40 per cent of that amount in the second year following.”

The amendment was rejected.

Ms. Chang-Diaz, Ms. Jehlen and Mr. Galluccio moved that the proposed new draft be amended by striking out, at lines 1152 through 1155, the words, “When deciding on charter renewal, the board shall consider the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in subsection (f) and the extent to which the school has followed and enhanced its plan as necessary,” and inserting in place thereof the following sentence:— “When deciding on charter renewal, the board of elementary and secondary education shall consider: (i) the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in subsection (f); (ii) the extent to which the school has enhanced its plan as necessary; and (iii) the extent to which the school has achieved the annual goals required under subsection (f) to be included in its plan.”

The amendment was rejected.

Mr. Pacheco moved that the proposed new draft be amended by striking out the words, in the second paragraph of section 6 (z)(aa), in line 1084, “60 per cent” and inserting in place thereof the following words:— “50 per cent”.

The amendment was adopted.

Ms. Chang-Diaz and Ms. Jehlen moved that the proposed new draft be amended by striking out, at lines 110 through 113, the words, “In adopting regulations allowing the commissioner to designate a school as underperforming or chronically underperforming, the board must ensure that such regulations take into account multiple indicators of school quality in making determinations regarding underperformance or chronic underperformance,” and inserting in place thereof the following words:— “In adopting regulations allowing the commissioner to designate a school as underperforming or chronically underperforming, the board shall create a rubric that allows the commissioner to rate multiple indicators of school quality,”;

By inserting, at the end of the second paragraph in section 3, at line 116, the following sentence:— “The board shall publish the rubric and require that the commissioner use the rubric in making determinations regarding underperformance or chronic underperformance.”;

By striking out, at lines 519 through 521, the words, “In adopting regulations allowing the commissioner to designate a district as chronically underperforming, the board must ensure that the regulations account for multiple indicators of district quality,” and inserting in place thereof the following words: “In adopting regulations allowing the commissioner to designate a district chronically underperforming, the board shall create a rubric that allows the commissioner to rate multiple indicators of district quality,”; and

By inserting, at the end of the third paragraph in section 4, at line 524, the following sentence:— “The board shall publish the rubric and require that the commissioner use the rubric in making determinations regarding chronic underperformance.”.

The amendment was rejected.

Mr. Tarr moved that the proposed new draft be amended in subsection (j) of section 6 by inserting at the end thereof the following paragraph:— “A comprehensive written summary of all materials prepared by the Department of Elementary and Secondary Education or its administrative subdivisions evaluating or recommending approval or disapproval of a charter application must be delivered to the members of the board no later than 3 days before any board vote on said charter application.”

After remarks, the amendment was adopted.

Mr. Tisei moved that the proposed new draft be amended by striking in line 1457 the words “two-thirds” and inserting in place thereof the following:— “a majority”.

The amendment was rejected.

Messrs. Tarr and Tisei moved that the proposed new draft be amended in subsection (j) of section 6 by inserting at the end thereof the following paragraph:— “All materials prepared by the Department of Elementary and Secondary Education or its administrative subdivisions evaluating or recommending approval or disapproval of a charter application must be delivered to the members of the board no later than 3 days before any board vote on said charter application.”

The amendment was rejected.

Ms. Chandler moved that the proposed new draft be amended in section 6 by striking subsection (gg) and replacing it with the following new section:—

“(gg) The initial charter granted by the board of elementary and secondary education shall be for 5 years. The board may renew a charter for up to 5 years. At the time of the second renewal or subsequent renewals, a charter school may apply for and receive an extension of the charter for up to 10 years.

The board of elementary and secondary education shall develop procedures and guidelines for revocation and renewal of a school’s charter; provided, however, that a charter for a Horace Mann charter school shall not be renewed by the board without a vote of support from the school committee in the district where the charter school is located; provided, however, that a commonwealth charter shall not be renewed unless the board of trustees of the charter school has documented in a manner approved by the board of elementary and secondary education that the commonwealth charter school has provided models for replication and best practices to the commissioner and to other public schools in the district where the charter school is located. When deciding on charter renewal, the board shall consider the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in subsection (f) and the extent to which the school has followed and enhanced its plan as necessary. The board may impose conditions or financial sanctions on the charter school upon renewal if sufficient progress towards recruitment and retention goals has not been made. When deciding on charter renewal, the board shall take into account the annual attrition of students, teachers and administrators. The board shall also consider innovations that have been successfully implemented by the charter school and the evidence that supports the effectiveness of those practices. When deciding on charter renewal, the Board shall judge the viability of the charter school based on student academic achievement consistent with requirements for other non-charter public schools. Upon renewal of its charter, a school shall update and enhance its recruitment and retention plan as necessary to account for changes in enrollment.

The board may revoke a school’s charter if the school has not fulfilled a conditions imposed by the board in connection with the grant of the charter or the school has violated a provision of its charter.

The board may place a charter school on a probationary status to allow the implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked.

If the board revokes a charter or if a charter school ceases to exist for any reason, the charter school shall, within 6 months of the revocation of the charter or closure of the school, submit to the board a detailed financial accounting of all the school’s assets, including all real property, vehicles, equipment and supplies. Upon the revocation, nonrenewal or voluntary return of a commonwealth charter, title to all of the property of the charter school shall immediately vest in the commonwealth, subject to the rights of a secured party holding a perfected security interest in the property of the charter school. Funds remaining after the satisfaction of the charter school’s obligations shall be returned to sending districts in proportion to each district’s average enrollment during the previous 5 years.”

The amendment was rejected.

Messrs. Hart, Tisei and Michael O. Moore moved that the bill be amended in section 6, by striking out, in line 962, the words “grade 12” and inserting in place thereof the following words:— “the last grade in each school type, grade 11, and grade 12”.

After remarks, the amendment was adopted.

Mr. Hart moved that the proposed new draft be amended in section 6, by deleting subsections (hh) and (ii) of section 89, beginning in line 1175, in their entirety and inserting, in place thereof, the following subsections:—

“(hh) Commonwealth charter schools shall be funded pursuant to this subsection. The commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition amounts calculated separately for each district sending students to the charter school. Tuition amounts for each sending district shall be calculated by the department using the formula set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that would be expended in the district if the students attended the district schools. The tuition amount shall be calculated separately for each district sending students to a charter school, and for each charter school to which a district sends students. Each district’s per pupil tuition amount for each charter school to which it sends students shall include a per pupil foundation budget component, adjusted to reflect the actual net school spending in the sending district.

