

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

## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Thursday, June 9, 2011.*

Met at one minute past one o'clock P.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Richard T. Moore for the purpose of an introduction. Mr. Moore then introduced, on the Rostrum, Father Peter-Michael Preble of St. Michael's Romanian Orthodox Church in Southbridge. Father Preble led the Senate in an opening prayer. The Senate welcomed him with applause and he withdrew from the Chamber.

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Ross for the purpose of an introduction. Mr. Ross then introduced, in the rear of the Chamber, his communications director Justin Gravius. He was recognized for his service as he will be leaving the State House for a job in the private sector. The Senate applauded his accomplishments and he withdrew from the Chamber.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Mr. Hart for the purpose of an introduction. Mr. Hart then introduced, in the rear of the Chamber, Boston College graduate Christopher Kowalski. Christopher played on the Boston College varsity baseball team for 4 years and also tried out and played for the basketball team his senior year. He was recognized for being the recipient of the Richard "Mo" Maloney Award for Community Outreach. This award is given to a male and female student athlete who has best used their talents and abilities in unselfish service to others. The Senate applauded his accomplishments and withdrew from the Chamber.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Mr. Brewer for the purpose of an introduction. Mr. Brewer then introduced, in the rear of the Chamber, students from Oakmont Regional High School in Ashburnham. The school's Environmental Association was recently recognized by the Executive Office of Energy and Environmental Affairs with the Secretary's Excellence in Energy and Environmental Achievement Award. These students have shown outstanding dedication and commitment to reducing energy consumption and waste and were also involved in the Green Lunches Program that aims to reduce the amount of waste created during school lunches. The Senate applauded their accomplishments and withdrew from the Chamber.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Mr. Richard T. Moore for the purpose of an introduction. Mr. Moore then introduced, in the Senate Gallery, students from the Bartlett High School Choir in Webster. They addressed the Senate in song, were welcomed with applause and withdrew from the Gallery.

#### *Communication.*

A communication from the Executive Office for Administration and Finance, Human Resources Division (under the provisions of Section 25 of Chapter 31 of the General Laws) submitting notice of revocation of certain public safety police promotional lists (received Thursday, June 94, 2011),— **was placed on file.**

*Report.*

A report of the Dukes County Registry of Deeds (under the provisions of Section 4 of Chapter 4 of the Acts of 2003 and subsection 2KKK of Chapter 29 of the General Laws) submitting its plan for expenditure from the County Registers Technological Fund (copies having been forwarded as required to the Senate Committees on Ways and Means and Post Audit and Oversight) (received June 8, 2011) -- **was placed on file.**

*Petition.*

Mr. Tarr presented a petition (accompanied by bill, Senate No. 1934) of Bruce E. Tarr and Harriett L. Stanley (by vote of the town) for legislation to authorize the town of Newbury to use certain fund balances for capital expenditures [Local Approval received];

**Referred, under Senate Rule 20, to the committee on Municipalities and Regional Government.  
Sent to House for concurrence.**

*Reports of a Committee.*

By Ms. Clark, for the committee on Public Service, on petition, a Bill relative to creditable service for school business administrators (Senate, No. 1316); and

By the same Senator, for the same committee, on petition, a Bill relative to the retirement of University of Massachusetts police (Senate, No. 1363);

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

PAPER FROM THE HOUSE

A Bill relative to the commercial exploitation of people (House, No. 3483,-- on House, No. 2850);

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

*Recess.*

There being no objection, at two minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at a half past one o'clock P.M, the Senate reassembled, Mr. Rosenberg in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

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

The prayer was offered by the Very Reverend Peter-Michael Preble, Pastor of St. Michael's Romanian Orthodox Church in Southbridge, Massachusetts:

Most gracious God, Whose mercies are from everlasting to everlasting, and Whose providence upholds us always, we ask Your Blessings upon the Senate of this Commonwealth here convened. Grant them peaceful governing, O Lord, so that we, in their calmness may lead religious and reverent lives in peace and in quiet.

Be Thou with us as we take counsel together. Remove from our minds any lingering traces of selfish ambition or of fear of the consequences of our actions, to the end that we may serve Thee and the people of this Your Commonwealth with integrity of heart and singleness of purpose.

So that we lay the foundation of truth, justice, and righteousness and build thereon a nobler Commonwealth.

For to You are due all glory honor and worship: to the Father and to the Son and to the Holy Spirit, now and ever and unto ages of ages. Amen.

On motion of Mr. Richard T. Moore, the prayer was printed in the Journal of the Senate.

*Resolutions.*

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

Resolutions (filed by Mr. Brewer) "congratulating the Salem Cross Inn on the occasion of its fiftieth anniversary";

Resolutions (filed by Ms. Clark) "congratulating Wakefield Co-Operative Bank on the occasion of its one hundred and twenty fifth anniversary";

Resolutions (filed by Mr. McGee) "congratulating the Marblehead High School's Boys' Ice Hockey Team on its Division III

State Championship”;  
Resolutions (filed by Mr. McGee) “congratulating the Marblehead High School’s Girls Ski Team on its State Ski Championship”;  
Resolutions (filed by Mr. McGee) “congratulating the St. Mary’s Girls Basketball Team on its MIAA Division III State Championship”;  
Resolutions (filed by Mr. Richard T. Moore) “honoring Ernestine ‘ET’ Tulumello on the occasion of her retirement”;  
Resolutions (filed by Ms. Murray, Messrs. Baddour, Berry and Brewer, Ms. Candaras, Ms. Chandler, Ms. Chang-Díaz, Ms. Clark, Ms. Creem, Messrs. DiDomenico and Donnelly, Ms. Donoghue, Messrs. Downing and Eldridge, Ms. Fargo, Mr. Finegold, Ms. Flanagan, Messrs. Hart and Hedlund, Ms. Jehlen, Messrs. Joyce, Keenan, Kennedy, Knapik, McGee, Montigny, Michael O. Moore, Richard T. Moore, Pacheco, Petruccelli, Rodrigues, Rosenberg and Ross, Ms. Spilka and Messrs. Tarr, Timilty, Tolman, Welch and Wolf) “recognizing the one hundred and thirteenth anniversary of the United States Navy Hospital Corps”;  
Resolutions (filed by Mr. Ross) “congratulating Anthony Cuzzo on his elevation to the rank of Eagle Scout”; and  
Resolutions (filed by Mr. Tarr) “congratulating North Reading Fire Chief Richard Nelson Harris on the occasion of his retirement.”

*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 House Bill designating a certain bridge in the town of Lakeville in honor of James Warren Buzzell, Jr. (House, No. 1787, amended)

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

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Daniel Murphy, an employee of the Department of Correction (House, No. 3250),-- **ought to pass.**

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

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

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered, as follows:  
The House Bill authorizing the town of Northborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 3467, amended),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

*Reports of Committees.*

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Bruce E. Tarr for legislation relative to the Northeast Solid Waste Committee.

**The rules were suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture.**

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Katherine M. Clark and Gerry Leone for legislation to provide protection from photographing, videotaping or electronically surveilling a partially nude or nude child.

**The rules were suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.**

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Daniel A. Wolf for legislation relative to fire training.

**The rules were suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety and Homeland Security.**

**Severally sent to the House for concurrence.**

*Petition.*

On motion of Mr. Wolf, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Wolf, (accompanied by bill) of Daniel A. Wolf and Cleon H. Turner for legislation to establish a sick leave bank for Catherine Gibson, an employee at the Department of Transitional Assistance,-- **and the same was referred to the committee on Public Service.**

**Sent to the House for concurrence.**

## PAPERS FROM THE HOUSE

A petition (accompanied by bill, House, No. 3495) of Antonio F.D. Cabral, Mark C. Montigny and Stephen R. Canessa for legislation to establish a sick leave bank for Matthew Robitaille, an employee of the sheriff's department of Bristol County,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

### *Emergency Preamble Adopted.*

An engrossed Bill establishing a sick leave bank for Robert P. Hanifin, an employee of the Trial Court (see House, No. 3397, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 3 to 0. The bill was signed by the Acting President (Mr. Rosenberg) and sent to the House for enactment.**

### *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 Acting President (Mr. Rosenberg) and laid before the Governor for his approbation, to wit:

Establishing a separate cemetery commission for the town of Nantucket (see House, No. 567);

Authorizing the town of Winchester to issue certain temporary loans in anticipation of bonds (see House, No. 1840); and

Establishing voting precincts in the town of Middleton (see House, No. 3468).

