

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

## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

Thursday, July 19, 2012.

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

#### *Distinguished Guests.*

There being no objection, the President handed the gavel to Mr. Richard T. Moore for the purpose of an introduction. Mr. Richard T. Moore then introduced, in the rear of the Chamber, United States Marine Corps Captain Michael Gagnon, from Oxford. Captain Gagnon was recognized for serving our country and having completed three tours in Afghanistan. The Senate welcomed him with applause and he withdrew from the Chamber. He was accompanied by Lupita Vasquez and Sally Patterson.

There being no objection, the President introduced, in the rear of the Chamber, Master Sergeant Jeffrey T. Sundermier, from Palmyra, New Jersey. Master Sergeant Sundermier enlisted in the Marine Corps on June 6, 1991 and has received many medals and commendations including: Meritorious Service Medal, Navy/Marine Corps Commendation Medal and Naval Meritorious Unit Commendation. The Senate applauded his accomplishments, thanked him for his service and he withdrew from the Chamber. He was accompanied by U.S. Navy Captain Murray Norcross and his son, Nathaniel.

#### *Reports of Committees.*

By Ms. Clark, for the committee on Revenue, on petition (accompanied by bill, Senate, No. 2302), an Order relative to authorizing the joint committee on Revenue to make an investigation and study of a certain current Senate document relative to revenue issues (Senate, No. 2358);

**Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.**

By Mr. Brownsberger, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for June Graham, an employee of the department of public health (Senate, No. 2357);

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

By Mr. McGee, for the committee on Transportation, on Senate, No. 1783 and House, No. 3090, a Bill authorizing the Department of Transportation to erect certain signs regarding the Iwo Jima Memorial at Bicentennial Park in the city of Fall River (Senate, No. 1783);

**Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

### PAPERS FROM THE HOUSE

#### *Bills*

Relative co-operative banks (House, No. 3806,-- on House, No. 1202);

Reforming election laws (House, No. 4139-- on Senate, Nos. 298, 302 and 313 and House, Nos. 1980, 1979 and 2739); and  
Establishing a sick leave bank for Susan Tremblay, an employee of the Department of Correction (House, No. 4192,-- on petition);

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

*Bills*

Relative to adding the town of Harvard to the Devens Economic Target Area (House, No. 3717,-- on petition) [Local approval received];

Relative to the rights of the water supply district of Acton to acquire any water source in the town of Boxborough (House, No. 3820,-- on petition) [Local approval received];

Relative to a conservation restriction in the town of Truro (House, No. 3919,-- on petition) [Local approval received];

Authorizing the tow of Hopedale to allow direct deposit of receipts into certain funds (House, No. 3937,-- on petition) [Local approval received];

Authorizing the town of Orange to convey a certain parcel of land (House, No. 4009, changed and amended,-- on petition) [Local approval received];

Exempting the town of Southbridge from attorney general approval of by-laws (House, No. 4039,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to non-councilors on committees in the town of Southbridge (House, No. 4040,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the removal of the vice chairperson of the council of the town of Southbridge (House, No. 4041,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the prohibition on multiple appointments to quasi-judicial boards in the town of Southbridge (House, No. 4042,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the addition of members to the board of health in the town of Southbridge (House, No. 4043,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the appointment of the liquor licensing board in the town of Southbridge (House, No. 4044,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the rescission of appointments to quasi-judicial bodies in the town of Southbridge (House, No. 4045,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the removal of the manager of the town of Southbridge (House, No. 4046,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

Relative to the prohibition of commercial manufacturing of sale of alcohol by the members of the liquor licensing board of the town of Southbridge (House, No. 4047,-- on House, No. 3900, in part) [Local approval received on House, No. 3900]; and

Relative to the recall of elective officers in the town of Southbridge (House, No. 4048,-- on House, No. 3900, in part) [Local approval received on House, No. 3900];

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

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

At nine minutes before two o'clock P.M., Mr. Tarr doubted the presence of a quorum. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum. Subsequently, at seven minutes before two o'clock P.M., a quorum was declared present.

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

**PAPERS FROM THE HOUSE**  
*Committee of Conference Report.*

The President in the Chair, a report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill relative to sentencing and improving law enforcement tools (House, No. 3818) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2080) (House, No. 4286), -- came from the House recommending that the House recede from its non-concurrence with the Senate in its amendment and concur therein with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4286; and that the Senate concur in the further amendment.

The rules were suspended, on motion of Ms. Flanagan, and the report was considered forthwith.

After remarks, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at twenty-two minutes past two o'clock P.M., on motion of Ms. Chang-Diaz, as follows, to wit (yeas 31- nays 7) **[Yeas and Nays No. 243]**:

Senate Roll Call 243

YEAS.	
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Montigny, Mark C.
Candaras, Gale D.	Moore, Michael O.

Chandler, Harriette L.	Moore, Richard T.
Clark, Katherine M.	Murray, Therese
DiDomenico, Sal N.	Pacheco, Marc R.
Donnelly, Kenneth J.	Petruccelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Hedlund, Robert L.	Spilka, Karen E.
Joyce, Brian A.	Tarr, Bruce E.
Keenan, John F.	Timilty, James E.
Kennedy, Thomas P.	Welch, James T. — 31.
Knapik, Michael R.	
NAYS.	
Brownsberger, William N.	Fargo, Susan C.
Chang-Diaz, Sonia	Jehlen, Patricia D.
Creem, Cynthia Stone.	Wolf, Daniel A. — 7.
Eldridge, James B.	
ABSENT OR NOT VOTING	
Hart, John A., Jr. — 1.	

**The yeas and nays having been completed at twenty-five minutes past two o'clock P.M., the report was accepted, in concurrence.**

*Emergency Preambles Adopted.*

Ms Chandler in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), an engrossed Bill to improve the administration of state government and finance (see Senate, No. 2342), 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 8 to 0.

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

An engrossed Bill establishing Fragile X Awareness Day (see House, No. 843, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 0.

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

*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 designating a certain overpass in the town of Yarmouth as the Marine Corporal Nicholas G. Xiarhos Memorial Overpass (House, No. 4156),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE

*Message from the Governor — Reductions and Disapproval  
General Appropriations Bill.*

The President in the Chair, a message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2013 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements. (see House,

No. 4200), which on Thursday, June 28, 2012, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor. The message (House, No. 4240) was read; and the Senate proceeded to reconsider items, which had been disapproved in accordance with the provisions of the Constitution.

Item 1599-6901 (Human Service Salary Reserve) was considered as follows:

“1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that workers from shelters and programs that serve homeless individuals and families that were previously contracted through the department of transitional assistance and the department of public health currently contracted with the department of housing and community development and direct care workers that serve homeless veterans through the department of veterans affairs shall be eligible for funding from this item; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the executive office of health and human services shall condition the expenditure of funds from this item upon assurances that the funds shall be used solely for the purposes of equal percentage adjustments to wages, compensation or salary; provided further, that not later than January 15, 2013, the executive office of health and human services shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving the adjustment in fiscal year 2013 and the average percentage adjustment funded herein; provided further, that the report shall also include, for each contract scheduled to receive an allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for early education and care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that all raises provided from this salary reserve shall be above and beyond any previously negotiated or agreed upon pay raise; provided further, that the total fiscal year 2013 costs of salary adjustments and any other associated employee costs authorized hereunder shall not exceed \$20,000,000; provided further, that the executive office of health and human services shall submit an allocation schedule to the house and senate committees on ways and means not less than 30 days after disbursement of funds; and provided further, that the annualized cost of the adjustments in fiscal year 2014 shall not exceed the amount appropriated in this item.....\$20,000,000.”

[The Governor reduced this item by \$10,000,000 and struck out the wording “20,000,000” and inserted the following wording “10,000,000”.]

The question on passing item 1599-6901, contained in section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nine minutes before three o'clock P.M., as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 244]:**

#### YEAS

Chang-Diaz, Sonia	Pacheco, Marc R.
Eldridge, James B.	Jehlen, Patricia D.
Hedlund, Robert L.	Wolf, Daniel A. — 6.

#### NAYS

Berry, Frederick E.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Brownsberger, William N.	McGee, Thomas M.

Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone.	Petruccelli, Anthony
DiDomenico, Sal N.	Rodrigues, Michael J.
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Donoghue, Eileen M.	Ross, Richard J.
Downing, Benjamin B.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Joyce, Brian A.	Welch, James T. — 31.
Keenan, John F.	

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

Hart, John A., Jr. — 1.

The yeas and nays having been completed at six minutes before three o'clock P.M., item 1599-6901, contained in section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

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

“8324-0000. For the administration of the department of fire services, including the state fire marshal’s office, the hazardous materials emergency response program, the board of fire prevention regulations established in section 4 of chapter 22D of the General Laws, the expenses of the fire safety commission and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that \$1,200,000 shall be allocated by the department for the Student Awareness Fire Education program; provided further, that the amount allocated for the regional dispatch center listed in item 8324-0000 of section 2 of chapter 182 of the acts of 2008 shall be allocated in fiscal year 2013; provided further, that the amount allocated for critical incident stress intervention programs and fire department training academies listed in item 8324-0000 of section 2 of chapter 182 of the acts of 2008 shall be allocated to each program in fiscal year 2013; provided further, that the amount allocated for critical incident stress management residential services in item 8000-0000 of said section 2 of said chapter 182 shall be allocated to the program in fiscal year 2013; provided further, that the amount allocated for hazardous material response teams specifically listed in item 8324-0000 of said section 2 of said chapter 182 shall be allocated to each program in fiscal year 2013 and shall not be reduced by more than 57 percent; provided further, that not less

than \$200,000 shall be expended to fund a 20 percent regional grant match for the Fire Chiefs' Association of Plymouth County to develop and upgrade the emergency radio communications system in Plymouth county; provided further, that \$50,000 shall be provided for the city of Quincy fire department hazardous material response team; provided further, that 100 percent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office, critical incident stress programs, the Massachusetts and fire department training academies, the regional dispatch center and the associated fringe benefits costs of personnel paid from this item for these purposes, shall be assessed upon insurance companies writing fire, homeowners' multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that 100 percent of the amount appropriated in this item for hazardous materials emergency response shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; provided further, that not more than 10 percent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program; and provided further, that 100 percent of the amount appropriated in this item for the matching grant for the development and upgrade of the emergency radio communications system shall be assessed upon insurance companies writing fire, homeowners' multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance..... \$18,513,773.”.

[The Governor reduced this item by \$1,750,000 and struck out the following wording “and fire department training academies” and “, the Massachusetts and fire department training academies”.]

The question on passing item 8324-0000, contained in section 2, in concurrence, the reductions and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before three o'clock P.M., as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 245]:**

**YEAS**

Chang-Diaz, Sonia	Pacheco, Marc R.
Eldridge, James B.	Jehlen, Patricia D.
Hedlund, Robert L.	Wolf, Daniel A. — 6.

**NAYS**

Berry, Frederick E.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Brownsberger, William N.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone.	Petrucelli, Anthony
DiDomenico, Sal N.	Rodrigues, Michael J.

Donnelly, Kenneth J.	Rosenberg, Stanley C.
Donoghue, Eileen M.	Ross, Richard J.
Downing, Benjamin B.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E.
Joyce, Brian A.	Welch, James T. — <b>31.</b>
Keenan, John F.	

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

Hart, John A., Jr. — **1.**

The yeas and nays having been completed at three minutes before three o'clock P.M., item 8324-0000, contained in section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

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

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to grant an easement in certain land in the town of Hopkinton (see House, No. 3909) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at two minutes before three o'clock P.M., as follows, to wit (yeas 37 - nays 0) [Yeas and Nays No. 246]:

#### **YEAS**

Chang-Diaz, Sonia	Pacheco, Marc R.
Eldridge, James B.	Jehlen, Patricia D.
Hedlund, Robert L.	Wolf, Daniel A. — <b>6.</b>

#### **NAYS**

Berry, Frederick E.	Kennedy, Thomas P.
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Brewer, Stephen M.	Knapik, Michael R.
Brownsberger, William N.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone.	Petruccelli, Anthony
DiDomenico, Sal N.	Rodrigues, Michael J.
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Donoghue, Eileen M.	Ross, Richard J.
Downing, Benjamin B.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Joyce, Brian A.	Welch, James T. — 31.
Keenan, John F.	

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

Hart, John A., Jr. — 1.

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

#### Resolutions

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:- Resolutions (filed by Ms. Candaras) "congratulating former State Representative Raymond A. Jordan on the occasion of his retirement"; and

Resolutions (filed by Mr. Donnelly) "honoring Nancy Mary Mazarolle McKenna on the occasion of her ninetieth birthday."

#### PAPERS FROM THE HOUSE

#### Engrossed Bills.

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

Governor for his approbation, to wit:

Authorizing the exchange of certain parcels of land in the town of Marshfield (see Senate, No. 2137, amended);

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3870, amended);

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3871, amended)

Authorizing the town of Sudbury to establish a means tested senior citizen property tax exemption (see House, No. 4062, amended).

A Bill relative designating a state road in the city of Waltham as Landry Way (House, No. 920,-- on petition),-- was read.

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

Matters Taken Out of the Notice Section.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered, as follows:

The House Bill authorizing the town of Chelmsford to lease Sunny Meadow Farm (House, No. 3881) (its title having been changed by the committee on Bills in the Third Reading),-- was read a third time and passed to be engrossed, in concurrence.

The House Bill exempting the positions of plumbing inspector and gas fitting inspector in the city of Newburyport from the civil service law and Section 11 of Chapter 142 of the General Laws (House, No. 3848),-- was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Reports of Committees.

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

The Senate Bill designating a certain node of the Blackstone River and Canal Heritage State Park in the town of Uxbridge as the Effingham Capron Memorial Park (Senate, No. 361).

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

Sent to the House for concurrence.

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

The Senate Bill designating a portion of Route 8 in the town of Hinsdale as the Pvt. Henry T. Johns Memorial Highway (Senate, No. 2292).

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

Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill authorizing the city of Lowell to acquire easements over certain parcels of land (Senate, No. 2233),-- ought to pass.

There being no objection, the rules were suspended, on motion of Ms. Donoghue, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing the Division of Capital Asset Management to grant to the city of Lowell easements over certain parcels of land".

Sent to the House for concurrence.

PAPERS FROM THE HOUSE

A Resolve relating to the tribal-state compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts (printed in House, No. 4261,-- being a message from His Excellency the Governor),-- was read.

There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the resolve was read a second time, ordered to a third reading and read a third time.

After debate, and pending the question of passing the resolve to be engrossed, in concurrence, Mr. Montigny moved that the resolve be laid on the table. Under the provisions of Senate Rule 24, the matter was laid over until the next session.

Emergency Preamble Adopted.

An engrossed Bill relative to sentencing and improving law enforcement tools (see House, No. 3818, 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 15 to 0.

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

Engrossed Bills.

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

To improve the administration of state government and finance (see Senate, No. 2342);

Establishing Fragile X Awareness Day (see House, No. 843, amended); and

Designating a certain overpass in the town of Yarmouth as the Marine Corporal Nicholas G. Xiarhos Veterans Memorial Overpass (see House, No. 4156).

The following House Orders (approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Election Laws shall be granted until Tuesday, July 24, 2012, within which to report on a current House document numbered 1985.

The rules were suspended, on motion of Mr. Finegold, and the order was considered forthwith; and, after remarks, was adopted, in concurrence.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Transportation shall be granted until Tuesday, July 31, 2012, within which to report on a current House document numbered 1803.

The rules were suspended, on motion of Mr. McGee and the order was considered forthwith; and, after remarks, was adopted, in concurrence.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Transportation shall be granted until Tuesday, July 31, 2012, within which to report on a current House document numbered 4011.

The rules were suspended, on motion of Mr. McGee and the order was considered forthwith; and, after remarks, was adopted, in concurrence..

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Transportation shall be granted until Tuesday, July 31, 2012, within which to report on current House documents numbered 1794, 1795, 1796, 1797, 2654 and 3248.

The rules were suspended, on motion of Mr. McGee and the order was considered forthwith; and, after remarks, was adopted, in concurrence.

Engrossed Bill.

An engrossed Bill relative to sentencing and improving law enforcement tools (see House, No. 3818, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

Reports of Committees.

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

The Senate Bill relative to flying flags at half-staff upon the death of a police officer or firefighter (Senate, No. 1573).

There being no objection, the rules were suspended, on motion of Mr. Donnelly, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing flying the flag of the Commonwealth at half-staff upon the death of certain police officers and firefighters".

Sent to the House for concurrence.

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

The Senate Bill providing taxpayers a hearing at the Appellate Tax Board (Senate, No. 2187).

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

Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill relative to performance guarantees for subdivision roadway winter plowing (Senate, No. 1564),-- ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act relative to performance guarantees for costs of snow removal on certain subdivision roadways".

Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Lawrence Marino, and employee of the Massachusetts Department of Transportation (House, No. 4158, amended),-- ought to pass, with

amendments striking out in lines 1 and 2, the words “Massachusetts Department of Transportation” and inserting in place thereof the following words:- “registry of motor vehicles”; by striking out, in lines 3, 6, and 7, each time it appears, the word “department” and inserting in place thereof the following word:- “registry”; by striking out the emergency preamble and inserting in place thereof the following emergency preamble:-

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the registry of motor vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”; and by striking out the title and inserting place thereof the following title:-

“An Act establishing a sick leave bank for Lawrence Marino, an employee of the Registry of Motor Vehicles”.

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

The bill was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment. Sent to the House for concurrence in the amendment.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill to establish standards for long term care insurance (Senate, No. 411) (the committee on Health Care Financing having recommended that the bill be amended by substituting a new draft with the same title (Senate, No. 2134),-- reports that the pending Health Care Financing new draft (Senate, No. 2134) ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2359).

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

The pending Health Care Financing new draft (Senate, No. 2134) was amended by substituting the proposed Ways and Means new draft (Senate, No. 2359).

The bill was then amended by substitution of the Health Care Financing-Ways and Means new draft, Senate, No. 2359.