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the department shall not include in said calculation the assumed tuitioned-out special education enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2. The per pupil foundation budget component for the charter school shall be the district’s foundation budget, as so calculated, divided by the number of students attending the charter school from the sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

In adjusting the per pupil foundation budget component, the department shall calculate for each sending district an above foundation spending percentage, which shall be the percentage by which the district’s actual net school spending exceeds the foundation budget for the district, as calculated pursuant to the provisions of chapter 70. The department shall further calculate the percentage of actual net school spending reported by the sending district associated with tuition costs for tuitioned-out special education students, including education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending, and shall reduce the district’s above foundation spending percentage proportionately. The per pupil foundation budget component for each charter school to which the sending district sends students shall be increased by said adjusted above foundation spending percentage. In a fiscal year in which a school district’s chapter 70 aid is reduced during the course of the fiscal year, under authorization by the legislature pursuant to the provisions of sections 9B and 9C of chapter 29, and said reduction lowers the above foundation percentage, the department shall adjust the total tuition amount proportionately, in a manner consistent with the provisions of this section, and shall notify the affected sending district and charter school of any reductions.

The total tuition amount owed to a charter school shall be the per pupil tuition amount as defined above, multiplied by the total number of students attending the charter school from that district in the current fiscal year. Said amount shall be composed of ‘district sponsored tuition’ and ‘state sponsored tuition’. ‘District sponsored tuition’ shall be the total tuition amount owed to the charter school on behalf of district students for the previous fiscal year. ‘State sponsored tuition’ shall be the positive difference, if any, between the total tuition amount for the current fiscal year and the district sponsored tuition amount. The sending district’s total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district-sponsored tuition amounts for each charter school to which the district sends students, calculated using the provisions of this section. The receiving charter school’s total charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for each district sending students to the charter school. The total state-sponsored charter school tuition amount for a receiving charter school shall be provided directly to the charter school by the commonwealth as part of the section three chapter 70 distribution of the general appropriation act, so called, or any successor method of determining local aid distributions. The amounts appearing in this section 3 of the general appropriation act shall be the state sponsored tuition amounts however; upon calculation of final state-sponsored tuition amounts for the current fiscal year, the department shall adjust state sponsored tuition amounts based on said calculations for affected charter schools.

The state treasurer is hereby authorized and directed to deduct a sending district’s total charter school tuition amount, as calculated herein, from the total state school aid, as defined in section 2 of said chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the sending district’s total charter school tuition amount shall be deducted from said chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said excess amount.

The state treasurer is hereby further authorized and directed to disburse to the charter school an amount equal to the charter school’s total charter school tuition amount as defined above.

In the case of more than one charter school managed by a single network or board of trustees, in no instance shall funding be transferred among individual schools within the network, unless such schools are located in the same school district.

The department shall, subject to appropriation, provide funding to charter schools for a portion of the per pupil capital needs component included in the charter tuition amount for the purpose of construction, renovation, purchase, acquisition or improvement of school buildings and land. In fiscal year 2011 and thereafter, such funding shall be the per pupil amount provided in fiscal year 2010, increased or decreased by the foundation inflation index, as defined in section 2 of chapter 70.

(ii) In any year during which a sending district’s total district-sponsored charter school tuition amount is greater than the sending district’s total district-sponsored charter school tuition amount for the previous year, the sending district shall be reimbursed by the commonwealth in accordance with this paragraph and subject to appropriation; provided, however, that no funds for said

reimbursements shall be deducted from funds distributed pursuant to chapter 70. The reimbursement amount shall be equal to 25 per cent of the increase in the year in which the increase occurs, and 25 per cent in the second, third, fourth, and fifth years following.

Subject to appropriation, these reimbursements, in addition to the facilities fee, shall be paid from a single line item, and any reductions to the item shall be made proportionately across all 6 categories of spending; provided, that the reimbursements required by this subsection shall be paid to the sending district, and the state-sponsored reimbursement amount and the facilities fee shall be paid directly to the charter school by the commonwealth.”

After remarks, the amendment was adopted.

Mr. Tisei moved that the proposed new draft be amended by striking in section 6(i) in the fourth paragraph the figure “3” and inserting in place thereof the following:— “2”.

The amendment was adopted.

Mr. Baddour moved that the proposed new draft be amended in section 3, paragraph (d) by inserting after the words, “expand, alter, or replace the curriculum of the school, including the implementation of research-based early literacy programs”, the following words:— “, early interventions for struggling readers,”; in said section 3, paragraph (o) by inserting after the words, “expand, alter, or replace the curriculum of the school, including the implementation of research-based early literacy programs”, the following words:— “, early interventions for struggling readers,”; and in section 4, paragraph (d) by inserting after the words, “expand, alter, or replace the curriculum of the school, including the implementation of research-based early literacy programs”, the following words:— “, early interventions for struggling readers,”.

The amendment was adopted.

Mr. Tisei moved that the proposed new draft be amended in section 6(f), by deleting the penultimate sentence and inserting in place thereof the following language:— “The student recruitment and retention plan shall include annual goals for (1) recruitments activities; (2), student retention activities and (3) student retention.”

The amendment was rejected.

Ms. Creem, Ms. Jehlen and Ms. Chandler moved that the proposed new draft be amended in lines 1252-1254 inclusive, by striking out the following words: “The reimbursement amount shall be equal to 25 per cent of the increase in the year in which the increase occurs, and 25 per cent in the second, third, fourth, and fifth years following” and inserting in place thereof the following words:— “The reimbursement amount shall be equal to 60 per cent of the increase in the year in which the increase occurs, 40 per cent in the second year, and 25 per cent in each of the third and fourth years following.”

The amendment was rejected.

Ms. Jehlen and Mr. Galluccio moved that the proposed new draft be amended in section 6, subsection (u) in line 1023 by striking the words “be allowed”.

The amendment was adopted.

Ms. Creem, Ms. Spilka, Mr. Brown and Ms. Jehlen moved that the proposed new draft be amended in section 5, line 694, by striking “shall” and replacing it with “may”.

The amendment was adopted.

Ms. Jehlen moved that the proposed new draft be amended in section 6, subsection (gg) in line 1151 by adding at the end thereof the following: “and provided further, that a commonwealth charter shall not be renewed for more than one year unless recruitment and retention benchmarks have been reached and unless the charter school meets or exceeds the performance on the growth model of assessment for all groups listed in section 6(f) of this bill, and meets or exceeds the retention rates for students in said groups”.

After remarks, the amendment was rejected.

Ms. Jehlen moved that the proposed new draft be amended at the end thereof by adding the following new section: “Section ## The department of elementary and secondary education (hereinafter, the department) shall, in its application for monies from the Assessment Fund, those funds earmarked for development of new assessments tied to common standards, as part of the so-called Race to the Top funds in the federal ARRA, require local education authorities to use the funds to develop local interim and summative assessments and professional development for teachers in using those assessments and in the use of effective formative assessment practice. In addition, the department shall join with other states in consortium to apply for Race to the Top funds and, if successful, the state portion of such funds shall be used to develop a statewide system of state and local assessments based on multiple measures.”