### *Orders of the Day.*

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

#### *Bills*

Relative to the town charter for the town of Ashburnham (Senate, No. 1906);

Authorizing the town of Sturbridge to convey a certain parcel of land (House, No. 574); and

Relative to amending the charter of the town of Saugus (House, No. 3336);

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

The Senate Bill to improve the administration of state government and finance (Senate, No. 1905),-- **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, striking out section 1 and inserting in place thereof the following 10 sections:-

“SECTION 1. Chapter 3 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. When evaluating a petition by a city or town to borrow money in excess of the statutory limit of indebtedness under section 10 of chapter 44, the legislative committee to which that petition may be referred shall solicit a report on the financial condition of the city or town from the division of local services, which shall deliver the report as soon as possible.

SECTION 1A. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by inserting after section 12A the following section:-

Section 12B. The clerks of the 2 branches shall in every odd-numbered year prepare a manual for the general court. Such number of copies of the manual as the committees on rules shall determine shall be printed under the direction of the clerks of the 2 branches.

SECTION 1B. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 14 to 16, inclusive, and inserting in place thereof the following 2 sections:-

Section 15. The general court shall choose a sergeant-at-arms who shall hold office until removed or until another is chosen. The sergeant-at-arms may be removed by the general court. The sergeant-at-arms shall receive such salary as may be established by the committees on rules of the 2 branches of the general court acting concurrently.

The house of representatives may choose a sergeant-at-arms of the house of representatives who shall perform such duties as may be prescribed by the committee on rules of the house, and in case of the disability or necessary absence of the sergeant-at-arms of the general court, the sergeant-at-arms of the house of representatives shall perform the duties of the sergeant-at-arms during such disability or absence. The sergeant-at-arms of the house of representatives shall receive such salary as may be established by the committee on rules of the house.

Section 16. In case of the disability or necessary absence of the sergeant-at-arms of the general court and of the sergeant-at-arms of the house of representatives, the sergeant-at-arms may appoint, with the approval of the presiding officers of the 2 branches of the general court, an assistant sergeant-at-arms to perform the duties of the sergeant-at-arms during such disability or absence.

The compensation of the assistant sergeant-at-arms shall be paid by the sergeant-at-arms, who shall be responsible for the assistant's fidelity and good conduct in office; but for misconduct or other sufficient cause the assistant may be removed by the general court.

SECTION 1C. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 18 to 20A,

inclusive, and inserting in place thereof the following 3 sections:-

Section 18. There shall be 2 chief general court officers for each branch, each with the title of assistant sergeant-at-arms, and such assistant chief general court officers, general court officers and pages as shall be established by the committees on rules of the 2 branches of the general court acting concurrently. Such employees shall receive such compensation as may be established by said committees acting concurrently.

Section 19. The number of chief general court officers, assistant chief general court officers, general court officers and pages of the senate and of the house shall not exceed 92 in all.

Section 20A. Subject to appropriation, the sergeant-at-arms may purchase uniforms for the sergeant-at-arms, general court officers and pages as the sergeant-at-arms may determine.

SECTION 1D. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 22 and 23, and inserting in place thereof the following 3 sections:-

Section 22. The journals, files and papers of the senate and of the house of representatives shall be in the custody of their respective clerks during the session to which they relate and after that session they shall be in the custody of the state secretary. The clerk of each branch shall at all times have access to the journals, files and papers. Copies of such journals, files and papers, certified by the clerk of the branch to which they originally appertained or by the state secretary, shall be evidence in like manner as the originals.

Section 22A. Such number of copies of the journals of the senate and of the house of representatives as the committees on rules shall determine shall be printed annually under the direction of the clerks of the 2 branches.

Section 23. Bills and resolves passed to be engrossed by the general court, and bills for which initiative petitions are completed under the constitution of the commonwealth, shall, under the direction of the committees on rules of the 2 branches, acting concurrently, be fairly engrossed in such manner and by utilizing such equipment as said committees shall determine. The enacting clause of bills for which initiative petitions are completed shall be in the form prescribed by section 3 of chapter 4. The state secretary shall cause the acts and resolves of each session to be neatly and strongly bound in separate volumes of convenient size and lettered on the back with a designation of the contents and the legislative year. If acts or resolves are becoming illegible, the state secretary shall cause copies of the acts or resolves, similar to the originals, to be prepared and shall attest them. Such attested copies shall have the same force and effect as the originals.

If the clerk of the senate, with the approval of the president of the senate and the speaker of the house, determines that it would expedite the business of the general court, the legislative engrossing division shall prepare for final passage by the general court an exact copy of any bill specified by said clerk, as passed to be engrossed by both branches, so far as possible by pasting a printed copy of said bill, as so passed, on the kind and size of paper designated by said committees on rules and the copy so prepared shall be deemed to have been fairly engrossed.

SECTION 1E. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 32A to 38B, inclusive, and inserting in place thereof the following 5 sections:-

Section 32A. No special commission, no special or standing committee of the general court or of either branch of the general court and no sub-committee of any such commission or committee shall travel either within or without the commonwealth except by a vote of a majority of the total membership of such commission or committee, nor until the written approval of the presiding officers of both branches of the general court or of the presiding officer of the appropriate branch has been received. Such written approval shall specify the purpose of the trip, the places to be visited, the time within which such travel is to be completed and the names of all members or other persons authorized to travel.

Section 33. The committees on rules of the 2 branches, acting concurrently, shall publish electronically during each regular session of the general court bulletins of committee hearings.

Section 35. Advertisements of hearings of legislative committees shall be published on the official website of the general court and may be published in additional publications if the chairs of the committee determine that additional publication is necessary to reach those with a substantial interest in a matter pending at the hearing.

Section 38A. Joint committees of the general court, the house and senate committees on ways and means and the house and senate committees on bonding, capital expenditures and state assets when reporting favorably on bills referred to them shall include with that report a fiscal note prepared under section 3A of chapter 29 showing the estimated cost or fiscal effect of the proposed legislation, if the cost of the legislation exceeds \$100,000. Such fiscal notes shall be printed in the daily calendars of each branch whenever said bills appear on the calendar and shall be made available on the official website of the general court.

Section 38B. The committee on ways and means of each branch of the general court shall conduct public hearings on all requests and recommendations for appropriations for the executive, judicial and legislative branches of the state government submitted under section 2 of Article LXIII of the Amendments to the Constitution. The house and senate committees on bonding, capital expenditures and state assets, or a committee of the general court having primary jurisdiction over requests and recommendations for capital outlay programs and projects which the governor submits to the general court, shall hold a hearing on such requests and recommendations. Any committee referred to in this section shall give 5 days public notice prior to holding such public hearings.

SECTION 1F. Sections 56 to 61, inclusive of chapter 3 of the General Laws are hereby repealed.

SECTION 1G. Section 65 of chapter 3 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out in lines 4 and 5 the words, "three shall be members of The Doric Dames," and inserting in place thereof:- 1 may be a member of The Doric Docents.

SECTION 1H. Said section 65 of said chapter 3, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The committee may consider and advise the senate relative to any matter germane to the upgrading and restoration of the quarters in the state house used by the members of the senate and its employees, with particular attention to the historical and artistic qualities of said quarters. The committee may file recommendations from time to time with the clerk of the senate.

SECTION II. The General Laws are hereby amended by inserting after chapter 3 the following chapter:-

### CHAPTER 3A THE SUNSET ACT

Section 1. There is hereby established a procedure for the identification and elimination of waste, duplication and inefficiency in state government agencies and authorities established by statute, regulation or executive order to be known as the Sunset Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

‘Advisory committee’, a committee, council, commission or other entity established under state law whose primary function is to advise a state agency.