The bill (Senate, No. 2359) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing the Massachusetts Childhood Vaccine Program (Senate, No. 2120),--ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2362). There being no objection, the rules were suspended, on motion of Mr. Richard T. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2362) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at a quarter before four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 37 – nays 0) [Yeas and Nays No. 247]:

#### YEAS

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill relative to geography education in Massachusetts (Senate, No. 2194),-- ought to pass, with an amendment substituting a new draft entitled "An Act relative to geography education" (Senate, No. 2361).

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

The bill (Senate, No. 2361) was then ordered to a third reading, read a third time and, after remarks, was passed to be engrossed. Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Authorizing the town of Rockport to grant a license for the sale of wines and malt beverages at a food store (Senate, No. 2239);

Regulating the issuance of second hand motor vehicle licenses in the city of Everett (Senate, No. 2276);

To revise and restate the charter of the city of Westfield (Senate, No. 2288);

Relative to the Redevelopment Authority in the town of Wilmington (Senate, No. 2289);

To authorize the town of Becket to establish a speed regulation on Fred Snow Road and Johnson Road (Senate, No. 2291); and

Authorizing the city of Easthampton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2294);

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

The House Bill relative to infrastructure investment, enhanced competitiveness and economic growth in the Commonwealth (House, No. 4119),-- was read a second time.

The amendment previously recommended by the committee on Ways and Means that the pending Bonding, Capital Expenditures and State Assets new text, ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2350; 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 provide forthwith a business-friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience,-- was considered.

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

SECTION \_\_: "Paragraph (4) of subsection (j) of chapter 62 of the General Laws is hereby amended by adding at the end of said paragraph the following sentence: " However, for applications for credits already filed in 2012, or to be filed after January 1, 2012, any state financial assistance received shall be included as net removal and response costs for purposes of computing if such costs are at least 15% of the property's assessed valuation."; and in Paragraph (d) of section 38Q of chapter 63 of the General Law by adding at the end of said paragraph the following sentence: " However, for applications for credits already filed in 2012, or to be filed after January 1, 2012, any state financial assistance received shall be included as net removal and response costs for purposes of computing if such costs are at least 15% of the property's assessed valuation."

The amendment was rejected.

Ms. Jehlen and Mr. Eldridge and Ms. Chang-Diaz moved that the bill be amended Senate No. 2350 by striking section 78. After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-one minutes past four o'clock P.M., on motion of Mr. Knapik, as follows to wit (yeas 6 — nays 31) [Yeas and Nays No. 248]:

#### YEAS

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.

Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

Mr. Michael O. Moore and Ms. Chandler moved that the bill be amended in section 2, in item 7066-0099, by inserting at the end thereof the following:—"provided further, that \$75,000 shall be expended for Massachusetts Digital Games Institute at Becker College."

The amendment was rejected.

Mr. M. Moore moved that the bill be amended by inserting after section XX the following 9 sections:-

SECTION \_\_. Section 1 of Chapter 105A, as appearing in the 2008 Official Edition, is hereby amended by inserting the following three new definitions:-

"Electronic mail", an electronic message or an executable program or computer file that contains an image of a message transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks from which a confirmation of receipt is received.

"Electronic mail address", means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the local part) and a reference to an Internet domain (commonly referred to as the domain part), whether or not displayed, to which an electronic mail message can be sent or delivered.

"Verified mail" means any method of mailing that is offered by the United States Postal Service and that provides evidence of mailing.

SECTION \_\_. Section 1 of Chapter 105A, as so appearing, is hereby amended, in lines 25, 26 and 27, by inserting, after the word "address" in each occurrence, the following words: or electronic mail address

SECTION \_\_. Section 3 of said Chapter 105A, as so appearing, is hereby amended at the end thereof, by striking the third paragraph, in lines 8-12, and inserting the following new paragraph in place thereof:- The rental agreement shall contain a statement, in bold type, advising the occupant: (a) that property stored in the leased space is not insured by the operator against loss or damage; (b) of the existence of the lien; (c) that property stored in the leased space may be sold to satisfy the lien if the occupant is in default; and (d) that the occupant shall elect whether notification in accordance with this chapter shall be by verified mail or electronic mail. If the rental agreement contains a limit on the value of property stored in the lessee's storage space, the limit shall be presumed to be the maximum value of the property stored in that space.

SECTION \_\_. Section 4, subsection 1, of Chapter 105A , as so appearing, is hereby amended by inserting, in line 6, after the words regular mail, the following words:- or electronic mail

SECTION \_\_. Section 4, subsection 2, of said chapter, as so appearing, is hereby amended by striking the words "certified mail, return receipt requested" and inserting in place thereof, the following words:- verified mail

SECTION \_\_. Section 4, subsection 2, of Chapter 105A , as so appearing, is hereby amended by inserting, in line 10, after the words "to be notified", the following words:- , by electronic mail to the last known electronic mail address of any person to be notified,

SECTION \_\_. Section 4 of Chapter 105A, as so appearing, is hereby amended by striking out the subsection (4) in its entirety and inserting the following new subsection in place thereof:- (4) After the expiration of the time given in the notification, an

advertisement of the sale must be published once a week for two consecutive weeks on a publicly accessible website identified in the rental agreement. The advertisement must include a description of the property, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication.  
SECTION \_\_. Section 6 of Chapter 105A, as so appearing, is hereby amended by deleting, in line 2, the words “certified mail” and by inserting the following new words:- verified mail or electronic mail.

SECTION \_\_. Section 6 of Chapter 105A, as so appearing, is hereby amended by deleting, in line 6, the word “certified” and by inserting the following new words:- electronic

The amendment was rejected.

Mr. Ross moved that the bill be amended (Senate, No. 2350) by inserting, after Section XX, the following section:-

“SECTION XX. Chapter 79 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 1 the following new section:-

Section 1A. The taking of real estate or of any interest therein by right of eminent domain under this chapter or chapter 80A shall be effected only when necessary for the possession, occupation, and enjoyment of land by the public at large or by public agencies and shall not be effected for the purpose of commercial enterprise, private economic development, or any private use of the property. Property shall not be taken from one owner and transferred to another on the grounds that the public will benefit from a more profitable use. Whenever an attempt is made to take property for a use alleged to be public, the question whether the contemplated use is truly public shall be a judicial question and determined as such without regard to any legislative assertion that the use is public. In the event that property taken pursuant to this chapter or chapter 80A is not used for the purpose for which it was taken within 5 years of the taking, the governmental authority that took the property must offer to sell the property to the owner from whom it was acquired, or his or her known or ascertainable heirs or assigns, at the price which was paid for the property or for the fair market value of the property at the time of the sale, whichever is less, and if the offer is not accepted within 180 days from the date it is made, the property may be sold to any other person, but only at public sale after legal notice is given.”

After remarks, the amendment was rejected.

Messrs. Ross and Hedlund moved that the bill be amended by inserting, after Section XX, the following section:-

“SECTION XX. Section 3A of chapter 23A of the General Laws, as so appearing, is hereby amended by striking, in lines 139 and 140, the words ‘below the commonwealth’s average’ and inserting in place thereof the following:- below 100.5 percent of the commonwealth’s average.”

The amendment was rejected.

Mr. Michael O. Moore, Ms. Donoghue and Mr. Rush move to amend the bill (Senate, No. 2350), in section 4, by inserting after item 7007-1200 the following item:

“XXXX-XXXX For a pilot program administered by the department of elementary and secondary education, in consultation with the department of higher education, for the 2012-2013 school year for school districts, charter schools, innovation schools, public higher education institutions and educational non-profits dedicated to workforce development to apply for funding to administer basic skills placement or diagnostic assessment tests required by each public higher education institution for entering students. The school district, charter school, innovation school, public higher education institution or educational non-profits dedicated to workforce development may receive state funding for one administration per student of all of the basic skills test units, including but not limited to reading, writing, and mathematics and aligned remediation supports. If indicated by a student's scores, the grantee will create an intervention plan for the person to ensure that the student receives the classes and other educational services necessary, included but not limited to online remediation services, for the person to demonstrate postsecondary and workforce readiness at a level that allows the student to advance toward his or her identified postsecondary goals. At the end of the granting cycle, all grantee shall provide to the department with data of the efficacy of their programs efforts and the department shall report the findings of said reports to the house and senate committees on ways and means, the joint committee on education joint committee on higher education by August of 2013.....\$20,000”

The amendment was rejected.

Mr. Michael O. Moore moved that the bill be amended (Senate, No. 2350) by inserting after section XX the following section:-

“The joint committee on telecommunications, utilities and energy, in consultation with the state 911 department and department of revenue, shall study and report on the amount of revenue collected from the current enhanced 911 system surcharge for prepaid wireless service and any uncollected revenue from the current system. The study shall include an investigation on collecting the enhanced 911 system surcharge for prepaid wireless service at the point of sale and an estimate of the annual revenue collected from a prepaid wireless service surcharge at the point of sale. The Joint Committee on Telecommunications, Utilities and Energy shall report its findings and recommendations, together with drafts of legislation necessary to carry the recommendations into effect, by filing the same with the clerks of the House of Representatives and Senate and the House and Senate Committees on Ways and Means not later than November 1, 2012.”

The amendment was rejected.

Messrs Downing, Montigny, Welch, Rosenberg, Knapik, Ms. Donoghue, Ms. Chandler and Messrs Finegold and DiDomenico and Ms. Clark and Mr. Joyce moved that the bill be amended by inserting after section 28 the following section:-

“SECTION 28A. Section 6J of said chapter 62, as so appearing, is hereby amended by striking out, in line 39, the figure “\$50,000,000” and inserting in place thereof the following figure:- \$55,000,000”; by inserting after section 32 the following section:-

“SECTION 32A. Section 38R of said chapter 63, as so appearing, is hereby amended by striking out, in line 37, the figure “\$50,000,000” and inserting in place thereof the following figure:- \$55,000,000.”; and by adding the following section:-

“SECTION 84. Sections 28A and 32A shall take effect on January 1, 2013.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-four minutes before five o'clock P.M., on motion of Mr. Downing, as follows to wit (yeas 36 — nays 1) [Yeas and Nays No. 249]:

**YEAS**

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

NAYS — 0.

ABSENT OR NOT VOTING

Hart, John A., Jr. — 1.

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

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after section 28 the following section:—  
“SECTION \_\_. Section 6 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (q) the following new subsection:-

(r) (1) As used in this subsection, the following words shall have the following meanings:--

“Angel investor”, a taxpayer who provides financing for the development, refinement, and commercialization of a product or process and other working capital needs.

“Small business”, a business entity physically located in Massachusetts and employing fewer than 100 workers; provided, not less than 51 per cent of the workers are residents of Massachusetts.

“Start-up expenses”, the expenses for the administration and operation of a business prior to the time the business becomes operational.

(2) An angel investor shall be allowed a credit against the taxes imposed by this chapter equal to 15 per cent of the monetary amount provided to a small business for the start-up expenses associated with the small business; provided, the credit shall be equal to 25 per cent if the small business is physically located in an economic target area pursuant to section 3D of chapter 23A.

(3) Any amount of the credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 3 subsequent taxable years.

(4) The total cumulative amount of credits issued in a calendar year pursuant to this subsection shall not exceed an annual cap equal to \$10,000,000; provided, the cap will be equal to \$5,000,000 beginning January 1, 2015.

(A) Funding for the credit shall be from any remaining amount of consolidated net surplus after complying with clause (a) of section 5C of chapter 29.

(5) The credit authorized in this subsection shall expire on December 31, 2019.

(6) The commissioner shall promulgate regulations necessary for the administration of this subsection.”.

The amendment was rejected.

Mr. Rosenberg, Ms. Donoghue and Messrs. Eldridge and Tarr moved that the bill be amended in section 9, in line 116, by inserting after the word “parking,” the word “signage”; and, in said section 9, in line 122, by inserting after the words “community development” the following:- “projects located in and around cultural districts designated under section 58A of chapter 10”

After remarks, the amendment was adopted.

Mr. Rosenberg and Ms. Donoghue move to amend the bill (Senate, No. 2350), in section 9, by striking out, in line 111, the word “section” and inserting in place thereof the following words:- “2 sections”; and in said section 9, by adding the following section:-

“Section 64. (a) There shall be established within the executive office of housing and economic development a Massachusetts creative economy network which shall be directed by a creative economy director. The network shall consist of private, public and nonprofit organizations and cultural districts designated as such under section 58A of chapter 10 engaged in cross industry collaboration between many interlocking industry sectors that provide creative services including, but not limited to, advertising, architecture or intellectual property products such as arts, films, electronic media, video games, interactive digital media, multimedia or design. The creative economy director, in consultation with the creative economy council established in chapter 354 of the acts of 2008, shall establish criteria for participation in the network.

(b) The duties of the network, under the leadership of the creative economy director, shall include: (i) quantifying the creative economy sector and measuring its impact on the commonwealth’s economy; (ii) creating a mentorship network within the creative economy sector; (iii) developing strategies to increase access to traditional market sectors and within state government; (iv) developing a certification for creative economy businesses; (v) increasing opportunities to attract private investment to creative economy businesses through venture capital, microlending and other means; and (vi) marketing and branding the creative economy sector.

(c) The network may accept gifts or grants of money or property from any public, private or nonprofit source, which shall be held in trust and used for the purpose of promoting the growth and development of the creative economy sector.

(d) The creative economy director shall file an annual report with the clerks of the house and senate, the chairs of the house and senate committee on ways and means, the house and senate chairs of the joint committee on economic development and emerging technologies, the house and senate chairs of the joint committee on tourism, arts and cultural development and the house and senate chairs of the joint committee on community development and small businesses not later than January 1. The report shall include an overview of the activities of the network, an update on the number of creative economy businesses and their impact on the economy and an accounting of gifts or grants held in trust by the network and the uses of any funds expended

by the trust.”

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after Section \_\_, the following 7 Sections:-  
“SECTION \_\_. Chapter 23B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding after section 30, the following section:-

Section 31. The director of the department of housing and community development shall establish a closing costs assistance program for income-eligible first time homebuyers. The department, subject to appropriation, shall issue grants to qualifying homebuyers up to \$2,500 for the purpose of assisting in paying closing costs and other similar fees associated with the purchase of a home. Said grant may not exceed greater than 100 percent of the documented closing costs in any transaction. The department shall publish any regulations necessary to achieve the purpose of this section.

Income-eligible first-time homebuyers, for purposes of this section, shall be defined as any person, or persons for those persons purchasing a home jointly, who maintains a first-time home-buying account as designated under section 5B of chapter 26, and then utilizes at minimum \$1,000 from said account for such a purchase; provided that said person shall have an income of 90 percent of the median area income as estimated by the U.S. Department of Housing and Urban Development for metropolitan statistical areas or less.

SECTION \_\_. Chapter 26 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding after section 5A, the following new section: -

Section 5B. (a) The commissioner of banks shall establish a first-time home-buying program to be administered by financial institutions licensed to do business in the commonwealth. Such program shall require that new qualifying savings accounts, established by an individual to be designated as a first-time home-buying account, qualify for the benefits prescribed by this section. Individuals with existing qualifying savings accounts shall be entitled to convert and designate such account as a first-time home-buying account. The commissioner shall establish regulations defining a qualifying savings account as such an account suitably chosen by the commissioner from existing forms of savings and retirement accounts for the purpose of this section.

(b) Such program shall allow contributions of up to \$4,000 to first-time home-buying accounts, designated as such and regulated by the commissioner; provided, that such contributions shall not be considered taxable income and shall be deducted under subsection (a) of section 3 of chapter 62.

(c) Under said program, balances of up to \$5,000 in qualifying savings accounts established prior to being designated as a first-time home-buying account shall be credited in the first taxable year following the designation under subsection (m) of section 6 of chapter 62.

(d) Qualifying distributions to an individual from a first-time home-buying account shall not be considered taxable income under section 2 of chapter 62. Qualifying distributions shall mean distributions for qualified first-time homebuyer expenses as defined by section 72(t)(8) of the Internal Revenue Code, as it may be amended from time to time.

Distributions to an individual that do not qualify under this subsection shall be considered taxable income under section 2 of chapter 62 and shall also subject to a penalty of not more than 10 percent. Penalties shall be administered by the commissioner and shall be available to the closing cost assistance program fund created under section 31 of chapter 23B.

SECTION \_\_. Subdivision (1) of subsection (d) of section 2 of chapter 62, as so appearing, is hereby amended by adding after the words “section sixty-two” the following:- , two hundred and nineteen

SECTION \_\_. Subdivision (1) of subsection (d) of section 2 of chapter 62, as so appearing, is hereby amended by striking subparagraph (F) in its entirety.

SECTION \_\_. Subdivision (3) of subsection (a) of section 2 of chapter 62, as so appearing, is hereby amended by adding at the end thereof the following new subparagraph:-

(D) Effective on and after January 1, 2013, any qualifying distribution from a designated first-time home-buying account, as defined by section 5B of chapter 26, shall not be subject to taxes imposed by this chapter; provided however, that any distribution for expenses not exempt from taxation, as defined by section 5B of chapter 26, shall be considered taxable income under this chapter.

SECTION \_\_. Subparagraph (B) of section 3 of chapter 62, as so appearing, is hereby amended by adding at the end thereof the following new subdivision:-

(16) Amount expended by an individual for contributions to a qualifying savings account, designated as a first-time home-buying account, pursuant to section 5B of chapter 26, not to exceed \$4,000 for the taxable years beginning on or after January 1, 2013.

SECTION \_\_. Section 6 of chapter 62, as so appearing, is hereby amended by inserting at the end thereof the following new subsection:-

(m) A taxpayer shall be allowed a credit against the taxes imposed by this chapter equal to the taxes paid in any one year prior to January 1, 2013 for contributions up to \$5,000 into a qualifying savings account converted and designated as a first-time home-buying account, pursuant to section 5B of chapter 26.”

After remarks, the amendment was rejected.

Messrs. Downing and Knapik move to amend the bill by inserting the text of Senate document numbered 2389.

The amendment was rejected.