The amendment was rejected.

Messrs. Rosenberg, Brewer, Richard T. Moore and Michael O. Moore, Ms. Chandler and Mr. Downing moved that the proposed new draft be amended by inserting after section 8 the following new section:—

“SECTION __. Notwithstanding any general or special law to the contrary, regional school transportation payments made by the state in any fiscal year through the general appropriations act shall not be lowered by a greater percentage than any reduction made to state chapter 70 payments in that fiscal year.”

After remarks, the amendment was adopted.

Messrs. Rosenberg and Brewer and Ms. Chandler moved that the proposed new draft be amended by inserting the following new section:—

“SECTION __. Chapter 70B of the General Laws is hereby amended by inserting after Section 15 the following new section:— 70B Section 15A. In the event that an eligible applicant can no longer utilize an assisted structure built prior to 2004 as a schoolhouse due to a decrease in enrollment, then the city, town or regional school district shall submit a decommissioning plan to the MSBA and to the Department of Education.

The authority shall waive the deductions required under the provision of subsection (b) of section 15 of chapter 70B if the district successfully demonstrates the following: (1) there is at least a 15% decrease in enrollment across the entire city, town, or regional school district since the opening of the assisted structure; (2) the enrollment decrease for the assisted structure is greater than 25% of projected enrollment during the design and building process and this enrollment decrease is not due to redistricting; and (3) the district will not have the required capacity if it removes a non-assisted structure; and the authority finds that: (1) the schools within a five mile radius of the assisted structure are not experiencing overcrowding, and (2) the district's 10 year projected enrollment does not exceed the capacity of the remaining operating schoolhouses; and the commissioner of education has certified that: (1) the district's decommissioning plan is educationally sound.

Upon the decommissioning of the assisted structure, the district shall sell or lease the assisted structure or facility, or portion of that structure or facility, which shall be for no less than fair market value as determined by independent appraisal, unless the eligible applicant receives prior written approval from the authority to do otherwise, and the proceeds from the sale or lease shall be divided between the authority and the general funds of the applicable eligible applicant in proportion to the commonwealth's and authority's prior investments in the assisted structure or facility under this chapter or said chapter 645, as applicable."

The amendment was adopted.

Messrs. Rosenberg, Brewer, Richard T. Moore and Michael O. Moore and Ms. Chandler moved that the proposed new draft be amended by inserting the following new section:—

"SECTION __. Section 16C of Chapter 70B is hereby amended by inserting at the end of the first sentence the following:— ; provided, however that the regional school district committee may establish and assess a reasonable transportation fee to be charged for school children in grades seven through twelve to offset district transportation costs; provided further, that a fee may be charged for school children in grades kindergarten through twelve in a district that may provide transportation to any pupil who resides less than one and one-half miles from the school of attendance, measured by a commonly traveled route; and provided further, that funding provided under this section shall not be impacted by the collection of such fees."

After remarks, the amendment was adopted.

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

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill providing for saltwater fishing licenses (see House, No. 4309, amended) (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 Acting President (Mr. Rosenberg) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

Orders of the Day.

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

The Senate Bill relative to education reform (Senate, No. 2201),— was considered, the main question being on ordering the bill to a third reading.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was again considered.

Messrs. Donnelly, Rosenberg, Morrissey, Pacheco, Galluccio, Richard T. Moore and Hart, Ms. Walsh, Ms. Candaras, Ms. Spilka, Ms. Chang-Diaz, Ms. Jehlen and Messrs. Tolman and McGee moved that the proposed new draft be amended by striking out, at line 237, subsection 3(g) and inserting in place thereof the following section:—

"(g) If, after considering the recommendations of the group of stakeholders, the superintendent considers it necessary to maximize the rapid academic achievement of students at the applicable school by altering the compensation, hours and working conditions of the administrators, teachers, principals, and staff at such school or by altering other provisions of any contract or collective bargaining agreement applicable to such administrators, teachers, principals, and staff, the superintendent may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreements to facilitate such achievement. Such bargaining shall be conducted in good faith and completed no later than thirty calendar days from the point at which the superintendent requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within thirty calendar days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school the parties shall submit remaining unresolved issues as an appeal to a joint resolution committee for expedited arbitration on the next business day following the end of the thirty calendar day bargaining period or failure to ratify.

The joint resolution committee shall be comprised of three members, one of whom shall be appointed by the employee organization within three business days following the submittal of unresolved issues to the joint resolution committee, one of whom shall be appointed by the superintendent within three business days following the submittal of unresolved issues to the joint resolution committee and one who shall be selected through the American Arbitration Association who shall forthwith forward to the parties a list of three arbitrators from which the parties may agree upon a single arbitrator; provided, however, that each party shall have the right to strike one of the three arbitrator's names if they are unable to agree upon a single arbitrator from amongst the three and within three business days the American Arbitration Association shall select an arbitrator from the remaining names. The joint resolution committee shall conduct an expedited arbitration to be concluded within ten business days of selection. The expedited arbitration shall be conducted in accordance with the rules of the American Arbitration Association and consistent with the provisions of this section. The fee for the arbitration shall be shared equally between the two parties

involved in the arbitration.

The joint resolution committee shall consider the positions of the parties, the designation of the school as underperforming, and the needs of the students in the school. The decision of the joint resolution committee shall be final and binding and shall be submitted to the parties within ten business days of the close of the hearing. Under no circumstances, shall a time extension be granted beyond the ten business days of the close of the hearing.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes before four o’clock P.M., on motion of Mr. Donnelly, as follows, to wit (yeas 35 — nays 4) [Yeas and Nays No. 158]:

YEAS.

Baddour, Steven A. Kennedy, Thomas P.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Menard, Joan M.
Buoniconti, Stephen J. Montigny, Mark C.
Candaras, Gale D. Moore, Michael O. Chandler, Harriette L. Moore, Richard T.
Chang-Diaz, Sonia Morrissey, Michael W..
Creem, Cynthia Stone O’Leary, Robert A.
Donnelly, Kenneth J. Pacheco, Marc R.
Downing, Benjamin B. Panagiotakos, Steven C.
Eldridge, James B. Petrucci, Anthony
Fargo, Susan C. Rosenberg, Stanley C.
Flanagan, Jennifer L. Spilka, Karen E.
Galluccio, Anthony D. Timilty, James E.
Hart, John A., Jr. Tolman, Steven A.
Hedlund, Robert L. Tucker, Susan C.
Jehlen, Patricia D. Walsh, Marian — 35.
Joyce, Brian A..

NAYS.

Brown, Scott P. Tarr, Bruce E.
Knapik, Michael R. Tisei, Richard R. — 4.