‘Agency’, a state agency as defined in section 1 of chapter 29.

‘Authority’, a state authority as defined in section 1 of chapter 29.

‘Commission’, the sunset advisory commission established in section 3.

Section 3. (a) There shall be a sunset advisory commission consisting of 3 members of the senate, 1 of whom shall be appointed by the minority leader of the senate, 3 members of house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives. The president of the senate and the speaker of the house of representatives may serve as legislative appointees.

(b) Legislative members shall serve 2-year terms, conterminous with their service as elected members of the legislature. If the president of the senate or the speaker of the house of representatives serves on the commission, the president or speaker’s service shall continue until resignation from the commission or until the individual ceases to hold the office.

(c) Any member, other than the president of the senate and the speaker of the house of representatives, who serves a full term may not be appointed to an immediately succeeding term.

(d) The president of the senate and the speaker of the house of representatives shall make their appointments before February 1 of each odd-numbered year.

(e) If a legislative member ceases to be a member of the house from which the member was appointed, the seat held by that member shall be considered vacant.

(f) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(g) The commission shall have a chair and a vice-chair as presiding officers. The chair and vice-chair positions shall alternate every 2 years between the 2 membership groups appointed by the president of the senate and the speaker of the house of representatives. The chair and vice-chair shall not be from the same membership group. The president of the senate shall designate a presiding officer from the president’s appointed membership group and the speaker shall designate the other presiding officer from the speaker’s appointed membership group.

(h) Four members of the commission shall constitute a quorum. A final action or recommendation shall not be made unless approved by a recorded roll call vote of a majority of members appointed by the president of the senate and the speaker of the house of representatives. All other actions by the commission shall be decided by a majority of the members present and voting, so long as a quorum is present.

Section 4. The commission shall adopt rules necessary to carry out this chapter.

Section 5. Before July 1 of the odd-numbered year before the year in which an agency, advisory committee or authority subject to this chapter is abolished, the agency, advisory committee or authority shall report to the commission:

(1) information regarding the application to the agency, advisory committee or authority of the criteria in section 9; and

(2) any other information that the agency, advisory committee or authority considers appropriate or that the commission requests.

Section 6. (a) Within 1 year of the appointment and qualification of the members of the commission and the organization of the commission staff, the commission shall assign sunset dates for each agency, authority and advisory committee of the commonwealth and shall notify the head of such agency, authority and advisory committee of the date selected. The commission shall then file legislation with the general court to implement the abolition schedule.

(b) Before January 1 of the year in which an agency, advisory committee or authority subject to this chapter is scheduled to be abolished, the commission shall:

(1) review and take action necessary to verify the reports submitted by the agency, advisory committee or authority under this chapter;

(2) consult the house and senate committees on post audit and oversight, the state auditor, the inspector general and the state comptroller on the application to the agency, advisory committee or authority of the criteria in section 9;

(3) conduct a review of the agency, advisory committee or authority based on the criteria in section 9 and prepare a written report; and

(4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session and the resulting legislation.

(c) The written report prepared by the commission under clause (3) of subsection (b) shall be a public record.

Section 7. (a) Before February 1 of the year in which an agency, advisory committee or authority subject to this chapter and is to

be abolished, the commission shall conduct public hearings concerning, but not limited to, the application to the agency, advisory committee or authority of the criteria in section 9.

(b) The commission may hold the public hearings after the review of the agency, advisory committee or authority is complete and available to the public.

Section 8. (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies, authorities and advisory committees reviewed.

(b) In the report the commission shall include:

(1) its findings under section 9;

(2) its recommendations under this chapter; and

(3) other information the commission considers necessary for a complete review of the agency, advisory committee or authority.

Section 9. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency, authority or advisory committee or for the performance of the functions of the agency, authority or advisory committee:

(1) the efficiency and effectiveness with which the agency, authority or advisory committee operates;

(2) (a) an identification of the mission, goals and objectives intended for the agency, authority or advisory committee and of the problem or need that the agency, authority or advisory committee was intended to address; and

(b) the extent to which the mission, goals and objectives have been achieved and the problem or need has been addressed;

(3) (a) an identification of any activities of the agency, authority or advisory committee in addition to those granted by statute and of the authority, of the agency, authority or advisory committee to conduct those activities; and

(b) the extent to which those activities are needed;

(4) an assessment of authority of the agency, authority or advisory committee relating to fees, inspections, enforcement and penalties;

(5) whether less restrictive or alternative methods of performing a function that the agency, authority or advisory committee performs could adequately protect or provide service to the public;

(6) the extent to which the jurisdiction of the agency, authority or advisory committee and the programs administered by the agency, authority or advisory committee overlap or duplicate those of other agencies, authorities or advisory committees, the extent to which the agency, authority or advisory committee coordinates with those agencies, authorities or advisory committees and the extent to which the programs administered by the agency, authority or advisory committee can be consolidated with the programs of other authorities, agencies or advisory committees;

(7) the promptness and effectiveness with which the agency, authority or advisory committee addresses complaints concerning entities or other persons affected by the agency, authority or advisory committee, including an assessment of the agency's, authority's or advisory committee's administrative hearings process;

(8) an assessment of the agency's, authority's or advisory committee's rulemaking process and the extent to which the agency, authority or advisory committee has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

(9) the extent to which the agency, authority or advisory committee has complied with:

(a) federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and

(b) state law and applicable rules of any state agency, authority or advisory committee regarding purchasing guidelines and programs for historically underutilized businesses;

(10) the extent to which the agency, authority or advisory committee issues and enforces rules relating to potential conflicts of interest of its employees and chapter 268A;

(11) the extent to which the agency or authority complies with chapters 66 and 66A and follows records management practices that enable the agency to respond efficiently to requests for public information;

(12) the effect of federal intervention or loss of federal funds if the agency, authority or advisory committee is abolished;

(13) the extent to which the authority has issued bonds or otherwise incurred similar long-term obligations, the amount of outstanding bonded indebtedness for which the authority is responsible and the sustainability of another authority assuming responsibility for such long-term obligations;

(14) whether the authority is responsible for a retirement system for its employees and the extent of the authority's obligations and available funding under such retirement system and for other post-employment benefits for retired employees; and

(15) whether the agency, authority or advisory committee utilizes an open and competitive bid process for third party contracts related to legal representation, bonds and fiscal management.

Section 10. (a) In its report on an agency, authority or advisory committee, the commission shall make recommendations:

(1) on the abolition, continuation or reorganization of each affected agency, authority or advisory committee and on the need for performance of the functions of the agency, authority or advisory committee;

(2) on the consolidation, transfer or reorganization of programs within agencies or authorities not under review when the programs duplicate functions performed in agencies or authorities under review;

(3) to improve the operations of the agency, authority or advisory committee, including management recommendations that do not require a change in the agency's, authority's or advisory committee's enabling statute; and

(4) to improve the efficiency and transparency in third party contract awards related to legal representation, bonds and fiscal management, including, but not limited to, recommending utilization of an open and competitive bid process.

(b) The commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels

for certain programs to improve the operations of the agency, authority or advisory committee, to be forwarded to the house and senate committees on ways and means and the executive office for administration and finance.

(c) The commission shall prepare drafts of legislation necessary to carry out the commission's recommendations under this section.

(d) After the legislature acts on the report, the commission shall present to the secretary of administration and finance, the commission's recommendations that do not require a statutory change to be put into effect.

Section 11. In the 2-year period preceding the date scheduled for the abolition of a state agency, authority or advisory committee under this chapter, the commission may exempt certain agencies, authorities or advisory committees from the requirements of this chapter relating to staff reports, hearings and reviews.

(a) The commission may only exempt an agency, authority or advisory committee that has been (i) inactive for a period of 2 years preceding the date the agency, authority or advisory committee is scheduled for abolition or (ii) rendered inactive by an action of the legislature.