Ms. Fargo and Ms. Donoghue moved that the bill be amended (Senate, No. 2350) by inserting, after the word “preferred” in line 127 the following words:- “Provided further that projects meeting the guiding principle of the state roadway design guidelines, as defined in The Project Development and Design Guide, which states that designers and decision-makers are encouraged to fully consider and promote multiple modes of transportation including but not limited to pedestrian, bicycle, and forms of public

transportation and other transportation-related contributions that increase active lifestyles that improve public health and decrease childhood and adult obesity throughout the planning, design, and construction phases of projects shall be preferred.”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after Section 45 the following section:—

“SECTION \_\_. Section 5 of chapter 90 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding at the end thereof the following new subsections:

(i) Notwithstanding any general or specific law to the contrary, the registrar shall not increase any individual fee by more than 2.5 per cent in a calendar year.

(j) The registrar shall offer a discount for any person registering 5 or more units in a calendar year. For the purposes of this section, a unit shall include: any vehicle subject to a commercial normal, commercial reserved, commercial, vanity, snow removal, hearse, limited use, auto home normal, auto home reserved, auto home vanity, bus normal, bus reserved, bus vanity, livery normal, livery limited use, livery reserved, livery vanity, semi trailer normal, semi trailer reserved, trailer normal, trailer reserved, taxi normal, taxi limited used, taxi reserved, or van pool normal registration. This discount shall be in an amount of no less than 10 per cent of each registration fee that such person would otherwise incur.

(k) The registrar shall issue a report to the legislature within 90 days of the acceptance of this act. This report shall offer recommendations to reduce the cost of operating a commercial vehicle or unit in Massachusetts in order to promote competition with neighboring states. This report shall be submitted to the chairs of the joint committee on transportation.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at six minutes before five o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 7 — nays 29) [Yeas and Nays No. 250]:

#### YEAS

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.

Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after section \_\_, the following 5 sections:—  
“SECTION \_\_. Section 27 of chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:

‘Any employee claiming to be aggrieved by a violation of this section may, at the expiration of 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the said violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall if said violation be willful, be awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs of the litigation and reasonable attorneys’ fees; provided, further, that any employee so aggrieved and who prevails in such an action if said violation is not willful, shall be awarded damages as determined by the court for any loss of wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys’ fees.’

SECTION \_\_. Section 27F of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:

‘Any employee claiming to be aggrieved by a violation of this section may, at the expiration of 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the said violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall if said violation be willful, be awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs of the litigation and reasonable attorneys’ fees; provided, further, that any employee so aggrieved and who prevails in such an action if said violation is not willful, shall be awarded damages as determined by the court for any loss of wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys’ fees.’

SECTION \_\_. Section 27G of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:

‘Any employee claiming to be aggrieved by a violation of this section may, at the expiration of 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the said violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall if said violation be willful, be awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs of the litigation and reasonable attorneys’ fees; provided, further, that any employee so aggrieved and who prevails in such an action if said violation is not willful, shall be awarded damages as determined by the court for any loss of wages and other benefits; and the employee may also be awarded the

costs of the litigation and reasonable attorneys' fees.'

SECTION 27H of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:

'Any employee claiming to be aggrieved by a violation of this section may, at the expiration of 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the said violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall if said violation be willful, be awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, further, that any employee so aggrieved and who prevails in such an action if said violation is not willful, shall be awarded damages as determined by the court for any loss of wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.'

SECTION 150 of said chapter 149, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:

'Any employee claiming to be aggrieved by a violation of sections 33E, 148, 148A, 148B, 150C, 152, 152A or 159C or section 19 of chapter 151 may, at the expiration of 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the said violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall if said violation be willful, be awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs of the litigation and reasonable attorneys' fees; provided, further, that any employee so aggrieved and who prevails in such an action if said violation is not willful, shall be awarded damages as determined by the court for any loss of wages and other benefits; and the employee may also be awarded the costs of the litigation and reasonable attorneys' fees.'"

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross move to amend the bill by inserting the text of Senate document numbered 2390.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-six minutes past five o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 6 — nays 30) [Yeas and Nays No. 251]:

#### YEAS

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after section\_ the following 6 sections:-  
 “SECTION\_\_\_. Subsection (i) of section 14 of chapter 151A, as appearing in the 2010 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:

‘With respect to calendar years beginning on or after January 1, 2008, the experience rate of an employer qualifying therefore under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:”

The amendment was rejected.

Mr. Wolf moved that the bill be amended in Section 14, line 990, by inserting after the words “adults” the following:- “; (ii)1/2) programs that focus on the recruitment, training, and employment of older workers;”

After remarks, the amendment was adopted.

Messrs. Wolf and DiDomenico and Ms. Jehlen moved that the bill be amended in section 14, in line 981, by inserting after the word “schools,” the following: - “community-based organizations including adult basic education providers,” and further in line 986, by inserting after the word “minimum,” the following: - “at least 1 community-based organization or other non-profit that provides adult basic education or college bridge programming.”

The amendment was rejected.

Mr. Wolf moves to amend the bill, by inserting after Section 75, the following new section:-

“SECTION XX. Notwithstanding any general or special law to the contrary, after complying with clause (a) of section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2012 by transferring \$10,000,000 to the Workforce Competitiveness Trust Fund, established in section 2 WWW of chapter 29.”

The amendment was rejected.

Mr. Rush moves to amend the bill (Senate No. 2350) by inserting after SECTION 83 the following new Section:-

SECTION [xx]. (a) Notwithstanding any general or special law to the contrary, there is hereby created a commission that shall investigate the economic impact of the Commonwealth’s minimum pricing laws on businesses and residents within the Commonwealth. The commission shall analyze the additional costs, if any, incurred by Massachusetts residents as compared to businesses and residents of neighboring states.

(b) The commission shall consist of the secretary of the executive office of administration and finance or his designee; the

commissioner of the department of revenue or his designee; the director of the department of agriculture or his designee; the treasurer or his designee; the house and senate chairs of the joint committee on revenue, who shall co-chair the commission; a representative of the Retailers Association of Massachusetts; a representative of the Massachusetts Chamber of Commerce; a representative appointed by the Governor from each of the industries currently impacted by minimum pricing laws, including the dairy, alcohol and tobacco industries; an individual with an expertise in finance or consumer economics; and a representative of the New England Convenience Store Association as appointed by the Governor. The commission shall adopt rules and establish procedures it considers necessary for the conduct of its business. No action of the commission shall be considered official unless approved by a majority vote of the commission members.

(c) In the course of its investigation, the commission shall: (1) examine the minimum pricing laws in existence in the Commonwealth and the purpose behind their initial creation; (2) examine the minimum pricing laws in existence in the Commonwealth's neighboring states, if any; (3) provide an analysis of the impact of the Commonwealth's minimum pricing laws on the cost and price of products so regulated; (4) provide an analysis of the impact of the neighboring states' minimum pricing laws on the cost and price of products so regulated; (5) develop recommendations as to whether the Commonwealth's minimum pricing laws continue to serve their original purpose and whether such laws put the Commonwealth and its businesses and residents at a competitive disadvantage as compared to neighboring states; (6) determine whether the Commonwealth's minimum pricing laws benefit certain businesses as opposed to others by creating subsidies of unnecessarily large profit.

(d) The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

(e) Any research, analysis or other staff support that the commission reasonably requires shall be provided by the executive office of administration and finance and its agencies.

(f) The commission shall prepare a written report detailing its findings and recommendations, together with drafts of legislation, as may be necessary to carry those recommendations into effect. The commission shall submit its initial report to the governor, the secretary of the executive office of administration and finance, the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the joint committee on revenue not later than 1 year after the effective date of this act.

The amendment was rejected.

Messrs. Hedlund, Kennedy and Jehlen and Mr. Rush and Ms. Creem moves that the bill be amended by inserting at the end thereof the following new sections:-

SECTION XX. Section 321 of chapter 94 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "carbonated soft drinks", in line 4, the following words:- "noncarbonated beverages including mineral water, flavored and unflavored water, vitamin water, and other water beverages, tea, sports drinks, isotonic drinks; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption, except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines."

SECTION XX. Paragraph 3 of said section 321 of said chapter 94, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

SECTION XX. Said section 321 of said chapter 94, as so appearing, is hereby further amended by inserting after the definition of "Plastic bottle" the following definition:-

"Redemption center", any business whose primary purpose is the redemption of beverage containers and is not ancillary to any other business,

SECTION XX. Said section 321 of said chapter 94, as so appearing, is hereby further amended by inserting after the definition of "Reusable beverage container" the following definition:-

"Small dealer", any person or business, including any operator of a vending machine, who engages in the sale of beverages in beverage containers to consumers in the commonwealth, whose operating premises are less than 4000 square feet.

SECTION XX. Section 323 of said chapter 94, as so appearing, is hereby amended by inserting before the first sentence of paragraph (e) the following sentence:- The executive office of environmental affairs shall promulgate rules and regulations for the licensure of redemption centers, and may set fees for the licensing of such redemption centers.

SECTION XX. Paragraph (c) of said section 323 of said chapter 94 of the General Laws, as so appearing, is hereby amended by striking out the words "one cent" and inserting in place thereof the words "three and one quarter cents" and by adding the following sentence:- The handling fee shall be reviewed semi-annually by the secretary of the executive office of energy and environmental affairs and adjustments made to reflect increases in costs incurred by redemption facilities.

SECTION XX. Paragraph (d) of said section 323 of said chapter 94, as so appearing, is hereby amended by striking out the words "one cent" and inserting in place thereof the words "three and one quarter cents" and by adding the following sentence:- The handling fee shall be reviewed semi-annually by the secretary of the executive office of energy and environmental affairs and adjustments made to reflect increases in costs incurred by redemption facilities.

SECTION XX. Said section 323 of said chapter 94, as so appearing, is hereby further amended by inserting after the word "civil", in line 73, the words "or administrative".

SECTION XX: Notwithstanding any general or special law to the contrary, the secretary of the executive office of energy and environmental affairs shall, on or before January 1, 2013, promulgate regulations providing small dealers as defined herein with the ability to seek exemptions from accepting empty deposit containers. Said regulations shall consider at least the health and safety of the public; the convenience for the public, including standards governing distribution of centers by population or by distance or both, the size and storage capacity of the dealer(s) to be served by the redemption center and the size and storage capacity of the redemption center. The order approving a local redemption center license must state the dealers to be served and

the kinds, sizes and brand names of empty beverage containers that the center accepts.

SECTION XX. Section 327 of said chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraphs:-

The department of environmental protection may enforce the provisions of section 321; paragraphs (a) through (f), inclusive, of section 322; paragraph (i) of section 323; section 323A; section 323F; section 324 and section 325. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than \$1,000.

The department of revenue may enforce the provisions of paragraphs (g) and (h) of section 323 and sections 323B to 323E, inclusive. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than \$1,000.

SECTION XX. Said section 327 of said chapter 94 of the General Laws, as so appearing, is hereby further amended by inserting after the word "civil", in line 14, the words "or administrative".

SECTION XX. Said section 322 of said chapter 94 as so appearing, is hereby amended by inserting after the words "five cents" the sentence "Unless the bottler otherwise elects, the provisions of this section shall not apply to exempted beverages."

SECTION XX. This act shall take effect on January 15, 2013."

The amendment was adopted.

Ms. Candaras moved that the bill be amended by inserting after section 83, the following section:-

"SECTION 84. Section 16G of Chapter 6A of the General Laws is hereby amended by inserting after section 1 the following section:-

Section m. The economic development planning council shall organize a yearly economic development summit. The summit shall be a forum for discussion of the following:- (1) major economic development initiatives of the administration; (2) updates from regional workforce development councils; and (3) any industry-specific policy concerns or initiatives."

After remarks, the amendment was adopted.

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

"SECTION \_\_. Said section 3A of said chapter 23A, as so appearing, is hereby amended by striking out the definition of 'Economic opportunity area or EOA'.

SECTION \_\_. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 87, 92, and 101, the word "EOA", and inserting in place thereof the following word:- 'ETA'.

SECTION \_\_. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of 'Expansion project EOA'.

SECTION \_\_. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 111 and 112, the words 'determined with reference to the project EOA'.

SECTION \_\_. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 125, the word 'EOA' and inserting in place thereof the following word:- 'ETA'".

After remarks, the amendment was rejected.

Ms. Candaras moved that the bill be amended by inserting in section 4, line 47 after "practices;" the following:- "; provided further that as a condition of such grants being awarded, the Massachusetts Technology Park Corporation shall reach agreement with the grant recipient on performance measures and indicators that will be used to evaluate the performance of the grant recipient in carrying out the activities described in their application." and by inserting in Section 18, line 1135 before provided further the following:- "; provided further that as a condition of such grants being awarded, the Massachusetts Technology Park Corporation shall reach agreement with the grant recipient on performance measures and indicators that will be used to evaluate the performance of the grant recipient in carrying out the activities described in their application."

After remarks, the amendment was adopted.

Mr. Kennedy moves to amend the bill (S. 2350) by striking out section 51.

The amendment was rejected.

Mr. Joyce moved that the bill be amended in section 11 by striking out, in line 506, the following words:- "and within 1/2 mile of the boundaries of the zone, within or beyond the municipality in which the zone shall be located"; and by inserting after the word "municipality", in line 510, the following words:- "and in a newspaper in general circulation in all municipalities within 1/2 mile of the borders of the proposed development zone"; and by inserting after the word "years", in line 623, the following words:- "The assessing party shall hold at least 1 public hearing on its schedule of infrastructure assessments or any revision thereof prior to adoption by the assessing party, notice of which shall be delivered to the municipality and be published in a newspaper of general circulation in the municipality at least 14 days in advance of the hearing. No later than the date of such publication, the assessing party shall make available to the public and deliver to the municipality the proposed schedule of infrastructure assessments."; and by striking out, in line 651, the following words:- "provided, however, that the ratio of the property's value to the amount of the lien shall not exceed 3:1."

The amendment was adopted.

Mr. Knapik moved that the bill be amended by inserting after section 58, the following new section:-

"SECTION 58A. The second sentence of subsection (e) of section 7 of chapter 293, as appearing in section 7 of chapter 129, is hereby amended by striking out, in line 3, the figure '2' and inserting in place thereof the following figure:- '4'"

The amendment was rejected.

Mr. Hart moved that the bill be amended by inserting after the word "practices", in line 47, the following words:- "; provided further that not less than \$250,000 shall be provided to the Venture Development Center at the University of Massachusetts

Boston, in order to bring to scale the successful model talent pipeline programs and practices;”.

The amendment was rejected.

Mr. Welch moves that the bill (Senate, No. 2350) be amended by adding at the end thereof the following new sections:-

“SECTION X. Section 8 of chapter 70B of the General Laws is hereby amended by inserting in subsection (1), in line 7, after the word “exists;” the following text:- “further priority shall be given to school projects that will replace or renovate a school that was damaged as a result of a Presidential-declared emergency or disaster;

SECTION XX. Section 10 of chapter 70B of the General Laws is hereby amended by inserting, in line 3, after the word “per cent” the following text:- “There shall be an exemption on the maximum grant percentage for approved school projects that will replace or renovate a school that was damaged as a result of a Presidential-declared emergency or disaster, the Authority may determine, in its sole discretion, that the maximum grant percentage may be greater than 80 percent of approved costs.”

After remarks, the amendment was adopted.

Mr. Welch moves that the bill (Senate, No. 2350) be amended by adding at the end thereof the following new section:-

“SECTION XX. Notwithstanding any general or special laws to the contrary, there shall be a special commission on young professionals established to examine how the Commonwealth can better engage, involve and educate young professionals in decisions and policies that affect them and the Commonwealth. The commission will examine best practices and policies to retain and attract intellectual capital that will make Massachusetts a place where young professionals want to live, work and play. The commission shall consist of 21 members, 1 of whom shall be appointed by the Governor, 1 of whom shall be the secretary of housing and economic development or a designee, 1 of whom shall be the secretary of labor and workforce development or a designee, 1 of whom shall be the secretary of education or a designee, 3 of whom shall be appointed by the President of the Senate 1 of which from the minority party, 3 of whom shall be appointed by the Speaker of the House 1 of which from the minority party, 1 of whom shall be the chair of the Berkshire Young Professionals or a designee, 1 of whom shall be the president of the Worcester Young Businessmen's Association or a designee, 1 of whom shall be the president of the Greater Lawrence Young Professionals Network or a designee, 1 of whom shall be the president of the Young Professionals Society of Greater Springfield or a designee, 1 of whom shall be the president of the Northampton Area Young Professionals or a designee, 1 of whom shall be the president of ONEinThree Boston or a designee, 1 of whom shall be the president of the Young Professionals of Greater Lowell or a designee, 1 of whom shall be the president of the North of Boston Young Professionals or a designee, 1 of whom shall be appointed by the Executive Director of the New Bedford Economic Development Council, 1 of whom shall be appointed by the President of the MetroWest Chamber of Commerce, 1 of whom shall be the Executive Director of the Cape Cod Young Professionals or a designee.

When the commission sees fit by a majority vote they may add additional members to the commission as recommended by the Governor.

The commission shall meet within 30 days of passage of this Act, and not less than quarterly thereafter, and shall release final recommendations to Governor's Office and House and Senate Ways and Means Committees no later than 18 months from passage of this Act.”

The amendment was rejected.

Mr. Hart moved that the bill be amended by inserting after section 58, the following new sections:-

“SECTION XX. Subsection (d) of section 7 of chapter 293 of the acts of 2006, as amended by section 7 of chapter 129 of the acts of 2008, is hereby further amended by striking out, in line 2, the figure “\$ 250,000,000” and inserting in place thereof the following:- \$400,000,000, excluding bonds issued to refinance bonds previously issued under section 6.

SECTION XX. The second sentence of subsection (e) of said section 7 of said chapter 293, as appearing in section 7 of said chapter 129, is hereby amended by striking out, in line 3, the figure “2” and inserting in place thereof the following figure:- 4”

The amendment was rejected.