The yeas and nays having been completed at twenty-three minutes before four o’clock P.M., the amendment was adopted. Ms. Candaras and Messrs. Rosenberg, Tolman, Pacheco, Richard T. Moore, Morrissey, Donnelly and McGee moved that the proposed new draft be amended in section 3, in proposed subsection (d) of section 1J of chapter 69 of the General Laws, by striking out clause (7) and inserting in place thereof the following:—

“(7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the superintendent regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the superintendent may only dismiss or fail to rehire a teacher for good cause, provided that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the superintendent is not retaining the teacher in the school; provided, however, that the teacher may seek review of a termination decision within 5 school days after receiving notice of the teacher’s termination by filing a petition for expedited arbitration with the superintendent; provided further, that an arbitrator shall be selected according to the procedures set forth in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the underperformance of the school is due to factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the superintendent. The arbitrator’s decision shall be issued within 10 business days from the completion of the hearing.”;

In subsection (o) by striking clause (8) and inserting in place thereof the following:—

“(8) require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the commissioner regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the commissioner may only dismiss or fail to rehire a teacher for cause, provided that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the commissioner is not retaining the teacher in the school; provided, however, that the teacher may seek review of a termination decision within 5 school days after receiving notice of the teacher’s termination by filing a petition for expedited arbitration with the commissioner; provided further, that an arbitrator shall be selected according to the procedures set forth in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the chronic underperformance of the school is due to factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the commissioner. The arbitrator’s decision shall be issued within 10 business days from the completion of the hearing.”; and

In section 4, in proposed subsection (d) of section 1J of chapter 69 of the General Laws, by striking out clause (7) and inserting in place thereof the following:—

“(7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the commissioner regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the commissioner may only dismiss or fail to rehire a teacher for cause, provided that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the commissioner is not retaining the teacher in the school; provided, however, that the teacher may seek review of a termination decision within 5 school days after receiving notice of the teacher’s termination by filing a petition for expedited arbitration with the commissioner; provided further, that an arbitrator shall be selected according to the procedures set forth in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the underperformance of the school is due to factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the superintendent. The arbitrator’s decision shall be issued within 10 business days from the completion of the hearing.”

The amendment was adopted.

Ms. Spilka, Messrs. Tarr and Richard T. Moore, Ms. Jehlen, Messrs. Galluccio and Donnelly, Ms. Creem, Ms. Flanagan, Ms. Candaras and Mr. Pacheco moved that the proposed new draft be amended by inserting at the end thereof the following section:—

“SECTION XX. In order to determine, as a basis for legislative action, the resources needed to achieve the commonwealth’s educational goals, a committee, to be known as the Education Resource Study Committee, made up of the chairs of the joint committee on education, the secretary of administration and finance, or her designee, and the secretary of executive office of education or her designee, is hereby authorized to conduct a study to determine the resources necessary to achieve the commonwealth’s educational goals. The committee shall contract with an independent consultant to conduct an assessment to ascertain the resources and the costs of the resources needed to provide all students in Massachusetts with the opportunity for a high quality education to enable them to reach their potential as set forth in the Education Reform Act of 1993 and in this act. For purposes of its work, the committee and consultant shall have access to all necessary papers, vouchers, books and records pertaining to the department of elementary and secondary education and to any school district in the commonwealth. The department of elementary and secondary education shall cooperate with the committee and consultant for any purpose connected to its work pursuant to this act including, but not limited to, participating in interviews and producing books, records and documents. School districts and their personnel shall make every effort to cooperate with reasonable requests of the committee and consultant for any purpose connected to its work pursuant to this act and to the extent possible shall participate in interviews and producing books, records and documents. The committee and consultant may request reasonable assistance from the commissioner of elementary and secondary education and from the superintendent of any school district. The commissioner shall furnish the committee and consultant with any relevant information in his possession which is requested by the committee and consultant. School districts shall endeavor to provide relevant information in their possession to committee and consultant to the extent possible consistent with the need to maintain the confidentiality of information in their possession.

The committee shall:

- (1) Prepare a request for proposals for the conduct of a resource study, advertise nationally for such proposals, evaluate the proposals and contract with an appropriate independent entity or independent consultants to conduct a professional evaluation of
 - a) the extent of educational and other resources required by school districts so that they are able to implement fully each of the seven curriculum frameworks and fulfill the goals of the Education Reform Act and this act, and
 - b) the resources required by the department of elementary and secondary education so that it is able to fulfill its responsibilities under the provisions of the Education Reform Act. Such responsibilities shall include providing technical assistance to school districts so that they can improve the capacity of school districts to implement the curriculum frameworks effectively and devising instructional strategies which improve learning for diverse student populations.
- (2) Include in its request for proposals the requirements that in conducting its study, the consultant shall do the following:
 - (a) consider and evaluate all the resources which relate to student learning and educational opportunity, including, but not limited to: class size; special education programs, including programs for English language learners; pre-school programs for all 3 and 4 year-olds and full-day kindergarten; additional resources needed to assure educational opportunity for low-income students; salaries needed to attract and retain high quality professionals; technology; extra-curricular programs; remedial programs for students at risk of failing to satisfy graduation requirements; additional resources needed to implement the model curriculum on global education and international studies as developed by the department of elementary and secondary education; quality books and equipment for science labs programs; programs which insure adequate preparation for careers in science, technology engineering and mathematics; and historical inequities and methods of preventing such inequities from arising in the future;
 - (b) provide the committee with a proposed work plan before beginning the study;
 - (c) interview and consult with representatives of educational professions and other groups involved in issues of educational policy and finance, including, but not limited to the Massachusetts Association of School Superintendents, the Massachusetts Association of School Committees, the Massachusetts Teachers Association, the American Federation of Teachers/Massachusetts, the Massachusetts Secondary School Administrators Association, the Massachusetts Municipal Association, the Rennie Center for Education Research and Policy, the Council for Fair School Finance, the Massachusetts Budget and Policy Center, the Massachusetts Taxpayers Foundation, Massachusetts Business Alliance for Education, the Commissioner of the Department of Elementary and Secondary Education, the Robert H. Goddard Council on Science, Technology, Engineering and Mathematics (STEM) Education, the Massachusetts STEM Resource Network, the Massachusetts Parent Teacher Organization, Stand for Children, academics and researchers involved in educational strategies, and the general

public through public hearings and through such other means as the consultant shall direct;

(d) review successful educational programs in schools and school districts with diverse socio-economic characteristics and racial make-up and assess the possibility of replicating such programs in other schools and school districts;

(e) file monthly progress reports with the committee outlining the work of the previous month and the work planned for the upcoming month;

(f) after the completion of one-third of the work and again after completion of two-thirds of the work, participate in a forum with the committee to provide an opportunity for public comment;

(g) issue a preliminary report on its work and the cost study and solicit comments, criticisms and suggestions from professional educators, education administrators and experts in education policy and finance concerning the report; and

(h) deliver a final report to the president of the senate, the speaker of the house of representatives, and the joint committee on education no later than September 1, 2011.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at seventeen minutes before four o’clock P.M., on motion of Ms. Spilka, as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 159]:

YEAS.