(b) The commission's action in exempting an agency, authority or advisory committee under this section shall be done by an affirmative record vote and shall be decided by a majority of all members present and voting.

Section 12. During each legislative session, the staff of the commission shall monitor legislation affecting agencies, authorities and advisory committees that have undergone sunset review and shall periodically report to the members of the commission on proposed changes which would modify prior recommendations of the commission.

Section 13. An advisory committee, the primary function of which is to advise a particular agency or authority, shall be abolished on the date set for abolition of the agency or authority unless the advisory committee shall have been expressly continued by law.

Section 14. (a) During the annual session immediately before the abolition of an agency, authority or an advisory committee that is subject to this chapter, the legislature may continue the agency, authority or advisory committee for a period not to exceed 12 years.

(b) This chapter shall not prohibit the legislature from:

(1) terminating a state agency, authority or advisory committee subject to this chapter at a date earlier than that provided in this chapter; or

(2) considering other legislation relative to a state agency, authority or advisory committee subject to this chapter.

Section 15. (a) An agency, authority or advisory committee that is abolished in an odd-numbered year may continue in existence until June 30 of the following year to conclude its business. Unless the law provides otherwise, abolition shall not reduce or otherwise limit the powers and authority of the agency or authority during the concluding year. An agency or authority shall be terminated and shall cease all activities at the expiration of the 1-year period. Unless the law provides otherwise, all rules that have been adopted by the agency or authority shall expire at the expiration of the 1-year period.

(b) An un-obligated or unexpended appropriation of an abolished agency or advisory committee shall lapse on September 1 of the year after abolition.

(c) Except as provided by subsection (f) or as otherwise provided by law, all money in a dedicated fund of an abolished state agency, authority or advisory committee on September 1 of the year after abolition shall be transferred to the General Fund. Any law dedicating money to a specific fund of an abolished agency shall become void on September 1 of the year after abolition.

(d) Unless otherwise provided, an abolished state agency, authority or advisory committee funded by the legislature may not spend or obligate any of the money appropriated beyond 1 year from the date of abolition.

(e) Unless the governor designates an appropriate agency as prescribed by subsection (f), property and records in the custody of an abolished state agency, authority or advisory committee on September 1 of the year after abolition shall be transferred to the state archives. If the governor designates an appropriate agency, the property and records shall be transferred to the designated agency.

(f) This chapter shall not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract and other written obligations, under their terms. If an abolished agency or authority has outstanding bonded indebtedness or other outstanding obligations, including lease, contract or other written obligations, the bonds and all other obligations, including lease, contract and other written obligations shall remain valid and enforceable under their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract and other written obligations. The governor shall designate an appropriate agency or authority that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract and other written obligations. The designated agency or authority shall provide payment from the sources of payment of the bond under the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract and other written obligations, under their terms, whether from taxes, revenues or otherwise, until the bonds and interest on the bonds are paid in full and all other obligations, including lease, contract and other written obligations, are performed and paid in full. If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract and other written obligations, shall remain with the comptroller or the previously designated trustees. If the proceedings do not provide that the funds remain with the comptroller or the previously designated trustees, the funds shall be transferred to the designated agency or authority.

Section 16. (a) The commission may issue a subpoena to compel the attendance of witnesses and the production of books, records, papers and other objects necessary or proper for the purposes of the commission proceedings. The subpoena may be served on a witness at any place in the commonwealth.

(b) If a majority of the commission directs the issuance of a subpoena, the chairman shall issue the subpoena in the name of the

commission.

(c) If the chairman is absent, the chairman's designee may issue a subpoena or other process in the same manner as the chairman.

(d) If necessary to obtain compliance with a subpoena or other process, the commission may issue attachments. The attachments may be addressed to and served by a constable, sheriff or deputy sheriff in the commonwealth.

(e) Testimony taken under subpoena shall be reduced to writing and given under oath subject to the penalties of perjury.

(f) A witness who attends a commission proceeding under process shall be paid the same fees and mileage paid witnesses in courts of the commonwealth.

Section 17. (a) The commission may request the assistance of agencies. When assistance is requested, an agency or an agency officer shall reasonably assist the commission.

(b) In carrying out its functions under this chapter, the commission or its designated staff member may inspect the records, documents and files of any agency or authority.

Section 18. (a) A working paper, including all documentary or other information, prepared and maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report shall be exempt from the public disclosure requirements of chapter 66.

(b) A record held by another entity that is considered to be confidential by law and that the commission receives in connection with the performance of the commission's functions under this chapter or another law remains confidential and shall be exempt from the public disclosure requirements of chapter 66.

Section 19. If an employee is displaced because an agency, authority or advisory committee is abolished, reorganized or continued, the head of the agency, authority or advisory committee and the personnel administrator of the commonwealth shall make a reasonable effort to relocate the displaced employee. Except as otherwise expressly provided, abolition of an agency, authority or advisory committee shall not affect the rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose or proceedings that were begun before the effective date of abolition.

Section 20. (a) Each bill filed in the legislature that would create a new agency, authority or advisory committee to an agency shall be reviewed by the commission.

(b) The commission shall review the bill to determine whether:

(1) the proposed functions of the agency, authority or committee could be administered by 1 or more existing agencies, authorities or advisory committees;

(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) the bill provides for adequate protection against conflicts of interest within the agency, authority or advisory committee.

(c) On request, the commission shall forward a written comment on the legislation to the legislator who filed the bill and to the presiding officer of the legislative committee to which the bill has been referred.

Section 21. (a) The commission may accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other item of value made to the commonwealth or the commission for carrying out the purpose of this chapter.”;

In section 97, in proposed section 1 of chapter 29 of the General Laws, in the definition of “Tax expenditures”, by adding the following sentence:- “Sales that do not involve tangible personal property shall not result in tax expenditures under this definition.”;

In said section 97, in line 3892, by striking out the words “section 5C” and inserting in place thereof the following words:- “sections 5C and 5G”. ; and

In said section 97, by striking out the third paragraph of proposed section 5B of said chapter 29, and inserting in place thereof the following paragraph:- “The commissioner of revenue shall annually prepare and present with the governor’s proposed budget actual or updated estimates of tax expenditures which occurred during the preceding fiscal year, based on the best available information, and estimates of tax expenditures which in his judgment will occur during the current fiscal year and the ensuing fiscal year. Such estimates of tax expenditures shall be prepared to facilitate a comparison of increases or decreases from actual or estimated tax expenditures of the preceding fiscal year to the estimates of tax expenditures for the current fiscal year and to the ensuing fiscal year. Such estimates shall also compare actual or updated estimates of tax expenditures during the preceding fiscal year, based on the best available information, to estimates previously presented for that fiscal year by the commissioner of revenue under this paragraph. The commissioner shall identify and analyze reasons for updates in estimates or for significant discrepancies identified under the preceding sentence.”-- **was considered, and it was adopted.**

After remarks, Mr. Michael O. Moore moved that the bill be amended by inserting, after section \_\_\_\_, the following new section:-

“SECTION \_\_\_\_ . Chapter 240 of the Acts of 2010 is hereby amended by striking out sections 67 and 68 in their entirety and inserting in place thereof the following two new sections:

Section 67. Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:- The notice shall also include a small business impact statement considering the impact of the proposed regulation on small business with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall include the statement of small business consideration and the full text of said small business impact statement on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may also be inspected and copied in the office of the state secretary during business hours. That small business impact statement shall include, but not be limited to,

the following: (1) an estimate of the number of small businesses subject to the proposed regulation; (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation; (3) the appropriateness of performance standards versus design standards; (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth; Section 68. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:- The notice shall also include a small business impact statement considering the impact of the proposed action on small businesses with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall include the statement of small business consideration and the full text of said small business impact statement on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may also be inspected and copied in the office of the state secretary during business hours. That small business impact statement shall include, but not be limited to, the following: (1) an estimate of the number of small businesses subject to the proposed regulation; (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation; (3) the appropriateness of performance standards versus design standards; (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;”.