Messrs. Eldridge, Wolf, Ms. Chang-Díaz, and Ms. Jehlen move that the bill (Senate No. 2350) be amended by inserting the following new section:-

“SECTION XXX. Section 1 of chapter 64H, as so appearing, is hereby amended by striking lines 10 to 41, inclusive, and inserting in place thereof the following definition:-

‘Engaged in business in the commonwealth’, having a business location in the commonwealth; regularly or systematically soliciting orders for the sale of services to be performed within the commonwealth or for the sale of tangible personal property for delivery to destinations in the commonwealth; otherwise exploiting the retail sales market in the commonwealth through any means whatsoever, including, but not limited to, salesmen, solicitors or representatives in the commonwealth, catalogs or other solicitation materials sent through the mails or otherwise, billboards, advertising or solicitations in newspapers, magazines, radio or television broadcasts, computer networks or in any other communications medium; or regularly engaged in the delivery of property or the performance of services in the commonwealth. A person shall be considered to have a business location in the commonwealth only if such person (1) owns or leases real property within the commonwealth; (2) has one or more employees located in the commonwealth; (3) regularly maintains a stock of tangible personal property in the commonwealth for sale in the ordinary course of business; or (4) regularly leases out tangible personal property for use in the commonwealth. The term “engaged in business in the commonwealth” shall also have the meaning set forth in section 1A of chapter 64H. For the purposes of this paragraph and section 1A of chapter 64H, property on consignment in the hands of a consignee and offered for sale by the consignee on his own account shall not be considered as stock maintained by the consignor; a person having a business location in the commonwealth solely by reason of regularly leasing out tangible personal property shall be considered to have a business location in the commonwealth only with respect to such leased property; and an employee shall be considered to be located in the commonwealth if (1) his service is performed entirely within the commonwealth or (2) his service is performed both within and

without the commonwealth but in the performance of his services he regularly commences his activities at, and returns to, a place within the commonwealth. 'Within the commonwealth' means within the exterior limits of the commonwealth of Massachusetts, and includes all territory within said limits owned by, or leased or ceded to, the United States of America.

(b) Said chapter 64H, as so appearing, is hereby amended by inserting, after section 1, the following new section:-

(1) A vendor shall be presumed to be 'engaged in business in the commonwealth' for purposes of this chapter and chapter 64I if any person, other than a person acting in its capacity as a common carrier that has substantial nexus in the commonwealth:

(i) sells a similar line of products as the vendor and does so under the same or a similar business name;

(ii) maintains an office, distribution facility, warehouse, storage place, or similar place of business in the commonwealth to facilitate the delivery of property or services sold by the vendor to the vendor's customers;

(iii) uses trademarks, service marks, or trade names in the commonwealth that are the same or substantially similar to those used by the vendor;

(iv) delivers, installs, assembles, or performs maintenance services for the vendor's customers within the commonwealth;

(v) facilitates the vendor's delivery of property to customers in the commonwealth by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the commonwealth;

(vi) maintains any business location within the commonwealth, including, but not limited to a technology facility, engineering facility, software development facility, research facility, or similar business location in the commonwealth if such business location facilitates the sale of property or services sold by the vendor to the vendor's customers or facilitates the development of the vendor's market for sales in the commonwealth; or

(vii) conducts any other activities in the commonwealth that are significantly associated with the vendor's ability to establish and maintain a market in the commonwealth for the vendor's sales.

(2) The presumptions in paragraph (1) of this section may be rebutted by demonstrating that the person's activities in the commonwealth are not significantly associated with the vendor's ability to establish or maintain a market in the commonwealth for the vendor's sales.

(c) Section 2 of said chapter 64H, as so appearing, is hereby amended by striking the last sentence and inserting in place thereof the following new sentence:-

The excise shall be paid by every vendor engaged in business in the commonwealth to the commissioner at the time provided for filing the return required by section 16 of chapter 62C.

(d) Section 3 of said chapter 64H, as so appearing, is hereby amended by inserting, in line 3, after the words "and each vendor" the following new words:- engaged in business"

After remarks, the amendment was rejected.

Messrs. Eldridge and Montigny moved that the bill be amended by inserting the text of Senate document numbered 2391.

After remarks, the amendment was rejected.

Mr. Michael Moore moved that the bill be amended by inserting after section XX the following section:-

"SECTION XX. Section 182, of chapter 175 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "Commissioner", in line 14, the following:- "Valuable consideration or inducement or rebate or anything of value shall not include any advice or services provided by or through an insurance company, insurance agent, or third party provided by either, related to risk assessment, risk management tools, claims assistance, claims reduction, administrative services, or advice or services designed to reduce risk, claims or claim expenses."

Section 183, of chapter 175 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "Commissioner", in line 9, the following:- "Valuable consideration or inducement or rebate or anything of value shall not include any advice or services provided by or through an insurance company, insurance agent, or third party provided by either, related to risk assessment, risk management tools, claims assistance, claims reduction, administrative services, or advice or services designed to reduce risk, claims or claim expenses."

Section 3, of chapter 176D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting at the end of paragraph (8) the following:- "Valuable consideration or inducement or rebate or anything of value shall not include any advice or services provided by or through an insurance company, insurance agent, or third party provided by either, related to risk assessment, risk management tools, claims assistance, claims reduction, administrative services, or advice or services designed to reduce risk, claims or claim expenses."

The amendment was rejected.

Mr. Rush moves to amend the bill (Senate No. 2350) by inserting in Section 4, at the end thereof, the following item:-

1599-0045 For a capital projects reserve; provided, that not less than \$3,000,000 shall be expended to assist the YMCA of Greater Boston on capital projects approved by the board of directors of the YMCA; and provided further, that said projects shall include community based health and wellness and support services for long-term chronic disease control.....\$3,000,000.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after section 50, the following section:—

"SECTION \_\_. Section 25 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (j) the following subsection:-

(k) Any week in which the individual is barred from working for, or being paid by, the employing unit by reason of the provisions of section 91(b) of chapter 32."

The amendment was adopted.

Mr. Tarr moves to amend the bill (Senate No. 2350) by inserting after Section \_ the following section:-

“SECTION \_\_. Section 6 of Chapter 40A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after the word “structure”, in line 14, the following language:- provided, however, that an increase in the size or footprint of a single or two-family residential structure shall not be construed as an increase to the nonconforming nature of the structure when the structure satisfies all dimensional requirements except the required minimum lot size.”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by adding the following section:-

“SECTION \_\_. A special commission is hereby established to consider the circumstances under which project labor agreements should be utilized, including consideration of their appropriateness and function and the size, complexity and duration of the public construction projects for which they should be utilized. Said commission shall consist of: the secretary of administration and finance or designee thereof; the attorney general or designee thereof; the auditor or designee thereof; the commissioner of capital planning and operations or designee thereof; a representative of the Construction Industries of Massachusetts; a representative of the Massachusetts Building Trades Council; a representative of the Associated Builders and Contractors of Massachusetts; and a representative of the Association of Commercial and Industrial Builders of Massachusetts. Said commission shall report its findings, together with drafts of any legislation it recommends, to the joint committee on labor and workforce development not later than July 1, 2013.”

The amendment was rejected.

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

“SECTION \_\_. Subsection (2) of section 95 of chapter 173 of the acts of 2008 is hereby amended by striking out the figure “2014”, inserted by section 95 of chapter 139 of the acts of 2012, and inserting in place thereof the following figure:- 2013”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting after section \_\_, the following 2 sections:—

“SECTION \_\_. Section 2 of chapter 43D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word ‘selectmen.’, in line 5, the following words:— ‘Housing Priority Zone’, a privately or publicly owned property, a zoning district or a zoning overlay district zoned and designated for the development or redevelopment of housing which:

1. Exceeds the allowable unit density by a minimum of 50 percent greater than the density allowed prior to designation as a priority zone, and shall in no case have a lot size greater than ½ acre;
2. Includes a minimum of 40% of its units as affordable housing, as defined in Section 2 of Chapter 40R;
3. May incorporate the use of zoning methods known as cluster development, as defined in Section 9 of Chapter 40A of the General Laws, or open space residential design; and
4. Is designated a priority development site by the board, in consultation with the Department of Housing and Community Development.

SECTION \_\_. Chapter 43D, as so appearing, is hereby further amended by adding, after section 16, the following:—

Section 17. For the purposes of determining consistency with the definition of “consistent with local needs” contained in section 20 of chapter 40B, a housing unit developed in a housing priority zone shall be credited at the rate of 1.75 units upon the issuance of a building permit.

Section 18. Any individual or family residing in affordable housing within a housing priority zone shall report to the local administrative office responsible for housing development and administration not less than once every three years to certify that the property has not been sold or otherwise transferred to an individual or family who exceeds the income limits of the affordable housing program. If said property is sold or otherwise transferred to an individual or family who do not exceed the income limits, then the reporting responsibility shall devolve to the new owner or owners of the property.

Section 19. Notwithstanding any general or special law to the contrary, the real estate tax assessed to a property designated as a priority development site shall be on a pro rata basis to the days remaining in the fiscal year from the date of the issue of the temporary or permanent occupancy permit to the end of the fiscal year.”

The amendment was rejected.

Mr. Tarr moved that the bill be amended by striking in the line 1265 the figure “3” and inserting in place thereof the following figure:- “5”.

After remarks, the amendment was rejected.

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

“SECTION \_\_.

SECTION 1. Subsection (b) of Section 12 of Chapter 90D of the General Laws is hereby amended by adding at the end thereof, the following new sentence:-‘This section shall not apply to a vehicle described in subsection (e) of section 20 of this chapter.’

SECTION 2. Section 13 of Chapter 90D of the General Laws is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) Except as provided for in subsection (e) of section 20, the applicant is not the owner of the vehicle; or

SECTION 3. Section 15 of Chapter 90D of the General Laws is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) Except as provided for in subsection (e) of section 20, if an owner of a vehicle for which a certificate of title has been issued under this chapter transfers his interest therein, other than by the creation of a security interest, he shall, at the time of the delivery of the vehicle, execute an assignment including the actual odometer reading and warranty of title to the transferee in the space provided therefore on the certificate, or such other form as the registrar shall prescribe, and cause the certificate and assignment

to be mailed or delivered to the transferee or to the registrar.

SECTION 4. Section 19 of Chapter 90D of the General Laws is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) The registrar, upon receipt of a properly assigned certificate of title, except as provided for in subsection (e) of section 20, with an application for a new certificate of title, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner and mail it to the first lienholder named in it or, if none, to the owner. If in accordance with subsection (e) of section 20, the outstanding certificate of title is not delivered to him, the registrar shall make demand therefore from the holder thereof.

SECTION 5. Section 20 of Chapter 90D of the General Laws is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) Except as provided for in subsection (e), whenever an insurer acquires ownership of a motor vehicle which it has determined to be a total loss salvage motor vehicle, it shall, within ten days from the date of acquisition, surrender the certificate of title to the registrar and shall apply for a salvage title.

SECTION 6. Said section 20 of Chapter 90D of the General Laws is hereby further amended by adding at the end thereof the following new subsection:-

(e)(1) Whenever an insurer acquires a motor vehicle which it has determined to be a total loss salvage motor vehicle but is unable to obtain the certificate of title, the insurer may apply for a salvage title in its name without surrendering the certificate of title. Such application shall be accompanied by evidence that the insurer has paid a total loss claim on the vehicle and made at least 2 written attempts, addressed to the last known owner of the vehicle and any known lienholder, to obtain the certificate of title. In lieu of a salvage title, the insurer may similarly apply for a certificate of title in its name for a vehicle if the age of the vehicle precludes issuance of a salvage title.

(2) Whenever an insurer requests that Class 2 or Class 3 dealer take possession of a motor vehicle that is the subject of an insurance claim and subsequently a total loss claim is not paid by the insurer with respect to such motor vehicle, the Class 2 or Class 3 dealer may, if such motor vehicle has been abandoned at the facility of the Class 2 or Class 3 dealer for more than 30 days, apply for a salvage title in such dealer's name without surrendering the certificate of title. Such application shall be accompanied by evidence that the Class 2 or Class 3 dealer made at least 2 written attempts, addressed to the last known owner of the vehicle and any known lienholder, to have the vehicle removed from the facility. In lieu of a salvage title, the Class 2 or Class 3 dealer may similarly apply for a certificate of title in the dealer's name for a vehicle if the age of the vehicle precludes issuance of a salvage title.

SECTION 7. Section 20A of Chapter 90D of the General Laws is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) The application for the salvage title shall be made by the owner, except as provided for in subsection (e) of section 20, to the registrar on such form or forms as the registrar shall prescribe and shall be accompanied by: (1) a properly assigned certificate of title, except as provided for in subsection (e) of section 20; (2) any other information and documents the registrar may reasonably require to establish ownership of the vehicle and the existence or nonexistence of a lien to the extent not inconsistent with subsection (e) of section 20; and (3) the required fee."

The amendment was rejected.

Mr. Rodrigues moves to amend the bill (S. 2350) by inserting the following section:-

"SECTION\_\_ . Section 148 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking, in line 2, the words 'weekly or bi-weekly' and inserting in place thereof the following words:- 'weekly, biweekly or semi-monthly.'"

After remarks, the amendment was adopted.

Mr. Pacheco moved that the bill be amended in section 78 by striking out subsection (a) and by inserting in place thereof the following new subsection: -

"(a) Notwithstanding any general or special law to the contrary, for the days of August 11, 2012 and August 12, 2012, an excise shall not be imposed upon nonbusiness sales at retail of energy-efficient product. For the purposes of this section, 'energy-efficient product' is defined as a product that has been designated as an Energy Star qualified product under the Energy Star program jointly operated by the United States Environmental Protection Agency and the United States Department of Energy. This section applies only to the following energy-efficient products:

- (1) an air conditioner the sales price of which does not exceed \$6,000;
- (2) a clothes washer;
- (3) a clothes drier
- (4) a ceiling fan;
- (5) a dehumidifier;
- (6) a dishwasher;
- (7) an incandescent or fluorescent lightbulb;
- (8) a programmable thermostat; and
- (9) a refrigerator the sales price of which does not exceed \$2,000.";

By striking out, in line 2003, the words 'tangible personal property, as defined in section 1 of Chapter 64H of the General Laws' and inserting in place thereof the following words:- 'an energy-efficient product';

By striking out, in line 2005, the words "tangible personal property" and inserting in place thereof the following words:- 'an energy-efficient product';

By striking lines 2008, 2009, and 2010;

By striking out, in line 2011, the words 'tangible personal property' and inserting in place thereof the following words:- 'an energy-efficient product'

By striking out, in line 2024, the words 'tangible personal property' and inserting in place thereof the following words:- 'an energy-efficient product.'; and by inserting at the end thereof the following new subsection:

“(g) The Executive Office of Energy and Environmental Affairs shall have the ability to designate further Energy Star qualified products as being eligible for this Energy Efficiency tax credit.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-one minutes past six o'clock P.M., on motion of Mr. Pacheco, as follows to wit (yeas 2 — nays 34) [Yeas and Nays No. 252]:

#### YEAS

Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Petruccelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.

Jehlen, Patricia D.

Wolf, Daniel A. — 37.

Joyce, Brian A.

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

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

“SECTION X. No insurance carrier shall deny coverage, cancel in-force coverage, adversely adjust rates, withhold data, or otherwise discriminate in any way against an employer who elects to contribute to a supplemental health benefit plan or arrangement that is designed to mitigate the impact of plan deductibles or other out-of-pocket claims cost exposure on plan members.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at a half past six o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 8 — nays 28) [Yeas and Nays No. 253]:

**YEAS**

Berry, Frederick E.

Keenan, John F.

Brewer, Stephen M.

Kennedy, Thomas P.

Brownsberger, William N.

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.

Petruccelli, Anthony

Donnelly, Kenneth J.

Rodrigues, Michael J.

Donoghue, Eileen M.

Rosenberg, Stanley C.

Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 37.
Joyce, Brian A.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Hart, John A., Jr. — 1.

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

Messrs. Rodrigues, Tarr Joyce and Knapik moved that the bill be amended by inserting after section 50 the following 2 sections:-  
 “SECTION 50A. Section 152A of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘responsibility’, in line 8, the following words: - ; provided, however, that a shift supervisor in a quick service restaurant whose only managerial responsibilities include: (i) providing on-the-job training for regular wait staff as to an employer's policies and procedures; or (ii) assigning employees to their posts shall qualify as a wait staff employee for purposes of this section.  
 SECTION 50B. Said section 152A of said chapter 149, as so appearing, is hereby further amended by inserting after the definition ‘Patron’ the following definition:-

“Quick service restaurant”, an establishment selling food or beverages where products are served to patrons primarily over a sales’ counter or a drive up window sales’ point, where there is minimal or no direct service to patrons seated at tables and where employees are paid at least the minimum required hourly wage for nonservice employees under chapter 151.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at three minutes before seven o'clock P.M., on motion of Mr. Donnelly, as follows to wit (yeas 17 — nays 19) [Yeas and Nays No. 254]:

**YEAS**

Brewer, Stephen M.	Montigny, Mark C.
Brownsberger, William N.	Moore, Michael O.
Candaras, Gale D.	Petrucelli, Anthony
Chandler, Harriette L.	Rodrigues, Michael J.

Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Timilty, James E.— 17.
Knapik, Michael R.	

**NAYS**

Chang-Diaz, Sonia	Keenan, John F.
Clark, Katherine M.	Kennedy, Thomas P.
Creem, Cynthia Stone.	McGee, Thomas M.
DiDomenico, Sal N.	Moore, Richard T.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Eldridge, James B.	Welch, James T.
Fargo, Susan C.	Wolf, Daniel A. — 19.
Jehlen, Patricia D.	

**ABSENT OR NOT VOTING**

Berry, Frederick E.	Hart, John A., Jr. — 2.
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The yeas and nays having been completed at two minutes past seven o'clock P.M., the amendment was rejected.

Subsequently, Mr. Knapik moved to reconsider by which the Senate had rejected the amendment; and, after debate, this motion was negatived.

Mr. Knapik doubted the vote and asked for a call of the yeas and the nays; and, a sufficient number having arisen, the yeas and nays were ordered.

The question on reconsideration was determined by a call of the yeas and nays at thirteen minutes past seven o'clock P.M., on motion of Mr. Knapik, as follows to wit (yeas 17 — nays 19) [Yeas and Nays No. 255]:

## YEAS

Brewer, Stephen M.	Montigny, Mark C.
Brownsberger, William N.	Moore, Michael O.
Candaras, Gale D.	Petrucelli, Anthony
Chandler, Harriette L.	Rodrigues, Michael J.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Timilty, James E.— 17.
Knapik, Michael R.	