Baddour, Steven A. Galluccio, Anthony D.
Berry, Frederick E. Hart, John A., Jr.
Brewer, Stephen M. Hedlund, Robert L.
Brown, Scott P. Jehlen, Patricia D.
Buoniconti, Stephen J. Joyce, Brian A.
Candaras, Gale D. Kennedy, Thomas P.
Chandler, Harriette L. Knapik, Michael R.
Chang-Diaz, Sonia McGee, Thomas M.
Creem, Cynthia Stone Menard, Joan M.
Donnelly, Kenneth J. Montigny, Mark C.
Downing, Benjamin B. Moore, Michael O.
Eldridge, James B. Moore, Richard T..
Fargo, Susan C. Morrissey, Michael W.
Flanagan, Jennifer L.. O’Leary, Robert A.
Pacheco, Marc R. Timilty, James E.
Panagiotakos, Steven C. Tisei, Richard R.
Petrucelli, Anthony Tolman, Steven A.
Rosenberg, Stanley C. Tucker, Susan C.
Spilka, Karen E. Walsh, Marian — 39.
Tarr, Bruce E.

NAYS — 0.

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

Messrs. Galluccio and Knapik, Ms. Jehlen, Ms. Spilka and Mr. Tarr moved that the proposed new draft be amended by inserting the following section at the end thereof:—

“SECTION 12. Section 1 of chapter 76 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in the first sentence, the words ‘and maximum ages established for school attendance by the board of education’ and inserting in place thereof the following: age established for school attendance by the board of education and the age 18. The effective date of the preceding sentence shall be January 1, 2011. The department shall make recommendations for the funding necessary to sustain increased capacity at schools that experience a substantial increase in enrollment as determined by the department.”

After remarks, the amendment was rejected.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION XX. Notwithstanding any special or general law to the contrary, and subject to appropriation, there is hereby established a pilot program for the purpose of providing substance abuse and addiction training to a teacher or a guidance counselor in each middle school and high school in Suffolk County. Said teacher or said guidance counselor shall then conduct an initial screening, intervention and referral of those students who are identified as having substance abuse and/or addiction needs for a subsequent comprehensive assessment and appropriate treatment.”

After debate, the amendment was adopted.

Mr. Tolman moved that the proposed new draft be amended by inserting at the end thereof the following new section:—

“SECTION X. Charter schools shall allow a minimum of one day of teaching observation by a public school teacher per academic semester in any of the schools core subject areas. For the purposes of this section core subject areas shall be defined as: english, math, foreign language, social studies, performing arts and music, chemistry, biology, physics, and earth sciences.”

The amendment was adopted.

Mr. Tarr moved to amend the proposed new draft in subsection (j) of section 6 by inserting at the end thereof the following sentence:— “Within 30 days of the approval of a new commonwealth charter school in any community, the board shall issue a

written confirmation that the school meets all requirements set out in subsections (a), (e), and (f) of this section and in the implementing regulations, and a summary of the reasons therefore.”

After remarks, the amendment was adopted.

Ms. Chang-Díaz and Ms. Jehlen moved that the proposed new draft be amended by striking out, at lines 102 through 105, the words, “Schools that score in the lowest 20 per cent statewide in the combined composite performance index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams shall be deemed eligible for designation as underperforming or chronically underperforming status,” and inserting in place thereof the following sentence:—

“Schools that score in the lowest 20 percent statewide in their respective school level based on the combined composite performance index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student performance shall be deemed eligible for designation as underperforming or chronically underperforming status”;

By inserting after the words “the subsequently developed measure,” at line 109, the following words:— “in conjunction with the growth model”;

By striking out, at lines 500 through 504, the words, “Upon a determination by the board of elementary and secondary education, pursuant to regulations, that a school district has scored in the lowest 5 per cent statewide in the combined composite performance index for English language arts and math, the commissioner shall appoint an independent factfinding team to assess the reasons for the underperformance and the prospects for improvement,” and inserting in place thereof the following sentence:— “Upon a determination by the board of elementary and secondary education, pursuant to regulations adopted by the board, that a school district has scored in the lowest 5 per cent statewide based on (i) the combined composite performance index for English language arts and math and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student performance, the commissioner shall appoint an independent fact finding team to assess the reasons for the underperformance and the prospects for improvement”;

By striking out, at lines 819 through 824, the words, “provided, however, that a public school district’s total charter tuition payment to commonwealth charter schools shall not exceed 18 per cent of the district’s net school spending if the board determines the combined Composite Performance Index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams for a school district place the district in the lowest 10 percent of all statewide MCAS test performance scores released in the 2 consecutive school years before the date the charter school application is submitted,” and inserting in place thereof the following sentence:— “provided, however, that a public school district’s total charter tuition payment to commonwealth charter schools shall not exceed 18 per cent of said district’s net school spending if the board determines (i) the combined Composite Performance Index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams for a school district and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student performance place said district in the lowest ten percent of all statewide MCAS test and growth model performance scores released in the 2 consecutive school years prior to the date the charter school application is submitted”;

By inserting after the words “pursuant to section 1I of chapter 69,” in line 844, the following words:— “and, beginning on July 1, 2011, the growth model used to evaluate improvement in student performance”;

By inserting after the words “overall student performance on the statewide assessment system,” in line 847, the following words:— “and, beginning on July 1, 2011, the growth model used to evaluate improvement in student performance”;

By inserting after the words “Massachusetts Comprehensive Assessment System exams,” in line 851, the following words:— “and, beginning on July 1, 2011, the growth model used to evaluate improvement in student performance”;

By inserting after the words “Massachusetts Comprehensive Assessment System exams,” in line 860, the following words:— “and, beginning on July 1, 2011, the growth model used to evaluate improvement in student performance”;

and

By inserting at the end thereof the following new section:—
“SECTION XX. On or before January 1, 2011, the commissioner of the department of elementary and secondary education shall make a report to the chairs of the Joint Committee on Education on the department’s plan to implement the inclusion of the growth model used to evaluate improvement in student performance, as required under Section 3, Section 4, and Section 6 of this act.”

The amendment was adopted.

Messrs. Tarr and Brewer moved that the proposed new draft be amended by inserting after section __ the following new section:—

“SECTION —. Chapter 71 of the General Laws is hereby amended in Section 2 by adding after the word ‘government’ the following phrase:— and a program of relating to the flag of the United States of America, including but not limited to proper etiquette, the correct use and display of the flag, and the importance of participation in the electoral process.”