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

Ms. Creem moved to amend the bill by inserting, in section 97, chapter 29, section 5G, after the words: “5 per cent of any amount transferred to the Commonwealth Stabilization Fund under this section shall then be transferred from the Commonwealth Stabilization Fund to the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.” the following language: “5 per cent of any amount transferred to the Commonwealth Stabilization Fund under this section shall then be transferred from the Commonwealth Stabilization Fund to the Commonwealth’s Pension Liability Fund established in section 22 of chapter 32”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-one minutes past two o’clock P.M., on motion of Ms. Creem, as follows, to wit (*yeas 32 – nays 5*) [**Yeas and Nays No. 38**]:

#### **YEAS**

|                        |                              |
|------------------------|------------------------------|
| Baddour, Steven A.     | Hart, John A., Jr.           |
| Berry, Frederick E.    | Jehlen, Patricia D.          |
| Brewer, Stephen M.     | Kennedy, Thomas P.           |
| Candaras, Gale D.      | McGee, Thomas M.             |
| Chandler, Harriette L. | Montigny, Mark C.            |
| Chang-Diaz, Sonia      | Moore, Michael O.            |
| Clark, Katherine M.    | Moore, Richard T.            |
| Creem, Cynthia Stone   | Pacheco, Marc R.             |
| DiDomenico, Sal N.     | Petrucelli, Anthony          |
| Donnelly, Kenneth J.   | Rodrigues, Michael J.        |
| Donoghue, Eileen M.    | Rosenberg, Stanley C.        |
| Downing, Benjamin B.   | Spilka, Karen E.             |
| Eldridge, James B.     | Timilty, James E.            |
| Fargo, Susan C.        | Tolman, Steven A.            |
| Finegold, Barry R.     | Welch, James T.              |
| Flanagan, Jennifer L.  | Wolf, Daniel A. — <b>32.</b> |

#### **NAYS**

|                    |                            |
|--------------------|----------------------------|
| Hedlund, Robert L. | Ross, Richard J.           |
| Keenan, John F.    | Tarr, Bruce E. — <b>5.</b> |
| Knapik, Michael R. |                            |

#### **ABSENT OR NOT VOTING**

|                 |                              |
|-----------------|------------------------------|
| Joyce, Brian A. | Rush, Michael F. — <b>2.</b> |
|-----------------|------------------------------|

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

Mr. Eldridge moved to amend the bill by inserting at the end thereof the following new section:-

“SECTION X. Chapter 66 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after Section 6 the following new section:-

Section 6A. Every state agency, as defined in chapter 66A, shall designate one or more employees as records access officers, who shall have the custody of all its public records other than those records for which a clerk is the statutory custodian. Each agency shall publicize by posting in a conspicuous location at its offices and in a conspicuous location on its website, if any, the name, title, business address and business telephone number of the designated records access officers. The designation of one or more records access officers shall not be construed to prohibit employees who have in the past been authorized to make records or information available to the public from continuing to do so.

Records access officers shall be responsible for coordinating such agency’s response to requests for access to records under the provisions of this chapter, shall facilitate the informal resolution of requests by timely and thorough production of records, and shall ensure that the agency:

- (a) Assist requesters seeking records to identify the records sought;
- (b) In responding to a request, indicate whether the records are available in electronic form and the manner in which the records are stored, filed, retrieved or generated, to assist requesters in describing the records sought;
- (c) Contact requesters when the response to a request would be voluminous so the agency may, at the option of the requester, assist the requester in focusing the request in order to facilitate the timely and thorough production of the records sought;
- (d) Maintain a reasonably detailed document classification scheme outlining categories of records maintained by the agency, whether or not open for public inspection. The document classification scheme shall be updated annually, conspicuously marked with the date of the most recent update, and posted on the agency’s website, if any.”

After remarks, the amendment was *rejected*.

Mr. Eldridge moved to amend the bill by inserting at the end thereof the following new section:-

“SECTION X. Section 10 of said Chapter 66 is hereby further amended by inserting after the final sentence of subsection (b), the following:-

In any such proceeding, the court may award reasonable attorney’s fees to the party seeking public records if that party has substantially prevailed.”

After debate, the amendment was *rejected*.

Messrs. Tarr, Baddour and Pacheco moved to amend the bill in section 97 in chapter 29 of the General Laws by inserting after section 5G the following section:-

“Section 5H: (a) For purposes of this section, ‘zero-based budget’ shall mean a budget: (i) in which the appropriations are developed based on the cost-effective achievement of the tasks and goals of a particular agency or department without regard to prior appropriations, adjusted for inflation or otherwise; (ii) which has a \$0 dollar amount as its basis; and (iii) which reflects the amount of funding deemed necessary to achieve the most cost-effective performance of each agency or department.

(b) Not less frequently than every 4 years, the budget filed by the governor under sections 6, 6C, 6D and 7H shall be a zero-based budget. The appropriation or set of appropriations for each agency or department shall be accompanied by a brief description of the tasks and goals of the agency or department for a period not to exceed 4 years, together with the performance measure of the achievement of those tasks and goals, published with the document and made available electronically on the official website of the commonwealth.”; and by inserting after section 104 the following section:-

“SECTION 104A. The first zero-based budget required under section 5H of chapter 29, as inserted by section 97, shall be filed under section 7H of said chapter 29, as inserted by this act, for the fiscal year starting on July 1, 2016.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty minutes before three o’clock, on motion of Mr. Tarr, as follows, to wit (*yeas 38 – nays 0*) [**Yeas and Nays No. 39**]:

## YEAS

|                        |                       |
|------------------------|-----------------------|
| Baddour, Steven A.     | Keenan, John F.       |
| Berry, Frederick E.    | Kennedy, Thomas P.    |
| Brewer, Stephen M.     | Knapik, Michael R.    |
| Candaras, Gale D.      | McGee, Thomas M.      |
| Chandler, Harriette L. | Montigny, Mark C.     |
| Chang-Diaz, Sonia      | Moore, Michael O.     |
| Clark, Katherine M.    | Moore, Richard T.     |
| Creem, Cynthia Stone   | Murray, Therese       |
| DiDomenico, Sal N.     | Pacheco, Marc R.      |
| Donnelly, Kenneth J.   | Petrucelli, Anthony   |
| Donoghue, Eileen M.    | Rodrigues, Michael J. |

|                       |                              |
|-----------------------|------------------------------|
| Downing, Benjamin B.  | Rosenberg, Stanley C.        |
| Eldridge, James B.    | Ross, Richard J.             |
| Fargo, Susan C.       | Spilka, Karen E.             |
| Finegold, Barry R.    | Tarr, Bruce E.               |
| Flanagan, Jennifer L. | Timilty, James E.            |
| Hart, John A., Jr.    | Tolman, Steven A.            |
| Hedlund, Robert L.    | Welch, James T.              |
| Jehlen, Patricia D.   | Wolf, Daniel A. — <b>38.</b> |

**NAYS — 0.**

### **ABSENT OR NOT VOTING**

|                 |                             |
|-----------------|-----------------------------|
| Joyce, Brian A. | Rush, Michael F.— <b>2.</b> |
|-----------------|-----------------------------|

**The yeas and nays having been completed at a quarter before three o'clock P.M., the amendment was adopted.**

Mr. Rosenberg moved that the bill be amended by inserting after section 96 the following new section:-

"SECTION 96A. Section 54 of chapter 54 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

The state secretary shall also cause to be printed and sent, in the manner provided in section 53, a fiscal impact statement to be prepared by the secretary of administration and finance. The statement shall be not more than 100 words and shall describe the fiscal consequence for state and local government finances of an affirmative decision on the question described."

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

Mr. Rosenberg moved to amend the bill by inserting after section 101 the following section:-

"SECTION 101A. There is hereby created a commission called the registry of deeds modernization and efficiency commission, hereinafter referred to as the commission, for the purpose of identifying best practices and efficiencies for the registry of deeds.