## NAYS

Chang-Diaz, Sonia	Keenan, John F.
Clark, Katherine M.	Kennedy, Thomas P.
Creem, Cynthia Stone.	McGee, Thomas M.
DiDomenico, Sal N.	Moore, Richard T.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Eldridge, James B.	Welch, James T.
Fargo, Susan C.	Wolf, Daniel A. — 19.
Jehlen, Patricia D.	

## ABSENT OR NOT VOTING

Berry, Frederick E.

Hart, John A., Jr. — 2.

The yeas and nays having been completed at sixteen minutes past seven o'clock P.M., the motion to reconsider was negatived.  
Suspension of Senate Rule 38A

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

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

By Mr. Brewer, for the committee on Ways and Means, that the House Bill financing improvements to the Commonwealth's Transportation System (House, No. 4193),-- ought to pass with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2360.

Orders Adopted.

Mr. Brewer offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the House Bill financing improvements to the Commonwealth's transportation system (House, No. 4193) (the committee on Bonding, Capital Expenditures and State Assets having recommended that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2354), with the proposed Senate Ways and Means new text (Senate, No. 2360) shall be placed in the Orders of the Day for a second reading on Tuesday, July 24, 2012.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 12:00 Noon, on Monday, July 23, 2012. All such amendments shall be second-reading amendments to the Senate Ways and Means new text (Senate, No. 2360) but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

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

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

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

The rules were suspended, on motion of Mr. Brewer, and the order was considered forthwith and adopted.

The bill was then placed in the Orders of the Day for a second reading, with the Ways and Means amendment pending on Tuesday, July 24, 2012.

Orders of the Day.

The House Bill relative to infrastructure investment, enhanced competitiveness and economic growth in the Commonwealth (House, No. 4119),-- was further considered, the main question being on ordering it to a third reading.

Messrs. Timilty, Rush, and McGee move that the bill (S. 2350) be amended by adding at the end thereof the following new Section:-

“SECTION X. Section 6 of chapter 64H of the General Laws is hereby amended by adding the following subsection:-

‘(yy) (1) sales of new plug-in hybrid electric vehicles.

(2) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meaning:-

“Plug-in hybrid electric vehicle”, a motor vehicle, as defined in Massachusetts General Laws chapter ninety, section one, which

(i) is an Enhanced Advanced Technology Partial Zero Emission Vehicle (EATPZEV) or the equivalent (ii) uses an external source of energy to recharge such battery, or is a dedicated natural gas or fuel cell electric vehicle (iii) the original use of which commences with the taxpayer (iv) which is acquired for use or lease by the taxpayer and not for resale and (v) which is made by a manufacturer.

(3) This exemption shall expire on June 30, 2015.”

After remarks, the amendment was rejected.

Mr. Timilty moves to amend the bill (S. 2350) by adding at the end thereof the following new Section:-

“SECTION X. Section 3A of chapter 23A of the General Laws, as so appearing, is hereby amended by striking, in lines 139 and 140, the words ‘below the commonwealth's average’ and inserting in place thereof the following:- below 100.5 percent of the commonwealth's average.”

The amendment was rejected.

Messrs. Rodrigues, Finegold and Tarr move to amend the bill (S. 2350) by inserting the following section:-

“SECTION \_\_. Chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 148B and inserting in place thereof the following section:-

Section 148B. (a) For the purpose of this chapter and chapter 151, an individual performing any service, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:—

(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for

the performance of the service and in fact; and

(2) the service is performed outside the usual course of the business of the employer or the service is performed within the usual course of business of the employer and is distinguishable from similar services performed by employees; and

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed; and

(4) the individual is free to perform services for persons other than the employer, both under his contract for the performance of the service and in fact; and

(5) the individual uses a federal tax identification number other than his social security number when compensated for the performance of the service.

If the service is performed within the usual course of business of the employer, the individual and employer must specify in writing, signed under the pains the penalties of perjury, how the service is distinguishable from similar services performed by employees, including but not limited to the skills required to perform the service that employees do not have and the skill the individual has to perform the service. Said written agreement shall also be of a defined duration for the performance of a defined service and shall address any creation of and rights to intellectual property.

The employer may not waive its liability for injuries the individual may incur in the course of performing the service.

This subsection shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent contractor relationship.

(b) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers' compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.

(c) An individual's exercise of the option to secure workers' compensation insurance with a carrier as a sole proprietor or partnership pursuant to subsection (4) of section 1 of chapter 152 shall not be considered in making a determination under this section.

(d) Notwithstanding the provisions of this section, an individual who is a party to a franchise agreement under which a person or entity licenses or authorizes the individual to sell products or services in accordance with prescribed methods and procedures and under service marks, trademarks, trade names and other intellectual property licensed under such agreement shall not be considered an employee of the person or entity that grants the license or authorization. For purpose of this section, franchise shall have the meaning given to it by the Federal Trade Commission.

(e) Notwithstanding the provisions of this section, a person with a license issued by the commonwealth who performs services as part of a program funded by the commonwealth and who is customarily engaged in an independently established trade, occupation, profession or business shall not be considered an employee of the commonwealth or any entity which has a contract with the commonwealth to administer or provide support services for the program.

(f) Notwithstanding the provisions of this section, an individual who provides foster care services for children or adults in his own residence and who is licensed or authorized by an agency of the commonwealth or a private placement agency on behalf of the commonwealth, including the department of children and families and the department of developmental services, shall not be considered an employee of the commonwealth or any such placement agency.

(g) Whoever fails to properly classify an individual as an employee according to this section and in so doing fails to comply, in any respect, with chapter 149, or section 1, 1A, 1B, 2B, 15 or 19 of chapter 151, or chapter 62B, shall be punished and shall be subject to all of the criminal and civil remedies, including debarment, as provided in section 27C of this chapter. Whoever fails to properly classify an individual as an employee according to this section and in so doing violates chapter 152 shall be punished as provided in section 14 of said chapter 152 and shall be subject to all of the civil remedies, including debarment, provided in section 27C of this chapter. Any entity and the president and treasurer of a corporation and any officer or agent having the management of the corporation or entity shall be liable for violations of this section.

(h) Nothing in this section shall limit the availability of other remedies at law or in equity."

The amendment was rejected.

Mr. Finegold moved that the bill be amended by inserting after section 50 the following sections:-

"SECTION 50A. Section 11.01 of chapter 156D of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Interests" the following definition:-

"Asbestos claim", a claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos, including all of the following: (a) a claim related to the health effects of exposure to asbestos, including a claim related to any of the following: (1) personal injury or death; (2) mental or emotional injury; (3) increased risk of disease or other injury; (4) costs of medical monitoring or surveillance; (b) any claim made by or on behalf of any person exposed to asbestos, or a representative, spouse, parent, child, or other relative of the person; or (c) any claim for damage or loss caused by the installation, presence, or removal of asbestos.

SECTION 50B. Said section 11.01 of chapter 156D is hereby amended by inserting after the definition of "Share exchange" the following 2 definitions:-

"Successor", a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities that is a successor and became a successor before January 1, 1972, or is any of that successor corporation's successors.

"Successor asbestos-related liability", any liability, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, that is related to an asbestos claim and was assumed or incurred by a corporation as a result of or in connection with (a) a merger or consolidation with or into another corporation; or

(b) the plan of merger or consolidation related to the merger or consolidation with or into another corporation; or (c) exercise of

control or ownership of the stock of the corporation before the merger or consolidation with the corporation. Includes liability that, after the time of the merger or consolidation for which the fair market value of total gross assets is to be determined under section 4, was paid, discharged, or committed to be paid or discharged, by or on behalf of the corporation, successor of the corporation, or transferor, in connection with a settlement, judgment, or other discharge in this state or another jurisdiction. SECTION 50C. Said section 11.01 of chapter 156D is hereby amended by inserting after the definition of "Survivor" the following definition:-

"Transferor", a corporation from which successor asbestos-related liability is or was assumed or incurred.

SECTION 50D. Chapter 156D of the General Laws is hereby amended by adding after section 11.08 the following section:-

Section 11.09. (a) (1) The cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation does not have responsibility for any successor asbestos-related liabilities in excess of this limitation.

(2) If the transferor had assumed or incurred successor asbestos-related or liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation in paragraph (1) for purposes of determining the limitation of liability of a successor corporation.

(3) This subsection does not apply to the following:

- (i) Workers' compensation benefits paid under chapter 152 or a comparable workers' compensation law of another jurisdiction;
- (ii) Any claim against a corporation that does not constitute a successor asbestos-related liability;
- (iii) Any obligation under 29 U.S.C. 151, et seq., or under any collective bargaining agreement; or
- (iv) A successor corporation that, after a merger or consolidation, continued in the business of mining asbestos, in the business of selling or distributing asbestos fibers, or in the business of manufacturing, distributing, removing, or installing asbestos-containing products which were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

(b) (1) A successor corporation may establish the fair market value of total gross assets for the purpose of the limitations under subsection (a) by any reasonable method, including any of the following:

- (i) By reference to the going concern value of the assets;
- (ii) By reference to the purchase price attributable to or paid for the assets in an arms-length transaction;
- (iii) In the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(2) Total gross assets include intangible assets.

(3) To the extent that total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms, conditions and limits of such insurance shall not be affected by this section. This section also does not affect the rights and obligations of an insurer, transferor or successor under any insurance contract and/or any related agreements, including all of the following:

- (i) A pre-enactment settlement resolving a coverage-related dispute;
- (ii) The right of an insurer to seek payment for applicable deductibles, retrospective premiums or self-insured retentions;
- (iii) The right of an insurer to seek contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable.

(4) Without limiting paragraph (3), to the extent that total gross assets include any liability insurance, a settlement of a dispute concerning any such liability insurance coverage entered into by a transferor or successor with the insurers of the transferor [before the effective date of this act] shall be determinative of the total coverage of the liability insurance for inclusion in the calculation of the transferor's total gross assets.

(c) (1) Except as provided in paragraphs (2), (3), and (4), the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of the following:

- (i) The weekly prime rate for the first week of each calendar year since the merger or consolidation, as reported by the federal reserve board in federal reserve statistical release H. 15; and
- (ii) 1 per cent.

(2) The rate found in paragraph (1) may not be compounded.

(3) The adjustment of the fair market value of total gross assets shall continue as provided in paragraph (1) until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(4) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the definition of total gross assets under subsection (c)."; and inserting after section 81, the following section:-

"SECTION 81A. Sections 50A through 50D, inclusive, shall apply to all asbestos claims filed against a successor on or after the effective date of the act. This section also applies to any pending asbestos claims against a successor in which trial has not commenced as the effective date of the act, except that any provisions of these sections which would be unconstitutional if applied retroactively shall be applied prospectively."

The amendment was rejected.

Mr. Rodrigues moved that the bill be amended by inserting after section 50 the following section:-

"SECTION 50A. Chapter 138 of the General Laws is hereby amended by inserting after section 12B the following section:-  
Section 12C. The commission may issue an annual caterer's license to an operator of a catering business for the sale and service

of alcoholic beverages to be served and drunk on the premises where the operator caters a private event that is not open to the public; provided, however, that no such license shall be exercisable on premises located in a city or town wherein the granting of licenses under section 12 has not been authorized by that city or town. A caterer licensed pursuant to this section shall not serve alcoholic beverages at the caterer's principal place of business. A licensee under this section shall purchase all alcoholic beverages for resale from a wholesaler licensed pursuant to section 18 and shall maintain liquor liability insurance providing security for the liability of the licensee in a minimum amount of \$250,000 on account of injury to or death of 1 person and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person. The service of alcoholic beverages shall not be for more than 5 hours during a catered event. All agents and employees of a licensed caterer who serve alcoholic beverages shall be certified by a nationally-recognized alcoholic beverages server training program.

A caterer licensed under this section shall, prior to 48 hours before the start of a catered event where alcoholic beverages will be served, notify, in writing, the police chief and the licensing authority of the city or town wherein the event will be held with the following information:

- (1) notice that alcoholic beverages will be served at an event in that city or town;
- (2) a copy of the caterer's license;
- (3) proof of liquor liability insurance; and
- (4) emergency contact information of the manager of the catering company.

The commission, after notice to the licensee and reasonable opportunity to be heard, may modify, suspend, revoke or cancel the license upon satisfactory proof that the licensee violated or permitted a violation of a condition of the license or of any law of the commonwealth or regulation of the commission. The decision of the commission shall be final and conclusive. A caterer's license shall authorize the licensee to store, transport, sell and deliver alcoholic beverages in the ordinary course of the licensee's business. Alcoholic beverages may be stored only on the premises owned by the licensee or that the licensee has the exclusive right to occupy. The license shall be renewable annually and shall be subject to an annual fee of \$1,500."

The amendment was adopted.

Messrs. Knapik, Donnelly and Wolf moved that the bill be amended by striking out, in line 9, the figure "\$25,000,000" and inserting in place thereof the following figure:- "\$20,000,000";

By inserting after section 2 the following section:- "SECTION 2A. XXXX-XXXX For the Workforce Competitiveness Trust Fund grant program established under subsection (h1/2) of section 2WWW of chapter 29 of the General Laws.....\$5,000,000";

By inserting after the word "degree", in line 979, the following words:- "; provided however, that said portion of the grant fund shall not be less than \$5,000,000";

By striking out, in line 1950, the figure "\$25,000,000" and inserting in place thereof the following figure:- "\$20,000,000"; and by inserting after section 72 the following section:-

"SECTION 72A. To meet expenditures necessary in carrying out section 2A, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$5,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, the Workforce Competitiveness Trust Fund Middle Skills Grant Program, subsection (h1/2) of section 2WWW of chapter 29 of the General Laws and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2048. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest on bonds issued under this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth."

After remarks, the amendment was rejected.

Mr. Berry moves to amend the by inserting the text of Senate document numbered 2392.

The amendment was adopted.

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

"SECTION: \_\_\_\_ . Section 14C of chapter 7 of the General laws, as appearing in the 2010 Official Edition, is amended, in line 25, by inserting after the word "infrastructure expenditures the following:- " , tax increment plans certified pursuant to section 59 of chapter 40"

SECTION \_\_\_\_ . Section 59 of chapter 40 of the General laws, as appearing in the 2010 Official Edition, is amended, in line 101, by inserting after the word 'and', the following:- 'provided further, that the city or town shall make any certified TIF plan and any agreements available on a searchable website accessible by the public at no cost.'

Section 59 is further amended, in line 107, by striking the following figure '5' and inserting in place thereof the following figure:- '2'

Section 59 is further amended by striking subsection (viii) and inserting in place thereof the following:-

(viii) requires of an owner of a parcel pursuant to clause (v) to submit to the city or town clerk and the economic assistance coordinating council a report detailing the status of the construction laid out in the plan; the current value of the property; and the number of jobs created to date as a result of the plan; provided, however, that a report shall be filed every 2 years for the term of the tax increment exemption allowed under clause Fifty-first of section 5 of chapter 59; provided further, that a final report shall be filed in the final year of the exemption: and provided further, that the city or town and the economic assistance coordinating council shall make said reports available on a searchable website accessible by the public at no cost."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-one minutes before eight o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 10 — nays 26) [Yeas and Nays No. 256]:

**YEAS**

Brownsberger, William N.	Jehlen, Patricia D.
Chang-Diaz, Sonia	Keenan, John F.
Downing, Benjamin B.	Montigny, Mark C.
Eldridge, James B.	Pacheco, Marc R.
Fargo, Susan C.	Welch, James T.— <b>10.</b>

**NAYS**

Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone.	Petruccelli, Anthony
DiDomenico, Sal N.	Rodrigues, Michael J.
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Donoghue, Eileen M.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Hedlund, Robert L.	Timilty, James E.
Joyce, Brian A.	Tarr, Bruce E.
Kennedy, Thomas P.	Wolf, Daniel A. — <b>26.</b>

**ABSENT OR NOT VOTING**

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

Messrs. Pacheco, Eldridge, Michael O. Moore, Mr. Kennedy and Mr. Rosenberg move to amend the bill by inserting the text of Senate document numbered 2393.

The amendment was adopted.

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

“SECTION XX. Section 3A of chapter 23A is hereby amended in the definition of “Gateway municipality” by inserting at the end thereof the following words:- “or a public school district where a superintendent certifies that 50 or more languages are spoken.”

The amendment was rejected.

Mr. Montigny moves to amend the bill, S. 2350, by inserting, at the end thereof, the following new sections:-

SECTION \_\_\_\_\_. (a) Section 14C of Chapter 7 of the General Laws is amended in sub section (a) by striking the definition for “state award” and inserting the following definition:

“State award” or “award”, appropriations, expenditures, grants, tax credit, subgrants, loans, purchase orders, infrastructure assistance and other forms of financial assistance.”

(b) Subsection (a) of said section 14C of Chapter 7 is further amended by inserting after the definition of “state award” or “award” the following new definition:

“state award or award requirement” any condition or requirement agreed to by an agency and a recipient that must be fulfilled in order to receive a state award, including, but not limited to job creation, wage, health care and other benefit requirements”

(c) Subsection (b) of said section 14C of Chapter 7 is amended by striking subsections (b) (5) and (6) and inserting in place thereof the following:

(5) all state award or award requirements for a recipient to receive a state award

(6) the reports required by section 88 of chapter 62C; and

(7) any other relevant information specified by the secretary.”

SECTION \_\_\_\_\_. Chapter 7 of the General Laws is further amended by inserting after section 14C the following new section;

14D. (a) The secretary shall have the authority to enforce the provisions of any state award or award requirement, as defined by section 14C of this chapter, entered into by an agency and a recipient.

(b) The secretary shall, at the end of each taxable year, determine whether a recipient of a state award has fulfilled any and all state award or award requirements.

(c) If the secretary determines that a recipient has failed to fulfill any state award or award requirement, the secretary shall recapture any state award or award received by a recipient. The secretary shall notify the recipient in writing of the recapture of the state award or award. The secretary shall notify the state auditor and inspector general of his intent to recapture said award.