After remarks, the amendment was adopted.

Ms. Chang-Díaz and Ms. Jehlen moved that the proposed new draft be amended by inserting after the words “comparable or greater percentage of students,” at lines 767 and 768, the following words:— “from 1 or more of the following categories: special education or limited English proficient of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination; and”;

By striking out the number “3,” at line 768, and inserting in place thereof the number “2”;

By striking out, the words “special education students; limited English proficient students of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination,” at lines 770 and 771; and

By striking out, at lines 1152 through 1155, the words, “When deciding on charter renewal, the board shall consider the extent to

which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in subsection (f) and the extent to which the school has followed and enhanced its plan as necessary,” and inserting in place thereof the following sentence:—

“When deciding on charter renewal, the board of elementary and secondary education shall consider: (i) the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in subsection (f); (ii) the extent to which the school has enhanced its plan as necessary; and (iii) the extent to which the school has achieved the annual goals required under subsection (f) to be included in its plan.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a quarter past four o’clock P.M., on motion of Ms. Chang-Diaz, as follows, to wit (yeas 8 — nays 31) [Yeas and Nays No. 160]:

YEAS.

Chang-Diaz, Sonia Kennedy, Thomas P.
Eldridge, James B. McGee, Thomas M.
Galluccio, Anthony D. Pacheco, Marc R.
Jehlen, Patricia D. Spilka, Karen E.— 8.

NAYS.

Baddour, Steven A. Menard, Joan M.
Berry, Frederick E. Montigny, Mark C.
Brewer, Stephen M. Moore, Michael O.
Brown, Scott P. Moore, Richard T.
Buoniconti, Stephen J. Morrissey, Michael W.
Candaras, Gale D. O’Leary, Robert A.
Chandler, Harriette L. Panagiotakos, Steven C.
Creem, Cynthia Stone Petruccelli, Anthony
Donnelly, Kenneth J. Rosenberg, Stanley C.
Downing, Benjamin B. Tarr, Bruce E.
Fargo, Susan C. Timilty, James E.
Flanagan, Jennifer L. Tisei, Richard R.
Hart, John A., Jr. Tolman, Steven A.
Hedlund, Robert L. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian— 31.
Knapik, Michael R.

The yeas and nays having been completed at eighteen minutes past four o’clock P.M., the amendment was rejected.

Mr. McGee and Ms. Jehlen moved that the proposed new draft be amended by inserting a sentence after the word “collaborative” in line 72 of Section 2 of the bill that reads: The provisions of sections forty-one, forty-two, forty-two D and forty-three of chapter 71 shall apply to each category of employees named in those sections who serve in education collaboratives.

After remarks, the amendment was rejected.

Ms. Jehlen moved that the proposed new draft be amended in section 6, subsection (o) in lines 937 to 941 by striking the sentence beginning “Requirements for enrollment” and replacing it with the following:— “Criteria for enrollment in a charter school, including, but not limited to, attendance at informational meetings and interviews, a parent’s commitment to volunteer at the school or a parent’s agreement to sign a contract or other form of written agreement with the school, shall not be designed, intended or used to discriminate against a student or to deny a student enrollment in a charter school, and shall not be used as a requirement for participation in the lottery or for admission.”

The amendment was adopted.

Mr. Pacheco moved that the proposed new draft be amended by striking out the words, in the second paragraph of Section 6(b), beginning in line 719, “provided, however, that the school committee shall consult with the teachers’ union prior to such approval” and inserting in place thereof the following words:— “and by the local collective bargaining agent;”.

Pending the question on adoption of the amendment, Messrs. O’Leary and Panagiotakos moved that the pending amendment (Pacheco) be amended by striking the entirety and inserting in place thereof the following:

By inserting, at line 725, the following sentence:—

“A Horace Mann charter school established as a conversion of an existing public school shall include in its memorandum of understanding an agreement regarding any waivers to applicable collective bargaining agreements, which such agreement shall be approved by a majority of the school faculty. A vote by the school faculty shall be held and finalized within 30 days of submission of the charter school application to the board of elementary and secondary education.”; and by inserting, after line 871, at the end of subsection 6(j), the following sentence:— “A Horace Mann charter school shall have a final memorandum of understanding, as described in subsection (b), prior to the final board vote on its application.”

During consideration of the matter, at twenty-six minutes before five o’clock, P.M., Mr. Tolman doubted the presence of a quorum; but a quorum was deemed present.

After further debate, the question on adoption of the further amendment (O’Leary-Panagiotakos) was determined by a call of the

yeas and nays, at nineteen minutes past five o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 33 — nays 6) [Yeast and Nays No. 161]:

YEAS.

Baddour, Steven A. Buoniconti, Stephen J.
Berry, Frederick E. Candaras, Gale D.
Brewer, Stephen M. Chandler, Harriette L. Brown, Scott P. Chang-Diaz, Sonia
Creem, Cynthia Stone Moore, Michael O.
Downing, Benjamin B. Moore, Richard T.
Eldridge, James B. O'Leary, Robert A.
Fargo, Susan C. Panagiotakos, Steven C.
Flanagan, Jennifer L. Petrucci, Anthony
Galluccio, Anthony D. Rosenberg, Stanley C.
Hart, John A., Jr. Spilka, Karen E.
Hedlund, Robert L. Tarr, Bruce E.
Jehlen, Patricia D. Timilty, James E.
Joyce, Brian A. Tisei, Richard R.
Kennedy, Thomas P. Tucker, Susan C.
Knapik, Michael R. Walsh, Marian — 33.
Menard, Joan M.

NAYS.

Donnelly, Kenneth J. Morrissey, Michael W.
McGee, Thomas M. Pacheco, Marc R.
Montigny, Mark C. Tolman, Steven A. — 6.

The yeas and nays having been completed at twenty-two minutes past five o'clock P.M., the further amendment was adopted. The pending amendment (Pacheco), as amended (O'Leary-Panagiotakos) was then adopted.

Mr. Morrissey moved that the proposed new draft be amended in section 3, by adding after the second sentence the following:—"Forthwith upon the release of the proposed regulations, the board shall file a copy thereof with the clerks of the house of representatives and the senate who shall refer such regulations to the Joint Committee on Elementary and Secondary Education of the general court. Within thirty days after such filing, the committee may hold a public hearing on the regulations, shall issue a report, and file a copy thereof with the board. The board, pursuant to applicable law, may adopt final regulations making such revisions in the proposed regulations as it deems appropriate after consideration of such report and shall forthwith file a copy of the regulations with the chairpersons of the joint committee on elementary and secondary education and not earlier than thirty days after the date of such filing, the board shall file the final regulations with the state secretary."