The commission shall be made up of 14 members: 3 members of the senate, 1 of whom shall be selected by the minority leader; 3 members of the house of representatives, 1 of whom shall be selected by the minority leader, the secretary of state or the secretary's designee; 3 elected registers of deeds from geographically diverse areas of the state, who shall be chosen by the secretary of state; and 4 additional members to be appointed by the governor who shall be knowledgeable in land surveying, law, record keeping, county government or information and technology.

The commission shall examine possible efficiencies including, but not limited to, (i) eliminating duplicative management, including elected registry positions (ii) expanding the use of technology at all registries, and (iii) consolidating all registry of deeds under the office of the secretary of state. The commission shall report its findings and recommendations for legislation, if any, to the joint committee on election laws, the joint committee on state administration and regulatory oversight, and the senate and house committee on ways and means not later than 1 year from the effective date of this act."

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

Mr. Montigny moved to amend the bill by inserting at the end thereof the following new section:-

"SECTION \_\_\_\_\_. Notwithstanding any general or special law to the contrary all state authorities as defined by section 1 of chapter 29 of the general laws shall compile a report on the salaries and compensation of its executive director, officers, board members and senior management, and other highly-compensated employees, exclusive of the executive director, officers, board members and senior management, including, but not limited to, base salary, bonuses, severance, retirement or deferred compensation packages and policies relative to the accrual and payment of sick and vacation time, including payouts for unused sick and vacation time. The state authorities shall file said report with and the clerks of the Senate and House of Representatives, the Senate and House Committees on Ways and Means and the Senate and House committees on Post Audit and Oversight no later September 30, 2011."

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

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting after section \_\_\_\_ the following new section:

"SECTION \_\_\_\_\_. Notwithstanding any general or special law to the contrary, any electronic answering service in use by a department, board, commission, authority or agency of the commonwealth for the purpose of receiving telephone calls shall present all callers with the option of speaking with a live operator."

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting after section \_\_\_\_, the following new section:-

"SECTION \_\_\_\_\_. Chapter 7 of the General Laws is hereby amended by inserting at the end thereof the following four sections:-  
Section 57. Definitions

As used in sections fifty-seven to sixty, inclusive, the following words shall have the following meanings:--

'Council', the Commonwealth Competition Council.

'Privatization' means a variety of techniques and activities which promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector.

'Agency', an executive office, department, division, board, commission or other office or officer in the executive branch of the government of the commonwealth, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

#### Section 58. Creation of Council and Duties

A. There is hereby created in the executive branch the Commonwealth Competition Council.

B. The council shall examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program, and advise the governor, the legislature, and executive branch agencies of the council's findings and recommendations.

C. The council shall develop an institutional framework for a statewide competitive program to encourage innovation and competition within state government.

D. The council shall establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without adversely impacting the public.

E. The council shall monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship.

F. The council shall advocate, develop and accelerate implementation of a competitive program for state entities to ensure competition for the provision or production of government services, or both, from both public and private sector entities.

G. The council shall determine the privatization potential of a program or activity; perform cost/benefit analyses; and conduct public and private performance analyses. The secretary for administration and finance shall independently certify the results of the comparison.

H. The council shall devise, in consultation with the secretary for administration and finance, evaluation criteria to be used in conducting performance reviews of any program or activity which is subject to a privatization recommendation.

I. The council shall, to the extent practicable and to the extent that resources are available, make its services available for a fair compensation to any political subdivision of the Commonwealth.

#### Section 59. Appointment

A. The council shall consist of eleven members; 2 members of the senate, 1 of whom shall be appointed by the minority leader; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; two employees of executive branch agencies to be appointed by the governor; one member appointed by the inspector general; one member of the private sector to be appointed by the governor; one member of the private sector to be appointed by the speaker of the house; one member of the private sector to be appointed by the president of the senate; and one member of an organized labor group appointed by the governor.

B. The council shall convene on a quarterly basis. Six members of the council shall constitute a quorum. No action shall be taken by the council without the concurrence of at least six members.

C. The council shall present a quarterly analysis report to the general court; the governor; and the house and senate committee on ways and means. The report shall be published on the official website of the commonwealth.

#### Section 60. Cooperation of other state agencies.

All agencies of the Commonwealth shall cooperate with the council and, upon request, assist the council in the performance of its duties and responsibilities. The council shall not impose unreasonable burdens or costs in connection with requests of agencies. The provisions of this act, unless otherwise extended, terminated or modified, shall expire on June 30, 2016."

The amendment was *rejected*.

Mr. Richard T. Moore moved to amend the bill by inserting in section 12, in proposed new section 4A of chapter 6A of the General Laws, by striking out the second and third sentences and inserting in place thereof the following 2 sentences:-

"The performance measurement system shall (i) require each agency to develop a strategic plan for program activities and performance goals and (ii) capture data necessary for analysis of the costs and benefits of each program. Each executive office shall report results from its performance measurement system to the office for performance management and innovation in the executive office of administration and finance, established under section 4R of chapter 7; provided, however, that the data shall be presented in a format from which a cost-benefit analysis may be performed."

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

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 97, sub-section 60B, sub-clause 2C, by inserting after the second sentence, the following sentence:-

"The ranking minority members of the committees on bonding, capital expenditures and state assets and the committees on ways and means shall also be nonvoting members of the committee."

**The amendment was adopted.**

Messrs. Tarr, Hedlund, Knapik, Ross and Baddour moved to amend the bill by inserting after section\_\_ the following new section:-

"SECTION\_\_\_. Notwithstanding any general or special law to the contrary, the Governor shall develop, on a biennial basis, a plan

to maximize the personnel efficiencies of the commonwealth, to control the commonwealth's personnel costs, and which details the number of state employees and the costs thereof. Said plan shall be first filed not later than nine months following the passage of this act, and on a biennial schedule thereafter, with the house and senate committees on ways and means.”  
After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes past three o'clock P.M., on motion of Mr. Michael O. Moore, as follows, to wit (*yeas 37 – nays 0*) [**Yeas and Nays No. 40**]:

### **YEAS**

|                        |                              |
|------------------------|------------------------------|
| Baddour, Steven A.     | Keenan, John F.              |
| Berry, Frederick E.    | Kennedy, Thomas P.           |
| Brewer, Stephen M.     | Knapik, Michael R.           |
| Candaras, Gale D.      | McGee, Thomas M.             |
| Chandler, Harriette L. | Montigny, Mark C.            |
| Chang-Diaz, Sonia      | Moore, Michael O.            |
| Clark, Katherine M.    | Moore, Richard T.            |
| Creem, Cynthia Stone   | Pacheco, Marc R.             |
| DiDomenico, Sal N.     | Petrucelli, Anthony          |
| Donnelly, Kenneth J.   | Rodrigues, Michael J.        |
| Donoghue, Eileen M.    | Rosenberg, Stanley C.        |
| Downing, Benjamin B.   | Ross, Richard J.             |
| Eldridge, James B.     | Spilka, Karen E.             |
| Fargo, Susan C.        | Tarr, Bruce E.               |
| Finegold, Barry R.     | Timilty, James E.            |
| Flanagan, Jennifer L.  | Tolman, Steven A.            |
| Hart, John A., Jr.     | Welch, James T.              |
| Hedlund, Robert L.     | Wolf, Daniel A. — <b>37.</b> |
| Jehlen, Patricia D.    |                              |

### **NAYS — 0.**

### **ABSENT OR NOT VOTING**

|                 |                             |
|-----------------|-----------------------------|
| Joyce, Brian A. | Rush, Michael F.— <b>2.</b> |
|-----------------|-----------------------------|

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

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by striking section 62 in its entirety and replacing it with the following new section:

“Section 62. Section 6 of said chapter 7A is hereby repealed, and replaced with the following language:

Any state agency purchasing the services of one or more consultants, resulting in a total expenditure of \$100,000 or more, shall produce a report detailing the use of such consultants and the reasons necessitating the use thereof, and file said report on an annual basis not later than June 1 of each year with the clerks of the House of Representatives and the Senate.”