(d) Within 10 days of the notification, the recipient may request a hearing before the secretary,

The secretary, within 30 days shall schedule a hearing on the issue of recapture. The recipient shall be allowed to present evidence of the recipient’s ability to fulfill the state award or award requirement, including but not limited to;

(i) economic conditions or factors;

(ii) natural disasters or events

(iii) any other factor or condition affecting the recipient’s ability to fulfill the state award or award requirement.

(e) The Superior Court shall have jurisdiction over all matters in law and in equity arising under this section, including but not limited to action to enforce the recapture of state awards or awards and appeals of the decision of the secretary.”

The amendment was rejected.

Ms Spilka moved that the bill be amended by adding at the end thereof the following new section:-

SECTION XX. Section 3H of Chapter 23A is amended by adding at the end thereof the following new paragraph:-

The secretary shall appoint a State Regulatory Ombudsman to address regulatory matters of interest to the business community.

The Regulatory Ombudsman shall work in partnership with the State Permitting Ombudsman to provide assistance to businesses in the process of complying with state regulations and other requirements of law that affect businesses. The Regulatory

Ombudsman shall facilitate communication between individual businesses and state agencies and provide periodic training to regulatory personnel in state agencies on how to identify the small business impacts of regulation, how to reduce those impacts

and how to expedite and streamline the process or compliance. The Regulatory Ombudsman shall establish an advisory group representing business interests to advise and inform on the impact of regulations on various business and industry sectors and on

the cost of doing business in the state.

After remarks, the amendment was adopted.

Ms. Creem and Mr. Timilty moved that the bill be amended by inserting after section 5 the following 30 sections:-

“SECTION 5A. Subsection (b) of section 38A½ of chapter 7, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of “Designer” the following definition:-

“Interior Designer”, a person who may serve as the prime consultant for projects that primarily involve construction or other work relating to the nonstructural interior elements of a building or structure and provides services that do not require the services of a registered architect, landscape architect or engineer; provided, however, that eligible candidates shall demonstrate

competence by completion of a nationally-recognized certification.

SECTION 5B. Said section 38A½ of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer”, in lines 41 and 42, the following words:- , interior designer.

SECTION 5C. Said 38A½ of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer”, in lines 68, 69, 71 and 72, each time it appears, the following words:- or interior designer.

SECTION 5D. Said section 38A½ of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer’s”, in lines 73 and 74, the following words:- or interior designer’s.

SECTION 5E. Section 38C of said chapter 7, as so appearing, is hereby amended by inserting after the word “designers”, in line 2, the following words:- , interior designers.

SECTION 5F. Said section 38C of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer”, in lines 16, 35, 40, 41, 42, 53, 58 and 60, each time it appears, the following words:- or interior designer.

SECTION 5G. Said section 38C of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designers”, in lines 33 and 35, each time it appears, the following words:- or interior designer.

SECTION 5H. Said section 38C of said chapter 7, as so appearing, is hereby further amended by striking out, in line 56, the word “designer” and inserting in place thereof the following word:- design.

SECTION 5I. Section 38D of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1, 7 and 13, the word “designer” and inserting in place thereof the following word:- design.

SECTION 5J. Said section 38D of said chapter 7, as so appearing, is hereby further amended by inserting after the word “projects”, in line 21, the following words:- , including whether interior designers are eligible to apply, as determined by subsection (h) of section 38E.

SECTION 5K. Said section 38D of said chapter 7, as so appearing, is hereby amended by inserting, in line 22, after the word “designers” the following words:- and interior designers’.

SECTION 5L. Section 38E of chapter 7, as so appearing, is hereby amended by inserting after the word “designer,” in lines 1 and 38, the following words:- interior designer,.

SECTION 5M. Section 38E of chapter 7, as so appearing, is hereby amended by inserting after the word “designer” in line 7, the following words:- , interior designer.

SECTION 5N. Section 38E of said chapter 7, as so appearing, is hereby amended by inserting after the word “designers”, in line 43, the following words:- and interior designers.

SECTION 5O. Said section 38E of said chapter 7, as so appearing, is hereby further amended by adding the following subsection:-

(h) Interior designers shall be eligible to compete as the prime consultant only for projects that primarily involve construction or other work related to nonstructural interior elements of a building or structure.

SECTION 5P. Section 38F of said chapter 7, as so appearing, is hereby amended by inserting after the word “designers”, in line 31, the following words:- “and interior designer.

SECTION 5Q. Said section 38F of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer”, in line 36, the following words:- “or interior designer.

SECTION 5R. Section 38G of said chapter 7, as so appearing, is hereby amended by inserting after the word “designer”, in lines 1, 3, 5, 10, 11, 13, 15, and 21, each time it appears, the following words:- “or interior designer.

SECTION 5S. Said section 38G of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designers”, in lines 16 and 17, the following words:- or interior designers.

SECTION 5T. Said section 38G of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer’s”, in lines 26 and 28, each time it appears, the following words:- “or interior designer’s”.

SECTION 5U. Section 38H of said chapter 7, as so appearing, is hereby amended by inserting after the word “designer”, in lines 7, 10, 29, 33, 35, 38, 40, 41, 42 and 80, and in lines 96 and 97, each time it appears, the following words:- , interior designer.

SECTION 5V. Said section 38H of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer’s”, in line 9, the following words:- “, interior designer’s”.

SECTION 5W. Said section 38H of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer’s”, in line 14 and 93, each time it appears, the following words:- or interior designer’s.

SECTION 5X. Said section 38H of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer”, in lines 45 and 46, 50, 51, 55, 56 and 57, 58, 62, 68, 75, 77, 86, 88, 94 and 99, each time it appears, the following words:- or interior designer.

SECTION 5Y. Section 38H of said chapter 7, as so appearing, is hereby further amended by striking out, in line 97, the words "or his consultants" and inserting in place thereof the following words:- , interior designer or consultants hired by the designer or interior designer.

SECTION 5Z. Section 38I of said chapter 7, as so appearing, is hereby amended by inserting after the word “designer”, in lines 1 and 7, each time it appears, the following words:- or interior designer.

SECTION 5AA. Section 38J of said chapter 7, as so appearing, is hereby amended by inserting after the word “designer”, in line 2, the following words:- , interior designer.

SECTION 5BB. Section 38K of said chapter 7, as so appearing, is hereby amended by inserting, after the word “designer”, in line 29, and in lines 31 and 32, each time it appears, the following words:- and interior designer.

SECTION 5CC. Said section 38K of said chapter 7, as so appearing, is hereby further amended by inserting after the word “designer’s”, in line 37, the following words:- or interior designer’s.

SECTION 5DD. Section 38L of said chapter 7, as so appearing, is hereby amended by inserting, after the word “designer”, in line 7, the following words:- or interior designer.”.

After remarks, the amendment was adopted.

Messrs. Rodrigues, Rush, Richard T. Moore, and Finegold moved that the bill be amended by inserting the following three sections:-

SECTION \_\_. Section 2 of Chapter 21H of the Massachusetts General Laws is hereby amended by inserting the following: ‘Qualified lamp recycler,’ a person who engages in the manual or mechanical separation of spent household mercury-added lamps to recover components and mercury contained therein, and meets the applicable Commonwealth requirements for handling, transporting, and disposal of mercury-added lamps.

SECTION \_\_. Section 6J of Chapter of 21H of the Massachusetts General Laws is hereby amended by striking sections (d) through (e), and inserting the following:

(d) (1) Each manufacturer of mercury-added lamps shall satisfy the requirements of this section if until June 30, 2022, each manufacturer who sells mercury-added lamps in the Commonwealth shall individually pay an annual registration fee not to exceed six thousand two hundred and fifty dollars into an expendable trust, in accordance with section 6 of chapter 6A and any applicable regulations, for the limited purpose of documented department and municipal administration, access, communication, enforcement, and education costs for proper mercury-added lamp disposal.

(2) A person who sells fluorescent lamps at retail for residential and/or commercial customers may post the following notice in 24-point type or larger, and a manner clearly visible to a consumer examining fluorescent lamps offered for sale: "Fluorescent bulbs save energy and reduce environmental pollution. Note: Fluorescent bulbs contain a small amount of mercury and must be properly recycled at the end of their use. Contact your municipality or [www.lamprecycle.org](http://www.lamprecycle.org) for bulb recycling options." A retailer may include additional language in the notice in order to promote the sale or in-store recycling of fluorescent lamps, provided that the required language is present. A manufacturer, individually or collectively, must provide a printed copy of the minimally required notice, free of charge, at the request of any retailer of mercury added lamps for its retail establishment in the Commonwealth.

(e) (1) Whenever any employee or agent of the department has reason to believe that a person has violated Section 6I(a) of Chapter 21H of the General Laws, that employee or agent of the department shall refer cases to and cooperate with district attorneys, the Attorney General and other State law enforcement officials to enforce Section 6I(a) of Chapter 21H of the General Laws.

(2) An inspector, as defined by Section 1 of Chapter 143, may enforce Section 6I(a) of Chapter 21H. A municipality may, under their authority in Section 94 of Chapter 143, institute additional fines and penalties for violations of Section 6I(a) of Chapter 21H of the General Laws. Any municipal employee enforcing this section must refer cases to and cooperate with district attorneys, the Attorney General and other State law enforcement officials to enforce Section 6I(a) of Chapter 21H of the General Laws.

(3) (A) A qualified mercury added lamp recycler engaged in the collection and recycling of mercury added lamps shall issue a certificate of mercury lamp recycling to all customers upon collection. Customers must keep these certificates on file for not less than thirty-six months and provide access to the Department upon request. (B) A qualified mercury added lamp recycler must annually provide such information regarding the recycling of lamps from any person in Massachusetts as is requested by the Department. The Department may establish such information by rule.

SECTION \_\_. The regulations adopted by the Department prior to the date of enactment of this Act to implement subsections (d) and (e) of Section 7 of Chapter 190 of the Acts of 2006 are hereby repealed, and all prior and future obligations of manufacturers under those regulations as well as subsections (d) and (e) of Section 7 of Chapter 190 of the Acts of 2006 prior to the date of enactment of this Act are terminated and not enforceable.

After remarks, the amendment was rejected.

Ms Spilka moved that the bill be amended by adding at the end thereof the following new section:

SECTION XX. Chapter 139 of the acts of 2012 is hereby amended in section 2 at item 7007-0150 by adding at the end thereof the following:-“; provided, that when awarding contracts the office shall seek to identify regions that do provide services to as many municipalities as possible with the 12 contracts authorized by subparagraph a(1) of section 3K of chapter 23A; provided further, that priority in awarding contracts shall be given to applications that evidence cooperation and collaboration among the various organizations and municipalities engaged in economic development activities within the identified region; provided further, that the office shall report to the house and senate committees on ways and means by September 30, 2012 on its plan to prioritize the delivery of the services established in subparagraph (c) of section 3K of chapter 23A, on the formula used to determine funding for contractual reimbursements under subparagraph (f) of section 3K and on the funding needed to fully implement a program throughout the commonwealth in fiscal year 2014.”

The amendment was adopted.

Ms. Spilka moves to amend the bill (Senate Bill 2350), in SECTION 4, in item 7007-1200, by inserting after the words “General Laws”, in line 43, the following:- “and the Massachusetts Technology Transfer Center established under section 45 of chapter 75 of the General Laws”; in section 4, in item 7007-1200, by inserting at the end thereof the following:- “; and provided further that \$100,000 shall be expended for the Massachusetts Technology Transfer Center established in section 45 of chapter 75 of the General Laws for commercial training for researchers and a program of grants for proof of concept funding to facilitate technology transfer from public-private research institutions to businesses in Massachusetts”; and in section 4, in item 7007-1200, by striking out the figure “\$2,000,000”, in line 56, and inserting in place thereof the follow figure:- “\$2,100,000”.

The amendment was rejected.

Messrs. DiDomenico, Rosenberg, Michael O. Moore, Downing, Ms. Flanagan, Ms. Chang-Diaz, Ms. Fargo, Ms. Chandler, Ms.

Donoghue, Messrs. Donnelly, Welch, McGee, Kennedy, Rush, Eldridge, Ms. Creem, Messrs. Keenan, Knapik, Hart and Berry moved that the bill be amended by inserting the text of Senate document numbered 2394. After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at three minutes past eight o'clock P.M., on motion of Mr. DiDomenico, as follows to wit (yeas 36 — nays 0) [Yeas and Nays No. 257]:

#### YEAS

Brewer, Stephen M.	Keenan, John F.
Brownsberger, William N.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Moore, Richard T.
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.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 36.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E.

Hart, John A., Jr.— 2

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

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

“SECTION XX. Notwithstanding any general or special law to the contrary, the Massachusetts marketing partnership established under section 13A of chapter 23A shall submit a report on the partnership’s activities in fiscal years 2011 and 2012. The report shall include, but shall not be limited to: the partnership’s efforts to implement chapter 240 of the Acts of 2010; efforts to promote common, coordinated, and concerted marketing efforts on behalf of the Commonwealth; efforts to work in collaboration with governmental entities, regional economic development organizations established under section 3J and 3K of chapter 23A, local entities, local authorities, public bodies and private corporations to advanced the commonwealth’s interests and investments in travel and tourism, international trade and economic development; development of a common internet portal; and the partnership’s plans for marketing and collaboration efforts in fiscal years 2013 and 2014. The partnership shall submit the report to the executive office of housing and economic development, the house and senate committees on ways and means, and the joint committee on economic development and emerging technologies by December 30, 2012.”

The amendment was adopted.

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

SECTION XX. Chapter 139 of the acts of 2012 is hereby amended in section 2 by striking out line item 7003-0803 and inserting in place thereof the following line item:

7003-0803 For the one-stop career centers, including the administration and oversight to these centers provided by the department of career services; provided that not less than \$1,000,000 shall be expended for one-stop career centers to deliver direct counseling and provide training in technical and computer skills .....\$5,494,467”

The amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting, after Section \_\_, the following new Section:-

“Chapter 21A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 23, the following new section:-

Section 24. (a) There shall be within the office an energy policy and electricity cost reduction commission, which shall be an independent public entity not subject to the supervision and control of the office or any other executive office, department, commission, board, bureau, agency or political subdivision of the commonwealth. The commission shall promote public transparency regarding the effectiveness and economic cost of energy and electricity policies and programs implemented in the commonwealth. The commission shall be charged with researching and reviewing the economic and electricity cost implications of current and proposed energy and electricity policies in the commonwealth, as well as the impact these policies have on electricity reliability. The commission shall report to the legislature, as prescribed in this section, with comprehensive recommendations for reforms the commonwealth can implement to: (i) encourage business development and job creation, (ii) reduce the costs associated with energy programs funded, in whole or in part, by the commonwealth, particularly programs established pursuant to chapter 169 of the acts of 2008, (iii) reduce the cost of electricity for commercial, industrial, and residential customers, and (iv) increase electricity reliability.

(b) (1) The commission shall consist of 19 persons, as follows: the secretary of energy and environmental affairs and the secretary of housing and economic development, both of whom shall serve as the co-chairs; the attorney general; the inspector general; the commissioner of the department of energy resources or his designee; the chair of the department of public utilities or her designee; 1 person appointed by ISO-New England; 1 person appointed by associated industries of Massachusetts; 1 person appointed by the Massachusetts chapter of the national federation of independent business; 1 person appointed by the Massachusetts clean energy center; 4 persons who are experts in energy efficiency, 1 of whom shall be appointed by the speaker of the house, 1 of whom shall be appointed by the minority leader of the house, 1 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the minority leader of the senate; 5 persons appointed by the Governor, 1 of whom shall be a representative from organized labor, 1 of whom shall be a representative of a Massachusetts green business with 10 or fewer employees, 1 of whom shall be a representative of a Massachusetts green business with 10 or more employees, 1 of whom shall be a representative of an institution of higher education and who is also an expert in the structure of the regional wholesale electricity market, and 1 of whom shall be a representative of an institution of higher education and who is also an expert in energy efficiency.

(2) Members of the commission shall serve terms of 2 years and until their successors are appointed.

(3) Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term.

(4) The chairs of the commission may designate on an annual basis 1 or more commission members as vice-chairs of the commission. The commission shall select any other officers it deems necessary.