The amendment was adopted.

Messrs. Pacheco, Donnelly and Rosenberg and Ms. Candaras moved that the proposed new draft be amended by inserting, in the second paragraph of section 6(b), beginning in line 723, after the word "minimum," the following words:—"includes an agreement with the school's unions regarding any waivers to applicable collective bargaining agreements".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes before six o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 9 — nays 30) [Yeast and Nays No. 162]:

YEAS.

Donnelly, Kenneth J. Moore, Richard T.
Fargo, Susan C. Morrissey, Michael W.
Jehlen, Patricia D. Pacheco, Marc R.
McGee, Thomas M. Tolman, Steven A.— 9.
Montigny, Mark C.

NAYS.

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Kennedy, Thomas P.
Brewer, Stephen M. Knapik, Michael R.
Brown, Scott P. Menard, Joan M. Buoniconti, Stephen J. Moore, Michael O.
Candaras, Gale D. O'Leary, Robert A.
Chandler, Harriette L. Panagiotakos, Steven C.
Chang-Diaz, Sonia Petrucci, Anthony
Creem, Cynthia Stone Rosenberg, Stanley C.
Downing, Benjamin B. Spilka, Karen E.
Eldridge, James B. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Galluccio, Anthony D. Tisei, Richard R.

Hart, John A., Jr. Tucker, Susan C.
Hedlund, Robert L. Walsh, Marian— 30.

The yeas and nays having been completed at twenty-five minutes before six o'clock P.M., the amendment was rejected. The recurring question on the adoption of the amendment (Buoniconti), previously adopted by the Senate, by inserting at the end thereof the following new section:—

“SECTION XX: notwithstanding any general or special law to the contrary, a charter school cap in any district shall only be increased pursuant to a popular referendum in support of such an increase by the voters of said district.” -- was laid aside after Mr. Buoniconti withdrew his amendment.

There being no objection, during consideration of the Orders of the Day, the following matter was considered, as follows:
PAPER FROM THE HOUSE.

The Senate Bill authorizing the Massachusetts Department of Transportation and the town of Kingston to exchange certain parcels of land (Senate, No. 2147),— came from the House passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4301, as amended.

The rules were suspended, on motion of Mr. Hart, and the House amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

Orders of the Day.

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

The Senate Bill relative to education reform (Senate, No. 2201),— was considered, the main question being on ordering the bill to a third reading.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2205),— was again considered.

Mr. Panagiotakos moved that the proposed new draft be amended in section 3, by inserting after the word “attendance”, in lines 113, 172 and 357, each time it appears, the following words:— “and dismissal rates”;

In said section 3, by inserting after the words “placement courses, in lines 185 and 370, each time they appear, the following words:— “or other rigorous nationally or internationally recognized courses”;

In said section 3, by inserting after the word “year”, in lines 193 and 377, in each instance, the following words:— “or both”;

In said section 3, by inserting after the word “policies”, in line 387, the following words:— “, as such policies or practices relate to the school”;

In said section 3, by inserting after the word “report”, in line 493, the following word:— “shall”;

In section 4, by inserting after the word “attendance”, in lines 521 and 573, each time it appears, the following words:— “and dismissal rates”;

In said section 4, by inserting after the word “courses”, in line 587, the following words:— “or other rigorous nationally or internationally recognized courses”;

In said section 4, in clause 7 of subsection (d) of section 1K of chapter 69 of the General Laws, inserted by amendment 71, by striking out the word “superintendent”, and inserting in place thereof the following word:— “commissioner”;

In said section 4, by inserting after the word “year”, in line 592, the following words:— “or both”;

In said section 4, by inserting after the word “policies”, in line 601, the following words:— “, as such policies or practices relate to the school”;

In section 6, by striking out, in line 743, the word “was” and inserting in place thereof the following word:— “is”;

In said section 6, by striking out, in line 753, the words “arrangements or contracts” and inserting in place thereof the following words:— “arrangement or contract”;

In said section 6, by striking out, in line 820, the word “board” and inserting in place thereof the following word:— “department”;

In said section 6, by inserting after the word “census”, in line 882, the following word:— “estimate”;

In said section 6, by striking out, in line 887, the word “record”, each time it appears, and inserting in place thereof, in each instance, the following words:— “summary”;

In said section 6, by striking out, in line 909, the words “Horace Mann school” and inserting in place thereof the following words:— “Horace Mann charter school”;

In said section 6, by striking out, in line 951, the word “a”;

In said section 6, in section 89 of chapter 71 of the General Laws, in subsection (ee), by adding the following paragraph:—

“If a charter school student previously attended a private or parochial school or was home schooled, the commonwealth shall assume the first year cost for that student and shall not reduce the sending district’s chapter 70 aid for that student’s tuition in that fiscal year.”;

In said section 6, in subsection (ff) of section 89 of chapter 71 of the General Laws, in the third paragraph, by striking out the first sentence and inserting in place thereof the following sentence:— “The board of elementary and secondary education or the commissioner, as applicable, shall approve or deny amendment requests.”;

In said section 6, by inserting after the word “consider”, in line 1152, the following words:— “progress made in student academic achievement and”;

In said section 6, by striking out, in line 1160, the words:— “The board shall also consider progress made in student academic

achievement.”;

In said section 6, by striking out, in line 1259, the word “reimbursement” and inserting in place thereof the following word:—
“tuition”; and

In said section 6, by striking out, in line 1316, the word “December” and inserting in place thereof the following word:—
“January”.

The amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2216, amended) was then ordered to a third reading and read a third time.

After debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twelve minutes before six o’clock P.M., on motion of Mr. O’Leary, as follows, to wit (yeas 28 — nays 11) [Yeas and Nays No. 163]:

YEAS.

Baddour, Steven A. Hart, John A., Jr..
Berry, Frederick E. Jehlen, Patricia D.
Brewer, Stephen M. Joyce, Brian A.
Buoniconti, Stephen J. Kennedy, Thomas P.
Candaras, Gale D. Menard, Joan M.
Chandler, Harriette L. Moore, Michael O.
Chang-Diaz, Sonia Moore, Richard T.
Creem, Cynthia Stone O’Leary, Robert A.
Donnelly, Kenneth J. Panagiotakos, Steven C.
Downing, Benjamin B. Petrucci, Anthony
Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Tucker, Susan C.
Galluccio, Anthony D. Walsh, Marian — 28.

NAYS.

Brown, Scott P. Knapik, Michael R.
Hedlund, Robert L. McGee, Thomas M.
Montigny, Mark C. Timilty, James E.
Morrissey, Michael W. Tisei, Richard R.
Pacheco, Marc R. Tolman, Steven A. — 11.
Tarr, Bruce E.