**After debate, the amendment was rejected.**

Ms. Chang-Diaz moved that the bill be amended by inserting after section \_\_\_\_\_, the following new sections:-

“SECTION \_\_\_\_\_. Section 1 of Chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the last paragraph the following paragraphs:-

‘Low income community’, a municipality where the median household income is 65 percent or less than the statewide household median income. In the case of a municipality with 50,000 residents or more, low income community shall mean a geographically contiguous, historically recognized neighborhood of 10,000-50,000 residents.

‘Minority business enterprise’, as used in this chapter shall be defined as it is in Section 40 of Chapter 23A.

‘Women business enterprise’ as used in this chapter shall be defined as it is in Section 40 of Chapter 23A.

SECTION \_\_\_\_\_. Chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after Section 23B the following section:-

Section 23B ½ Contracting diversity goals

For the purposes of this chapter, it shall be the official goal of the Commonwealth to achieve minority business enterprise and women business enterprise contracting goals within state procurement that are reflective of the diverse racial, ethnic, and gender make-up of the Commonwealth's population.

SECTION \_\_\_\_\_. Section 14C of Chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the last paragraph the following paragraphs:-

Within 150 calendar days of the effective date of this section, any entity awarded a contract under the provisions of Chapter 7, shall provide written verification with every invoice submitted to the awarding authority detailing the portion of the payment that will be allocated to minority business enterprises and women business enterprises, and reporting the racial, ethnic and gender make-up of the awardees' workforce in Massachusetts. The awardee shall take necessary steps to prevent the disclosure of individually-identifying information about employees on this report.

The executive office of administration and finance shall, within 90 calendar days of the effective date of this section, promulgate a template reporting form, for optional use by the awarding authority, to assist contractors in meeting the requirements of this section.

The awarding authority shall submit the report to the Massachusetts Management and Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.

The Comptroller shall, within 180 days of the effective date of this section, develop a public reporting website, or area within an existing website administered by the Office of the Comptroller, for the purposes of timely public disclosure of the data collected under this section. Such website shall provide the data collected under this section in machine-readable format and be searchable by the public to the project and vendor level. The Comptroller may use, but not be limited to, the website of the Massachusetts Recovery and Reinvestment Office as a guide in creating a user interface that is searchable to the project and vendor level. The Comptroller shall transfer data received from awarding authorities through the MMARS into the public website on at least a quarterly basis.

SECTION \_\_\_\_\_. Section 38F of Chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'project', in line 9, the following text:- , including evidence of the applicant's ability to advance the Commonwealth's contracting and workforce inclusion goals as stated in Section 23B ½ of Chapter 7.

SECTION \_\_\_\_\_. Section 1 of Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the last paragraph, the following paragraphs:-

'Low income community', a municipality where the median household income is 65 percent or less than the statewide household median income. In the case of a municipality with 50,000 residents or more, low income community shall mean a geographically contiguous, historically recognized neighborhood of 10,000-50,000 residents.

'Minority business enterprise', as used in this chapter shall be defined as it is in Section 40 of Chapter 23A.

'Women business enterprise' as used in this chapter shall be defined as it is in Section 40 of Chapter 23A.

SECTION \_\_\_\_\_. Section 44A of Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out lines 12-16, and inserting in its place thereof the following text:-

'Responsible' means demonstrably possessing the skill, ability and the integrity necessary to faithfully perform the work called for by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with the provisions of section forty-four D of this chapter. In deliberating upon the responsibility of a bidder, all contracting agencies shall give strong consideration to the bidder, contractor, or proposed contractor's ability to advance the Commonwealth's contracting and workforce inclusion goals as stated in Section 44A ½ of Chapter 149, and to any credible evidence or reliable information about the bidder, contractor, or proposed contractor's past or current work performance, including, but not limited to, the failure of a bidder, contractor, or proposed subcontractor to comply with the commitments made in their bidding or contract documents regarding the employment of minority business enterprises and women business enterprises and regarding workforce inclusion goals.

SECTION \_\_\_\_\_. Section 44A ½ in Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the last paragraph the following paragraphs:-

(d) It shall be the goal of the Commonwealth to achieve minority business enterprise and women business enterprise contracting goals and workforce participation goals on state-funded design and construction contracts that are reflective of the diverse racial, ethnic, and gender make-up of the Commonwealth's population.

(e) It shall be the goal of the Commonwealth that job creation on state-funded construction contracts be targeted to members of the community in which a project is physically located and that the workforce on that project reflect the demographic diversity of the host community, when construction projects are located in low income communities.

SECTION \_\_\_\_\_. Section 44D.5 of chapter 149 of the General Laws as appearing in the 2008 Official Edition, is hereby amended by inserting after line 92, the following text:-

(viii) Joint Ventures, documentation demonstrating that the interested general contractors have formed an association of two or more businesses in which one of the businesses is a minority business enterprise or a women business enterprise as defined section 40 of chapter 23A of the General Laws.

SECTION \_\_\_\_\_. Section 44D.5 of chapter 149 of the General Laws as appearing in the 2008 Official Edition, is hereby amended by inserting after line 110, the following text:-

(iii) Evidence of the bidder, contractor, or proposed contractor's ability to advance the Commonwealth's contracting and workforce inclusion goals as stated in Section 44A ½ of Chapter 149.

SECTION \_\_\_\_\_. Chapter 149 of the General Laws is hereby amended by inserting after section 44M the following section:-

#### Section 44N. Data collection and disclosure

Within 150 calendar days of the effective date of this section, any entity awarded a contract for construction by a state agency shall provide written verification with every progress payment request (PPR) submitted to the awarding authority detailing the portion of the payment that will be allocated to minority business enterprises and women business enterprises respectively, as defined in Section 40 of Chapter 23A, and detailing the total number of hours worked by all employees on that contract during the period covered by the PPR; and including a breakdown of hours worked by workers' ZIP codes of residence, as well as a breakdown of the number of hours worked by women and workers of color, respectively. The reporting entity shall take necessary steps to prevent the disclosure of individually-identifying information about employees on this report.

The executive office of administration and finance shall, within 90 calendar days of the effective date of this section, promulgate a template reporting form, for optional use by the awarding authority, to assist contractors in meeting the requirements of this section.

The awarding authority shall submit the report to the Massachusetts Management and Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.

The Comptroller shall, within 180 days of the effective date of this section, develop a public reporting website, or area within an existing website administered by the Office of the Comptroller, for the purposes of timely public disclosure of the data collected under this section. Such website shall provide the data collected under this section in machine-readable format and be searchable by the public to the project and vendor level. The Comptroller may use, but not be limited to, the website of the Massachusetts Recovery and Reinvestment Office as a guide in creating a user interface that is searchable to the project and vendor level. The Comptroller shall transfer data received from awarding authorities through the MMARS into the public website on at least a quarterly basis."

The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 5B, by inserting at the end thereof the following language:-

"Provided, that in the preparation of such budget and any analysis relating thereto, the Department of Revenue shall develop and utilize one or more dynamic models for analyzing the economic impacts of tax expenditures, and shall consider the information produced by such model or models in developing such budget."

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 97, sub-section 60B, sub-clause 2(E)(1), after the first sentence, by inserting the following sentence :-

"The report shall be made available electronically and prominently displayed on the website of the Commonwealth."

**The amendment was adopted.**

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting after section \_\_ the following new section:

"SECTION \_\_. Definitions – For the purposes of this section, the terms below shall be defined as follows:

Entity – whether for-profit or not for profit,

a corporation

an association

a partnership

a limited liability corporation

a limited liability partnership

a sole proprietorship

any other legal business entity

a political subdivision of the Commonwealth

provided that an employee of the Commonwealth or an individual recipient of assistance shall not be considered an entity.

State expenditure – an expenditure of state funds including grants, subgrants, loans, awards, cooperative agreements, financial assistance, contracts, subcontracts, purchase order, task orders and delivery orders, and excluding transactions below \$25,000.