- (5) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.
- (6) The powers of the commission shall include, but not be limited to: (i) using voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered or needed; (ii) recommending policies and making recommendations to agencies and officers of the state and local subdivisions of government to effectuate the changes outlined in section (a); (iii) enacting by-laws for the commission's own governance; and (iv) holding regular public meetings, fact-finding hearings, and other public forums as the commission deems necessary.
- (7) The commission may request from all state agencies such information and assistance as the commission may require.
- (c) (1) The commission shall issue an annual report which shall include, at minimum an analysis of the economic cost, electricity cost, and implication for electricity reliability of: (i) implementing administrative, regulatory, and legislative rulemaking as it pertains to electricity and the structure of the wholesale electricity market and (ii) meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency, and renewable energy generation, particularly goals established pursuant to Chapter 169 of the Acts of 2008.
- (2) In so doing, the commission shall at minimum research, evaluate, consider and report on: (i) the accuracy of metrics used to assess the success of ratepayer and taxpayer funded, in whole or in part, programs established pursuant to Chapter 169 of the Acts of 2008, (ii) the accuracy of metrics used to assess the cost effectiveness of ratepayer and taxpayer funded, in whole or in part, programs established pursuant to Chapter 169 of the Acts of 2008 (iii) the cost impact of the mandatory renewable energy charge and the energy efficiency charge, established pursuant to Section 19 and 20 of Chapter 25 of the General Laws, on commercial, industrial, and residential electric service customers, (iii) the effectiveness and necessity of incentives awarded to electric distribution and gas distribution companies pursuant to Chapter 169 of the Acts of 2008, (iv) the economic impact of residential, commercial and industrial construction requirements for green communities, established pursuant to section 10 of chapter 25A, on municipalities that qualify as a green community, (v) the electricity cost implications and associated economic impact of scheduled and projected investments in smart meter technology and transmission infrastructure, (vi) the electricity cost implications and associated economic impact of scheduled increases in demand resources, aggregate net metering capacity, and renewable energy capacity, specifically scheduled and projected installations of wind and solar capacity, (vii) the structure of the regional wholesale electricity market and its impact on retail electricity costs, and (viii) the overall impact of the Commonwealth's energy and electricity policies on economic growth in the Commonwealth, specifically net job creation and business development, establishment, and retention.
- (d) (1) The commission shall consult with electric distribution companies, natural gas distribution companies, green businesses residing in the Commonwealth, and other interested parties, providing at least one opportunity for public comment, as well as the public review of the commission's annual draft report prior to filing the report with the legislature.
- (2) The commission shall convene its first meeting within 45 days of the passage of this Act and shall file its first report, along with any recommendations for legislative or regulatory reforms deemed necessary to effectuate the changes outlined in subsection (a), with the clerk of the house and the clerk of the senate, and with the house and senate chairs of the joint committee on telecommunications, utilities and energy, within 180 days of the commission's first meeting. All subsequent annual reports shall be filed by the commission no later than December 31 of each year.
- (e) Joint committees of the general court and the house and senate committees on ways and means when reporting favorably on bills referred to them that will amend or modify the commonwealth's energy and electricity policies, shall include a review and evaluation conducted by the commission pursuant to this section.
- (f) (1) Upon request of a joint standing committee of the general court having jurisdiction or the committee on ways and means of either branch, the commission on energy policy and electricity cost reduction shall conduct a review and evaluation of proposed amendments or modifications to the commonwealth's energy and electricity policies, in consultation with relevant state agencies, and shall report back to the joint standing committee or committee on ways and means within 90 days of the request.
- (2) The commission's review and report on proposed changes shall include a detailed evaluation and explanation of the potential environmental and economic impacts of said changes on residents and businesses in the commonwealth, as well as the impact of said changes on electricity reliability. In so doing, the report shall address, at minimum the impact of proposed changes on: (i) business development and retention in the commonwealth, (ii) net job creation, (iii) the costs associated with energy programs funded, in whole or in part, by the commonwealth, particularly programs established pursuant to chapter 169 of the acts of 2008, (iv) the cost of electricity for commercial, industrial, and residential customers, and (v) electricity reliability.
- (3) No change in energy or electricity policy shall be implemented until such a review has been undertaken and a report filed with the legislature pursuant to this section.
- (4) The party or organization on whose behalf the bill was filed shall provide the commission on energy policy and electricity cost containment with any economic cost, electricity cost, electricity reliability, or environmental impact data that they have. All interested parties supporting or opposing the bill shall provide the commission on energy policy and electricity cost containment with any information relevant to the commission's review."

After remarks, the amendment was rejected.

Ms. Spilka moves to amend the bill (Senate Bill 2350), in section 10B of chapter 23A, as inserted by section 8, by inserting after the word "partnerships", in line 105, the following:- "and developing science, technology, engineering and math curricula in elementary, secondary and higher education in the commonwealth"; and in section 8 by inserting after the word "workforce", in line 111, the following words:- " , encouraging students to engage in science, technology, engineering and math curricula that prepares them for advanced manufacturing careers,".

The amendment was rejected.

Ms. Spilka moves to amend the bill (Senate Bill 2350), in section 7, by inserting after the word “programs”, in line 73, the following: - “, including information on the regional economic development organizations under the program established by section 3J and 3K of chapter 23A”; and in section 7 by striking out clause (7) and inserting in place thereof the following two clauses:-

- “(7) information on workers’ compensation laws, unemployment insurance laws, and the health insurance obligations and options for employers; and
- (8) other information and resources, as determined by the director of business development.”

The amendment was adopted.

Ms. Spilka moved that the bill be amended by inserting after the word “Collaborative”, in line 214, the following words:- “the Massachusetts Technology Transfer Center.”.

After remarks, the amendment was adopted.

Mr. Tarr moved that the bill be amended by inserting after section \_ the following Section:-

“SECTION \_ . Subsection (2) of section 95 of chapter 173 of the acts of 2008 is hereby amended by striking out the figure “2014”, inserted by section 95 of chapter 139 of the acts of 2012, and inserting in place thereof the following figure:- 2013”

After debate, the amendment was rejected.

Ms. Spilka moves to amend the bill (Senate Bill 2350), in SECTION 4, by inserting at the end thereof the following new line item:-

“xxxx-xxxx For a pilot program to assist the training, placement and development of a professional, proficient and technically competent workforce that will support the existing and emerging staffing and labor needs of the Massachusetts public transportation sector; provided, that such program shall be established and operated by the MetroWest Regional Transit Authority (MWRTA); provided further, that said Authority shall work with agencies and organizations and public higher education institutions that have developed expertise and documented successful outcomes in job training and placement, including curriculum, coursework and practical application skills development; and provided further, that such program shall provide special outreach to veterans and to diverse populations in the MetroWest region that have mobility and transportation challenges, including people with certain disabilities, the economically disadvantaged, cultural and linguistic minorities and others  
.....\$100,000”

The amendment was rejected.

Messrs. Finegold and Rodrigues moved that the bill be amended by inserting after section 50 the following sections:-

“SECTION 50A. Paragraph (2) of subsection (a) of section 14 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words “employer’s total taxable payroll for the period of twelve consecutive months ending on” and inserting in place thereof the following words:- average of the employer’s total taxable payroll for the 3 years prior to.

SECTION 50B. Said paragraph (2) of subsection (a) of section 14 of chapter 151A of the General Laws is hereby further amended by striking out, in lines 49, 50 and 51, the words “total taxable payrolls reported by all employers whose experience rate is determined under paragraph (1) of subsection (i), for the period of twelve consecutive months ending on” and inserting in place thereof the following words:- average of the total taxable payrolls reported by all employers whose experience rate is determined under paragraph (1) of subsection (i), for the 3 years preceding.

SECTION 50C. Said paragraph (2) of subsection (a) of section 14 of chapter 151A of the General Laws is hereby further amended by striking out, in lines 55 and 56, the words “total payrolls reported by all employers liable for contributions under section fourteen for the calendar year” and inserting in place thereof the following words:- the average of the total payrolls reported by all employers liable for contributions under section 14 for the 3 years.

SECTION 50D. Paragraph (1) of subsection (h) of said section 14 of chapter 151A is hereby amended by striking out, in lines 166 and 167, the words “The commissioner shall determine each employer’s total taxable wages for the twelve months” and inserting in place thereof the following words:- The commissioner shall determine the average of each employer’s total taxable wages for the 3-year

SECTION 50E. Paragraph (2) of said subsection (h) of section 14 of chapter 151A is hereby amended by striking out, in lines 174, 175 and 176, the words “commissioner shall determine the total taxable wages of all employers in the commonwealth, whose experience rate is determined under paragraph (1) of subsection (i) during the calendar year” and inserting in place thereof the following words:- commissioner shall determine the average of the total taxable wages of all employers in the commonwealth, whose experience rate is determined under paragraph (1) of subsection (i) for the 3-year period.

SECTION 50F. Subsection (i) of section 14 of said chapter 151A, as appearing in the 2006 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) With respect to calendar years beginning on or after January 1, 2013, the experience rate of an employer qualifying therefor under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:

EXPERIENCE RATE TABLE

UNEMPLOYMENT COMPENSATION FUND RESERVE PERCENTAGE

”

A B C D E F G

1.75% and over 1.6% or

more

but  
less  
than  
1.75% 1.4%

or  
more  
but  
less  
than  
1.6% 1.1%

or  
more  
but  
less  
than  
1.4% 0.8%

or  
more  
but  
less  
than  
1.1% 0.5%

or  
more  
but  
less  
than  
0.8% less  
than  
0.5

Employer Account  
Reserve Percentages

#### Negative Percentage

23 or more 9.40 10.53 11.79 13.21 14.79 16.57 18.55  
21 but less than 23.0 9.00 10.08 11.29 12.64 14.16 15.86 17.76  
19 but less than 21.0 8.60 9.68 10.79 12.08 13.53 15.16 16.97  
17 but less than 19.0 8.20 9.18 10.29 11.52 12.90 14.45 16.19  
15 but less than 17.0 7.80 8.74 9.78 10.96 12.27 13.75 15.40  
13.0 but less than 15.0 7.40 8.29 9.28 10.40 11.64 13.04 14.61  
11.0 but less than 13.0 7.00 7.84 8.78 9.83 11.01 12.34 13.82  
9.0 but less than 11.0 6.60 7.39 8.28 9.27 10.39 11.63 13.03  
7.0 but less than 9.0 6.20 6.94 7.78 8.71 9.76 10.93 12.24  
5.0 but less than 7.0 5.80 6.50 7.28 8.15 9.13 10.22 11.45  
3.0 but less than 5.0 5.40 6.05 6.77 7.59 8.50 9.52 10.66  
1.0 but less than 3.0 5.00 5.60 6.27 7.02 7.87 8.81 9.87  
0.0 but less than 1.0 4.60 5.15 5.77 6.46 7.24 8.11 9.08

#### Positive Percentage

0.0 but less than 0.5 3.90 4.37 4.89 5.48 6.14 6.87 7.70  
0.5 but less than 1.0 3.80 4.26 4.77 5.34 5.98 6.70 7.50  
1.0 but less than 1.5 3.70 4.14 4.64 5.20 5.82 6.52 7.30  
1.5 but less than 2.0 3.60 4.03 4.52 5.06 5.66 6.34 7.11  
2.0 but less than 2.5 3.50 3.92 4.39 4.92 5.51 6.17 6.91  
2.5 but less than 3.0 3.40 3.81 4.26 4.78 5.35 5.99 6.71  
3.0 but less than 3.5 3.30 3.70 4.14 4.64 5.19 5.82 6.51  
3.5 but less than 4.0 3.20 3.58 4.01 4.50 5.04 5.64 6.32  
4.0 but less than 4.5 3.10 3.47 3.89 4.36 4.88 5.46 6.12  
4.5 but less than 5.0 3.00 3.36 3.76 4.21 4.72 5.29 5.92  
5.0 but less than 5.5 2.90 3.25 3.64 4.07 4.56 5.11 5.72  
5.5 but less than 6.0 2.80 3.14 3.51 3.93 4.41 4.93 5.53

6.0 but less than 6.5 2.70 3.02 3.39 3.79 4.25 4.76 5.33  
6.5 but less than 7.0 2.60 2.91 3.26 3.65 4.09 4.58 5.13  
7.0 but less than 7.5 2.50 2.80 3.14 3.51 3.93 4.41 4.93  
7.5 but less than 8.0 2.40 2.69 3.01 3.37 3.78 4.23 4.74  
8.0 but less than 8.5 2.30 2.58 2.89 3.23 3.62 4.05 4.54  
8.5 but less than 9.0 2.20 2.46 2.76 3.09 3.46 3.88 4.34  
9.0 but less than 9.5 2.10 2.35 2.63 2.95 3.30 3.70 4.15  
9.5 but less than 10.0 2.00 2.24 2.51 2.81 3.15 3.52 3.95  
10.0 but less than 10.5 1.90 2.13 2.38 2.67 2.99 3.35 3.75  
10.5 but less than 11.0 1.80 2.02 2.26 2.53 2.83 3.17 3.55  
11.0 but less than 11.5 1.70 1.90 2.13 2.39 2.67 3.00 3.36  
11.5 but less than 12.0 1.60 1.79 2.01 2.25 2.52 2.82 3.16  
12.0 but less than 12.5 1.50 1.68 1.88 2.11 2.36 2.64 2.96  
12.5 but less than 13.0 1.40 1.57 1.76 1.97 2.20 2.47 2.76  
13.0 but less than 13.5 1.30 1.46 1.63 1.83 2.05 2.29 2.57  
13.5 but less than 14.0 1.20 1.34 1.51 1.69 1.89 2.11 2.37  
14.0 but less than 15.0 1.00 1.12 1.25 1.40 1.57 1.76 1.97  
15.0 but less than 16.0 0.90 1.01 1.13 1.26 1.42 1.59 1.78  
16 but less than 17.0 0.80 0.90 1.00 1.12 1.26 1.41 1.58  
17 but less than 18.0 0.70 0.78 0.88 0.98 1.10 1.23 1.38  
18 but less than 19.0 0.60 0.67 0.75 0.84 0.94 1.06 1.18  
19 but less than 20.0 0.50 0.56 0.63 0.70 0.79 0.88 0.99  
20 but less than 25.0 0.40 0.45 0.50 0.56 0.63 0.70 0.79  
25 but less than 30.0 0.30 0.34 0.38 0.42 0.47 0.53 0.59  
30 but less than 35.0 0.20 0.22 0.25 0.28 0.31 0.35 0.39  
35.0 or more 0.10 0.11 0.13 0.14 0.16 0.18 0.20

and by further inserting, after section 81, the following section:-

SECTION 81A. Sections 50A through 50F, inclusive, shall take effect January 1, 2013.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after Section \_\_, the following new Section:-

“SECTION \_\_. Section 2WWW of chapter 29 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (g), as so appearing, the following subsection:-

(g<sup>1/2</sup>) A portion of the grant fund shall be used to address the current and future labor force needs of the commonwealth by supporting a Finish-Line Scholarship Program to provide scholarships to cover the entire cost of tuition and fees for the last year leading to an associate or bachelor’s degree at a Massachusetts public college or university to residents of the Commonwealth in need of financial assistance. The council shall establish guidelines governing the program which shall include, but not be limited to, eligibility requirements and selection criteria, including requiring that the applicant show proof of eligibility to graduate by the end of the scholarship year and has, with exceptions granted for illness, military service or other valid reasons, been a student in good standing continuously since first enrolling in a public college or university; provided, further, that no funds from this scholarship program may be used to pay the tuition or fees for any course or program offered or administered by a non-public entity and that no student shall be eligible to receive a scholarship from this program more than one time. If funds appropriated for this program are insufficient to cover its costs, the council shall develop a pilot program that will provide assistance to a subset of the eligible students.”

The amendment was rejected.

Ms. Spilka moves to amend the bill (Senate Bill 2350), in section 10B of chapter 23A, as inserted by SECTION 8, by inserting after the word “governor”, in line 98, the following:- “2 representatives of advanced manufacturing companies appointed by the governor;”

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking Section 73 in its entirety and inserting in place thereof the following:-

“SECTION 73. Notwithstanding any general or special law to the contrary, the University of Massachusetts Building Authority may enter into long-term leases for the purposes of alleviating educational space overcrowding at university campuses and for the purpose of stimulating economic development. The University of Massachusetts Building Authority shall report annually to the house and senate committees on ways and means a list of any square footage leased under this section, the educational programs offered in that square footage and the economic development projects leveraged by the individual leases in each municipality.”

The amendment was adopted.

Messrs. Rodrigues and Joyce moves to amend the bill (S. 2350) by inserting the following new section:-

“SECTION \_\_. Section 19 of Chapter 186 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word, “agreement”, the following words :- “for residential use”.

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after Section \_\_\_, the following new Section:-

“SECTION \_\_\_. Section 67D of chapter 62C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (g) the following new sections:-

(h) when used in section (i)-(n), the following words shall have the following meaning:

“Application year”, the calendar year for which a small business submits the information required for a determination as to a jobs incentive credit.

“Small business”, a business entity physically located in Massachusetts and employing fewer than 100 workers; provided, not less than 51 per cent of the workers are residents of Massachusetts.

“Commissioner”, the commissioner of revenue.

“Eligible Jobs”, a number determined by first multiplying each of the local jobs created by a small business during a single calendar year by the job qualifier for that job, and then totaling the number for all of the local jobs created.

“Full time employee”, a person who is employed for consideration for at least 35 hours per week and whose salary is subject to withholding as provided in chapter 62B.

“Job qualifier fraction”, in the case of either a full-time employee or a part-time employee of a small business, the figure that determines the extent to which that employee is employed in the commonwealth during a single calendar year. The job qualifier fraction for each employer shall be determined by multiplying the following percentages together: (i) the percentage of time that an employee worked while employed by the company expressed as average hours worked per week out of 35 hours, not to exceed 100 per cent; (ii) that employee’s time attributable to work in the commonwealth, as a portion of that employee’s total work for the company; and (iii) the portion of the year the employee worked for the company.

“Jobs incentive credit”, a small business employment incentive credit for companies as provided for in this section.

“Local jobs created”, the total number of jobs created by a small business during a single calendar year in which the new employees perform qualified services in at least 1 in-state location, including jobs performed by persons that are transferred within the company to work at an in-state location from a location based outside the state.

“Part-time employee”, a person who is employed for consideration for less than 35 hours a week and whose salary is subject to withholding as provided in chapter 62B.

“Credit years”, in the case of a small business that is determined to be eligible for a jobs incentive credit, the 3 calendar years following the application year.

“Weighted, average employment”, for a calendar year, the total number of jobs maintained by a small business in which the employees performed employment services in at least 1 in-state location. The number is to be determined by first multiplying each of the individual jobs maintained by the company for that year by the job qualifier fraction for that job and then totaling the number for all of these jobs.

(i) A small business that creates an eligible job in the commonwealth during its application year shall be entitled to a jobs incentive credit, spread equally over three calendar years, if its weighted average employment for such application year reflects a net increase over the company’s weighted average employment for the prior calendar year. The total jobs incentive credit shall be equal to 50 per cent of the amount paid by the company as salary attributable to eligible jobs created by the company in such year to the extent that the salary was subject to Massachusetts withholding pursuant to chapter 62B for such year, multiplied by the applicable Massachusetts income tax rate for such salary, and such credit shall be applied toward the company’s liability imposed by Chapter 62B, Section 2. A company shall take a jobs incentive credit for no more than 50 jobs created over its weighted average employment for the prior calendar year. For companies creating greater than 50 jobs over the weighted average employment for the prior calendar year, the total tax credit, which will be taken in three equal installments subject to the terms and conditions in the following sections, shall be determined by the salary of the first 50 eligible jobs created. For the purposes of this provision, an eligible job shall be deemed created in the commonwealth on the first day for which Massachusetts withholding is required in connection with the compensation paid to the employee.

(j) The jobs incentive credit shall be taken by a small business in 3 equal installments in each of the 3 calendar years commencing with the calendar year subsequent to the application year. If, for the first or second credit year, the company’s weighted average employment falls below its weighted average for the application year, the company shall be disqualified from taking its second installment credit. It may nonetheless take its third installment credit if its weighted average employment for its second credit year is above its weighted average employment for the application year.