The yeas and nays having been completed at eight minutes before six o’clock P.M., the bill (Senate, No. 2216, printed as amended) was passed to be engrossed.

Sent to the House for concurrence.

Reports of Committees.

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 Senate Bill financing health care through moral obligation bonds (Senate, No. 554) (the committee on Ethics and Rules recommending that the pending recommended new draft from the committee on Bonding, Capital Expenditures and State Assets (Senate, No. 2207) be amended by substituting a new draft with the same title (Senate, No. 2208)).

There being no objection, the rules were suspended, on motion of Mr. Montigny and the bill was read a second time, and was amended, as recommended by the committee on Ethics and Rules.

The bill (Senate, No. 2208) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at one minute past six o’clock P.M., on motion of Mr. Montigny, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 164]:

YEAS.

Baddour, Steven A. Knapik, Michael R.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Menard, Joan M.
Brown, Scott P. Montigny, Mark C.
Buoniconti, Stephen J. Moore, Michael O.
Candaras, Gale D. Moore, Richard T.
Chandler, Harriette L. Morrissey, Michael W.
Chang-Diaz, Sonia O’Leary, Robert A.
Creem, Cynthia Stone Pacheco, Marc R.
Donnelly, Kenneth J. Panagiotakos, Steven C.
Downing, Benjamin B. Petrucci, Anthony

Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Galluccio, Anthony D. Timilty, James E.
Hedlund, Robert L. Tisei, Richard R.
Jehlen, Patricia D. Tolman, Steven A.
Joyce, Brian A. Tucker, Susan C.
Kennedy, Thomas P. Walsh, Marian — 38.

NAYS — 0.
ABSENT OR NOT VOTING.
Hart, John A., Jr. — 1.

The yeas and nays having been completed at four minutes past six o'clock P.M., the bill (Senate, No. 2208) was then passed to be engrossed.

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to improve the interstate compact on the placement of children (Senate, No. 67),— ought to pass, with an amendment substituting a new draft entitled “An Act revising the interstate compact on the placement of children” (Senate, No. 2211).

There being no objection, the rules were suspended, on motion of Ms. Spilka, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

After remarks, the bill (Senate, No. 2211) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

The President in the Chair, by Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to prevent harassment (Senate, No. 2185),— ought to pass, with an amendment substituting a new draft entitled “An Act relative to harassment prevention orders” (Senate, No. 2212).

There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2212) was then ordered to a third reading and read a third time.

Pending the question on passing the bill to be engrossed, Mr. Panagiotakos moved that the bill be amended in section 1, in the definition of “Harassment”, in section 1 of the proposed chapter 265A of the General Laws, by striking out clause (ii) and inserting in place thereof the following clause:—

“(ii) an act that: (A) by force, threat or duress causes another to engage, involuntarily, in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.”

The amendment was adopted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-two minutes past six o'clock P.M., on motion of Ms. Chandler, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 165]:

YEAS.
Baddour, Steven A. Buoniconti, Stephen J.
Berry, Frederick E. Candaras, Gale D.
Brewer, Stephen M. Chandler, Harriette L.
Brown, Scott P. Chang-Diaz, Sonia
Creem, Cynthia Stone Moore, Richard T.
Donnelly, Kenneth J. Morrissey, Michael W.
Downing, Benjamin B. O’Leary, Robert A.
Eldridge, James B. Pacheco, Marc R.
Fargo, Susan C. Panagiotakos, Steven C.
Flanagan, Jennifer L. Petruccelli, Anthony
Galluccio, Anthony D. Rosenberg, Stanley C.
Hedlund, Robert L. Spilka, Karen E.
Jehlen, Patricia D. Tarr, Bruce E.
Joyce, Brian A. Timilty, James E.
Kennedy, Thomas P. Tisei, Richard R.
McGee, Thomas M. Tolman, Steven A.
Menard, Joan M. Tucker, Susan C.
Montigny, Mark C. Walsh, Marian — 37.
Moore, Michael O.

NAYS — 0.

ABSENT OR NOT VOTING.

Hart, John A., Jr. Knapik, Michael R. — 2.

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

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to transportation (Senate, No. 2202),—ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2213).

There being no objection, the rules were suspended, on motion of Mr. Baddour, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

After remarks, the bill (Senate, No. 2213) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Recess.

There being no objection, at twenty-eight minutes before seven o'clock P.M., for the purpose of a Democratic caucus, the President declared a recess; and at seven o'clock P.M., the Senate reassembled, the President in the Chair.

Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill extending simulcasting (House, No. 4323),—ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2214.

There being no objection, the rules were suspended, on motion of Ms. Spilka, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

After remarks, the bill, as amended, was then ordered to a third reading and read a third time.

Pending the question on passing the bill to be engrossed, Mr. McGee moved that the bill be amended by striking out section 20 and inserting in place thereof the following section:—

“SECTION 20. 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 executive office for administration and finance. The fund shall consist of all revenues dedicated pursuant to this act; provided, however, that in fiscal year 2010, the secretary of administration and finance shall transfer funds totaling not less than \$300,000 to the department of public health for a compulsive gamblers' treatment program; provided further, that not more than \$300,000 to assist efforts to secure alternative employment and retaining opportunities for displaced worker impacted by the passage of chapter 388 of the acts of 2008; provided further, that the state racing commission, or a successor agency, shall report to 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, the projected program revenue, program expenses and operating costs associated with overseeing simulcasting through July 31, 2010. In the event of a deficit, the secretary of administration and finance may transfer funds not to exceed \$100,000 for the operating costs of the said commission. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund; provided, however, that the secretary shall distribute to owners 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 further, that before any amount is distributed, the secretary shall develop a method and criteria by which to distribute such funds in an equitable manner amongst dog owners.”; and

By striking out section 14 and inserting in place thereof the following section:—

“SECTION 14. 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 licenses granted to the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county in calendar year 2009 to conduct live racing pursuant to chapter 128A of the General Laws, including the right to conduct simulcast wagering pursuant to chapter 128C of the General Laws, shall remain in effect until July 31, 2010; provided, however, that the days between January 1, 2010, and July 31, 2010, shall be dark days pursuant to said chapter 128C and the licensees shall continue to be precluded from conducting live racing during that period 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) 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.”; and in section 23 by inserting after the word exhausted in line 125 the following:— “provided further, that state funds shall be distributed in accordance with section 20”.

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendments. [For text of Senate amendments, printed as amended, see Senate, No. 2215.]

Sent to the House for concurrence in the amendments.

Order Adopted.

On motion of Mr. Tisei,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at a half past one o'clock P.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of Mr. Pacheco, at twenty-nine minutes past seven o'clock P.M., the Senate adjourned to meet again tomorrow at a half past one o'clock P.M.