Searchable website – a website which allows the public to:

Search and aggregate state expenditures by any item identified in the definition of website contained herein

Ascertain through a single search the total amount of state funding awarded to an entity by fiscal year, and

Download information, including the results of searches.

Website – a searchable website which includes for each state expenditure:

The name of the receiving entity

The amount of the expenditure

Information describing the expenditure such as transaction type, funding agency or program, and title descriptive of the purpose of the expenditure

The location of the entity receiving the expenditure and the primary location of performance pursuant to the expenditure, including the city, state, country and legislative district

A unique identifier of the entity receiving the award and of any parent entity of the recipient

Any other relevant information specified by the Operational Services Division.

SECTION 2. The Secretary of Administration and Finance, the Comptroller, the Treasurer and the Operational Services Division

are hereby authorized and directed to develop a single searchable website, accessible by the public without cost, to enable the public to research and examine state expenditures as defined herein. Said website shall be designed so as to maximize utility, minimize cost and promote accessibility of information, and shall build upon resources currently existing, including, but not limited to, the "EASI" website, so-called, administered by the Executive Office of Administration and Finance, and the Comm-Pass system, so-called, administered by the Operational Services Division of the Executive Office of Administration and Finance. In developing said website, the Secretary shall seek to obtain the use of coding and other information management infrastructure developed by the federal government pursuant to the 'Federal Funding Accountability and Transparency Act of 2006'. Said website shall seek to provide information for Fiscal Year 2011 and subsequent years. A plan for the development and implementation of said website, together with any estimates for funding required and other legislative recommendations, shall be filed with the clerks of the House and Senate not later than November 30, 2011."

*After debate, the amendment was rejected.*

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 5C of chapter 29, as inserted in section 97, by striking sub-section 5C in its entirety and inserting in place thereof the following sub-section:-

"Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of administration the amount of the consolidated net surplus in the budgetary funds at the close of the preceding fiscal year. The amounts so certified shall be disposed as follows:

(a) an amount equal to 1/2 of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year and 1/2 of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund.

(b) any remaining amount of such consolidated net surplus after amounts made available in clause (a) shall be transferred to the Stabilization Fund; and

(c) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from those undesignated fund balances, but no such transfer shall cause a deficit in any of those funds; provided, however, that prior to certifying the consolidated net surplus in accordance with this section, the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund balances from any other fund contributing to the surplus.

After debate, the amendment was *rejected*.

Mr. Brewer moved that the bill be amended in section 68, in section 31 of proposed chapter 7C of the General Laws, in the third paragraph, by striking out the second sentence;

In said section 68, in the first sentence of the twelfth paragraph of proposed section 33 of said chapter 7C, by striking out the word "commissioner", the second time it appears, and inserting in place thereof the following words:- "secretary of administration and finance";

In said section 68, in proposed section 45 of said chapter 7C, by striking out the fourth and eighth sentences;

In section 97, in the first sentence of proposed section 27 of chapter 29 of the General Laws by inserting after the word "general" the following words:- "or special"; and

By inserting after section 102 the following section:-

"SECTION 102A. Buildings which have been scheduled for comprehensive energy conservation improvements before the effective date of chapter 7C of the General Laws may, upon approval of the commissioner of energy resources, be exempted from section 31 of said chapter 7C."; and

By inserting before the enacting clause the following emergency preamble:-

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to update the state financing laws, facilitate the measurement of the performance of all budgeted agencies and to enable better programmatic decision-making, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted.

The bill (Senate, No. 1905, amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at one minute past four o'clock P.M., on motion of Mr. Donnelly, as follows, to wit (*yeas 38 – nays 0*) [**Yeas and Nays No. 41**]:

## YEAS

|                        |                    |
|------------------------|--------------------|
| Baddour, Steven A.     | Keenan, John F.    |
| Berry, Frederick E.    | Kennedy, Thomas P. |
| Brewer, Stephen M.     | Knapik, Michael R. |
| Candaras, Gale D.      | McGee, Thomas M.   |
| Chandler, Harriette L. | Montigny, Mark C.  |
| Chang-Diaz, Sonia      | Moore, Michael O.  |
| Clark, Katherine M.    | Moore, Richard T.  |

|                       |                              |
|-----------------------|------------------------------|
| Creem, Cynthia Stone  | Murray, Therese              |
| DiDomenico, Sal N.    | Pacheco, Marc R.             |
| Donnelly, Kenneth J.  | Petrucelli, Anthony          |
| Donoghue, Eileen M.   | Rodrigues, Michael J.        |
| Downing, Benjamin B.  | Rosenberg, Stanley C.        |
| Eldridge, James B.    | Ross, Richard J.             |
| Fargo, Susan C.       | Spilka, Karen E.             |
| Finegold, Barry R.    | Tarr, Bruce E.               |
| Flanagan, Jennifer L. | Timilty, James E             |
| Hart, John A., Jr.    | Tolman, Steven A.            |
| Hedlund, Robert L.    | Welch, James T.              |
| Jehlen, Patricia D.   | Wolf, Daniel A. — <b>38.</b> |

**NAYS — 0.**

**ABSENT OR NOT VOTING**

|                 |                             |
|-----------------|-----------------------------|
| Joyce, Brian A. | Rush, Michael F.— <b>2.</b> |
|-----------------|-----------------------------|

**The yeas and nays having been completed at four minutes past four o'clock P.M., the bill was passed to be engrossed. [See Senate, No. 1940, printed as amended].  
Sent to the House for concurrence.**

*Order Adopted.*

On motion of Mr. Tolman,--

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

*Moments of Silence.*

*Adjournment in Memory of Trooper Ellen Engelhardt*

The Senator from Plymouth and Barnstable, Ms. Murray, and the Senator from Plymouth and Norfolk, Mr. Hedlund, requested that when the Senate adjourns today, it adjourn in memory of Massachusetts State Police Trooper Ellen Engelhardt of Marshfield.

A trailblazer, she was determined to get through the academy and became one of Massachusetts' first female state troopers.

But that is not why people remember Trooper Engelhardt. We remember her for her positive outlook and her caring nature.

It is these qualities which kept Ellen fighting after that horrific morning when a drunk driver took away her ability to speak and move.

Even after the accident, her positive spirit and determination have been an inspiration to many people across the Commonwealth.

No one knew this better than her daughter, Lora, grandson Dylan, and those close to her.

Today we honor the service and the life of Trooper Engelhardt and extend our sympathies and prayers to her family.

*Adjournment in Memory of the Victims of the Western Massachusetts Tornadoes.*

The Senator from Worcester, Hampden, Hampshire and Franklin, Mr. Brewer, and the Senator from Hampden, Mr. Welch, requested that when the Senate adjourns today, it adjourn in memory of the victims of the Western Massachusetts tornadoes.

Mr. Brewer in the Chair, the tornado swept through Massachusetts and caused nearly 40 miles of massive destruction. Three lives were lost as a result of this tragedy. In Brimfield, Virginia Darlow, lovingly known by her friends and family as Ginger, was killed while in her trailer at Village Green Family Campground. In West Springfield, 39 year old Angelica Guerrero died while shielding her 15-year-old daughter as her family's triple-decker collapsed on top of them. Also in West Springfield, 23 year old Sergey Livchin passed away when a tree fell onto his car, which was parked on Main Street, crushing him to death. These victims

will be forever remembered and missed by their loved ones and members of their community. The tornado's violent path took these three lives and demolished many homes, businesses and properties. While items can be replaced, the lives of these three people cannot. The many citizens affected by this tragedy have shown resilience and integrity in the face of adversity. Although the path to recovery will be long, our communities will recover. However, even after belongings are replaced and homes are rebuilt, the loss of these three individuals will always be felt by their families, friends and communities.

The President in the Chair, accordingly, as a mark of respect to the memory of Trooper Ellen Engelhardt and the victims of the western Massachusetts tornadoes, at eight minutes past four o'clock P.M., on motion of Mr. Tolman, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.