(k) A company that seeks a jobs incentive credit shall apply to the commissioner to receive permission to take such a credit on a form prescribed by the commissioner. This form shall reference the necessary information concerning the eligible jobs created by the company in the Commonwealth during the application year and also the company’s weighted average employment for such year and the prior calendar year. The commissioner shall advise the company of the determination in writing.

(l) Not later than March 1 of each calendar year for which a company has been approved to take a job incentives credit, the company shall submit to the commissioner, in a form prescribed by the commissioner, the information necessary to evaluate the company’s prior year weighted employment average.

(m) A company that has previously been approved to take a job incentive credit is entitled to re-apply for an additional credit for a second or third application year. In such cases, the company may be entitled to take a job incentive credit that relates to different application years in the same calendar year. When a company has previously been granted permission to take a jobs incentive credit for 3 application years, it shall not request an additional jobs incentive credit. In no case shall a company take a jobs incentive credit after June 30, 2016, when all provisions in (i)-(m) shall sunset and no longer be in effect.

(n) Following the termination of the job creation tax credit program, the commissioner of the department of revenue, in

consultation with one or more institutes of higher learning, shall conduct a cost benefit analysis of said program, which shall take into consideration the total number of permanent in-state jobs created under the program, the total amount of tax credits provided, and any other factors that would be useful in measuring the success of the program. The commissioner shall prepare a report on the findings, which shall be filed with the clerk of the house of representatives and the clerk of the senate, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on revenue no later than September 30, 2016. Said report shall include the commissioner's findings as to the feasibility of extending the job creation tax credit program beyond the sunset date, along with any recommendations for revising the program to make it more effective in enhancing the creation of jobs."

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after Section \_\_, the following new Section:-

"SECTION \_\_. Section 6 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended, in subsection (l), in line 499, by inserting after the word "music;" the following:- catering services;"

The amendment was rejected.

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

"SECTION \_\_. Notwithstanding any general or special law to the contrary, a moratorium on any new mandated health benefit shall exist until December 31, 2013."

After remarks, the amendment was rejected.

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

"SECTION \_\_. The auditor of the commonwealth is hereby authorized and directed to conduct an audit of the executive office of labor and workforce development's methodology for determining monthly state employment figures. Said audit shall include, but not be limited to, a review of the current job-counting methodology as it relates to the job-counting methodology utilized by the Bureau of Labor Statistics within the U.S. Department of Labor to compile monthly employment estimates. Said audit shall be filed with the clerk of the house, the clerk of the senate, and the house and senate chairs of the joint committee on labor and workforce development no later than October 31, 2012, along with any recommendations for legislative action to ensure the accuracy of efficacy of the job-counting methodology employed by the commonwealth."

The amendment was rejected.

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

"SECTION \_\_. Notwithstanding any general or special law to the contrary, the Health Connector Board shall not implement any new health care mandate without first providing written notification to the General Court at least 90 days in advance of the proposed new mandate's effective date. Said notification shall be submitted to the clerk of the house and the clerk of the senate, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on health care financing."

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking Section 69 in its entirety and inserting in place thereof the following section:-

"SECTION 69. Section 171 of said chapter 240 is hereby amended by striking out, in lines 4 and 5, the words "\$25,000,000 and not more than \$50,000,000 in banks or financial institutions which make capital available to small businesses" and inserting in place thereof the following words:- \$50,000,000 and not more than \$100,000,000 in banks, financial institutions or other investment funds which make capital available to small businesses and student-operated businesses".

The amendment was rejected.

Mr. Montigny moves to Amend the bill, S. 2350, in section 2, by inserting after the words "General Laws", the following:-; provided further that the University of Massachusetts School of Marine Science and Technology ( S Mast) shall receive a grant of no less than \$1,000,000 to (i) promote the development of advanced marine industries including but not limited to marine renewable energy industries through supporting technical assistance to small and medium sized marine related manufacturers and business entities, (ii) foster collaboration and linkages between S Mast ,marine renewable energy manufacturers and other related businesses, (iii) advance marine related workforce development initiatives through training, and educational programs including certificate programs and (iv) encourage development of innovative products, materials and technologies by marine related manufacturers including marine renewable energy businesses through the transfer of technological innovations and partnerships between the S Mast and marine manufacturers including marine renewable energy businesses (v) provide technical assistance to small and medium sized marine related businesses (vi) education individuals and businesses about opportunities within the marine renewable energies technology field, and (vii) fostering foster academic and industry collaboration, including encouraging technology transfer and commercialization efforts between non for profit research institutions, S Mast, laboratories and marine related manufacturers.

The amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting after section \_\_ the following new section:-

"SECTION \_\_. Section 31L of chapter 63 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection C the following new subsection:-

(c) ( 1/2) There shall be allowed to any medical device company as a credit against the tax liability imposed under this chapter an

amount equal to half of the excise tax imposed on the sale of medical devices in Section 4191 of Subchapter E of Subchapter A of Chapter 32 of the Internal Revenue Code, imposed pursuant to the Patient Protection and Affordable Care Act.”.

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after Section \_\_\_, the following three sections:-

“SECTION \_\_\_. Section 188 of chapter 149 of the General Laws, as most recently amended by chapter 3 of the Acts of 2011, is hereby further amended in the definition of “Employee” by inserting, after the word “individual” the following words:- ,who is a resident of the commonwealth,

SECTION \_\_\_. Section 188 of chapter 149, as appearing in the 2010 Official Edition, is hereby further amended by striking, in line 19, the number “11” and inserting in place thereof the following: 50

SECTION \_\_\_. Subsection (c) of section 188 of said chapter 149 is hereby amended by inserting at the end thereof the following paragraph:

(11) For the purpose of the fair share contribution compliance test, an employer may count employees that have qualifying health insurance coverage from a spouse, a parent, a veteran’s plan, Medicare, Medicaid, or a plan or plans due to a disability or retirement towards their qualifying take-up rate as a “contributing employer”, as defined by the Division of Health Care Finance and Policy. The employer is still required to offer group medical insurance and must keep and maintain proof of their employee’s insurance status.”

The amendment was rejected.

Messrs. Tarr, Knapik, Ross and Timilty move to amend the bill (Senate, No. 2350) by inserting, after section \_\_\_, the following new sections:-

“SECTION \_\_\_. Chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after section 6, the following:-

Section 6A. The commissioner of revenue is hereby authorized and directed to annually designate, by July 15 of each calendar year, a two-day weekend in August during which no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of this chapter, but for the purposes of this section, tangible personal property shall not include telecommunications, gas, steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

For the days designated by the commissioner pursuant to the provisions of this section, a vendor in the commonwealth shall not add to the sales price or collect from any non-business purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of this chapter. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of tangible personal property purchased on said designated days. Any excise erroneously or improperly collected during the designated days shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500.

When choosing the designated days, the commissioner shall take into consideration the observance of any religious and secular days of observation occurring therein; provided further, that the commissioner shall designate such days so as to maximize the economic benefit to the commonwealth.

Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days designated by the commissioner.

On or before December 31 of each year, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, because of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under this chapter which would have been deposited in each fund, without this act.

The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.”

The amendment was rejected.

Ms. Jehlen and Mr. Eldridge moved that the bill be amended by striking section 71.

The amendment was rejected.

Mr. McGee, Ms. Clark and Ms. Creem moved that the bill be amended by inserting the following new section:-

“SECTION \_\_\_ The General Laws are hereby amended by inserting after chapter 149, section 147H the following section:-

a) Any individual who has an independently established business as (1) a freelance writer, editor, proofreader or indexer in the publishing industry who works out of his or her own residence, or (2) an artist, whose work constitutes intellectual property to which copyright laws apply and who works out of his or her own residence or studio shall be exempt from the requirements of M.G.L. c. 149, § 148B(2) for purposes of M.G.L. c. 149 and M.G.L. c. 151. This exception applies only to the individual freelancer or artist and not to anyone working with or for that person.

b) The exception from the requirements of M.G.L. c. 149, § 148B for purposes of M.G.L. c. 149 and M.G.L. c. 151 provided in paragraph a of this section shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent business for an employer for purposes of evading M.G.L. c. 149 or M.G.L. c. 151.”

Pending the question on adoption of the amendment Mr. Rodrigues moved that the amendment (McGee et al) be amended by striking the text and inserting in place thereof the following:-

by inserting the following section:-

SECTION \_\_. Chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 148B and inserting in place thereof the following section:-

Section 148B. (a) For the purpose of this chapter and chapter 151, an individual performing any service, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:—

- (1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and
  - (2) the service is performed outside the usual course of the business of the employer; and,
  - (3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed; or
  - (4) the individual has an independently established business as (1) a freelance writer, editor, proofreader or indexer in the publishing industry who works out of his or her own residence, or (2) an artist, whose work constitutes intellectual property to which copyright laws apply and who works out of his or her own residence or studio. This exception applies only to the individual freelancer or artist and not to anyone working with or for that person; or
  - (5) the individual is a party to a franchise agreement under which a person or entity licenses or authorizes the individual to sell products or services in accordance with prescribed methods and procedures and under service marks, trademarks, trade names and other intellectual property licensed under such agreement shall not be considered an employee of the person or entity that grants the license or authorization. For purpose of this section, franchise shall have the meaning given to it by the Federal Trade Commission; or
  - (6) the individual has a license issued by the commonwealth and performs services as part of a program funded by the commonwealth and who is customarily engaged in an independently established trade, occupation, profession or business shall not be considered an employee of the commonwealth or any entity which has a contract with the commonwealth to administer or provide support services for the program; or
  - (7) the individual provides foster care services for children or adults in his or her own residence and who is licensed or authorized by an agency of the commonwealth or a private placement agency on behalf of the commonwealth, including the department of children and families and the department of developmental services.
- (b) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.
- (c) An individual's exercise of the option to secure workers' compensation insurance with a carrier as a sole proprietor or partnership pursuant to subsection (4) of section 1 of chapter 152 shall not be considered in making a determination under this section.
- (d) Whoever fails to properly classify an individual as an employee according to this section and in so doing fails to comply, in any respect, with chapter 149, or section 1, 1A, 1B, 2B, 15 or 19 of chapter 151, or chapter 62B, shall be punished and shall be subject to all of the criminal and civil remedies, including debarment, as provided in section 27C of this chapter. Whoever fails to properly classify an individual as an employee according to this section and in so doing violates chapter 152 shall be punished as provided in section 14 of said chapter 152 and shall be subject to all of the civil remedies, including debarment, provided in section 27C of this chapter. Any entity and the president and treasurer of a corporation and any officer or agent having the management of the corporation or entity shall be liable for violations of this section.
- (e) Nothing in this section shall limit the availability of other remedies at law or in equity.
- (f) This section shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent contractor relationship.

After debate, the further amendment (Rodrigues) was rejected.

The pending amendment (McGee et al) was then considered, and it was adopted.

Messrs. Michael O. Moore and Rodrigues moved that the bill be amended by inserting, after section \_\_\_\_, the following new section:-

SECTION \_\_. Section 188 of chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following subsections:-

- (f) The Division of Unemployment Assistance and the Division of Health Care Finance and Policy may waive or mitigate an employer's Fair Share Contributions, fines, interest, and related fees.
- (g) Pending an appeal decision, the Division of Unemployment Assistance shall not continue to accrue or collect interest, penalties or fees on the Fair Share Contribution.
- (h) DUA or any entity of the Commonwealth shall not take any funds out of an employer's bank account if the employer has filed a FSC appeal or is in the process of mediation and is awaiting a decision.
- (i) The Division of Unemployment Assistance's help center staff shall not request identifying information from an employer that is seeking assistance from the Division of Unemployment Assistance helpline nor shall the staff share customer information with the audit department staff. No information recorded by the helpline may be used in an audit proceeding or be used to initiate an audit.
- (j) An employer aggrieved by a determination of the Director with respect to its liability for the fair share employer contribution or with respect to the amount it must pay may appeal such determination within 60 days and in the form and manner as specified by the Division of Unemployment Assistance.
- (k) Upon completion of a hearing on an appeal with respect to an employer's liability for the fair share employer contribution or to the amount it must pay, the Division of Unemployment Assistance shall render a written decision within 90 days for an

employer with more than 50 full-time equivalent employees and within 30 days for an employer with 50 or fewer full-time equivalent employees.

The amendment was adopted.

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

“SECTION XX.

SECTION 1. Chapter 90F of the General Laws is hereby amended by inserting at the end thereof the following new section:-

Section 17. Bona fide corporations

(a) An individual or business entity that provides a motor vehicle and the services of a driver under a written contract that is subject to 49 CFR Part 376 to a motor carrier is not an employee of the motor carrier for the purposes of Chapters 149, 62B, 151, 151A and 152, provided that the individual or business entity:

(1) Meets the requirements of Chapter 149, section 148B(a);

(2) Meets the requirements of Chapter 151A, section 2: or

(3) Operates by means of a bona fide corporation.

(b) A corporation is deemed bona fide if it is shown that:

(1) Articles of incorporation have been filed by the corporation;

(2) The corporation is in good standing with the Secretary of the Commonwealth;

(3) The corporation includes services rendered on a federal and applicable state income tax schedules as an independent business or profession;

(4) The corporation reports its employees' income to the Internal Revenue Service and the Massachusetts Department of Revenue; and

(5) The corporation complies with federal and state tax, unemployment insurance, workers' compensation insurance, and labor and employment law obligations with respect to its personnel.”

After remarks, the amendment was rejected.

Ms. Jehlen moved that the bill be amended by striking section 70.

The amendment was rejected.

Messrs. Knapik and Tarr moves to amend the bill (Senate, No. 2350) by inserting at the end thereof, the following new section:-

“SECTION \_\_. There shall be a special commission to conduct an investigation and study of the activities and efficacy of the adjudication of unemployment insurance claims by the department of unemployment assistance under the executive office of labor and workforce development. The commission shall consist of 11 members: 2 members who shall be appointed by the state auditor, both of whom shall have experience with the adjudication of unemployment disputes, and 1 of whom shall serve as chair; 2 members of the senate, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; 2 members of the house of representatives, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader of the house; the director of the department of unemployment assistance, or a designee; the president of the Massachusetts taxpayer's foundation, or a designee; the executive vice-president of the AFL-CIO, or a designee; the executive vice-president of associated industries of Massachusetts, or a designee; and the executive director of the Massachusetts municipal association, or a designee.

The study shall include, but not be limited to, an analysis of: (1) the number of claims received by the department quarterly since January 1, 2008 and the resulting status of all claims, including any information pertinent to the description of the status of said claims, including, but not limited to (i) the results of all initial determinations of claims, (ii) the results of any appeals resulting from said initial determination, (iii) the number of rulings reversed through the appeals and review process, (iv) the number of claims arising from the provisions of subdivisions (1) and (2) of subsection e of section 25 of chapter 151A, and (v) the number of claims settled in favor of the claimant and in favor of the employer; (2) the average length of time of the appeals and review process of a claim from initial determination to final disposition; (3) the procedures through which the department hires and trains new employees to implement the provisions of sections 39 through 41, inclusive, of chapter 151A, including a determination as to whether or not employment procedures have been followed pursuant to section 9K of chapter 23.

The study shall also include the recommendations of the commission relative to: (1) procedures through which the department may produce a quarterly report, to be posted on the department's website, of the number of active claims and the status of said claims; (2) procedures through which any current backlog of cases may be fairly and efficiently resolved and avoided in future department proceedings; (3) procedures through which oversight and quality control principles may be implemented to ensure the continuing prompt, equitable, and transparent application of current law by the commissioner and the board of review; (4) a complete review of current statute and regulations relative to the implementation of chapter 151A and any recommendations as to possible legislative reform and streamlined procedures, including, but not limited to, recommendations and procedures for the uniform and effective implementation of section 25 of chapter 151A.

The commission may request from all state agencies such information and assistance as the commission may require. The commission shall report the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives, who shall forward the same to the joint committee on public health and the house and senate committees on ways and means on or before December 31, 2013.”

The amendment was adopted.

Mr. Keenan moves to amend the bill (Senate, No. 2350), in section 11, by striking out, in lines 456 and 457, the words “or industrial” and inserting in place thereof the following words:- “, industrial, residential or mixed use”.

The amendment was adopted.

Mr. Wolf moves to amend the bill (Senate, No. 2350) by inserting, in line 506, after the word “zone” the following words: - “and the regional planning agency;”; by striking out, in line 526, the word "and"; and by inserting, in line 529, after the word, "facilities: the following words: - “; and (3) provided that no municipality which is subject to the jurisdiction of a regional planning agency with regulatory authority shall vote on a petition to establish the development zone and the improvement plan without first receiving the approval of the designation from the regional planning agency in writing.”.

The amendment was adopted.

Ms. Chang-Díaz, Ms. Jehlen, Ms. Fargo, and Messrs. Eldridge, DiDomenico, and McGee moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION \_\_. There is hereby established a commission on vocational-technical education in the twenty first century, to investigate and study the feasibility of authorizing public vocational-technical high schools to award post-secondary associates degrees. The commission shall consist of 14 members: the secretary of education or the secretary’s designee who shall serve as chair of the commission; 2 members of the house of representatives, to be appointed by the speaker of the house; 2 members of the senate, to be appointed by the senate president; 4 members to be appointed by the Massachusetts Association of Vocational Administrators; 3 individuals to be appointed by the governor; the commissioner of higher education or a designee; and the commissioner of workforce development or a designee. The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with any drafts of legislation necessary to carry out such recommendations, by filing the same with the clerks of the senate and house who shall forward the same to the chairs of the joint committee on education on or before December 31, 2012.”

The amendment was rejected.

Recess.

At two minutes past nine o’clock P.M., at the request of Mr. Tarr, for the purpose of a minority party caucus, the President declared a recess; and, at twenty minutes past nine o’clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

The House Bill relative to infrastructure investment, enhanced competitiveness and economic growth in the Commonwealth (House, No. 4119),-- was further considered, the main question being on ordering it to a third reading.

At twenty minutes past nine o’clock P.M., Mr. Tarr doubted the presence of a quorum; and, a count of the Senate determined that a quorum was not present.

Subsequently, at twenty-two minutes past nine o’clock P.M., the President declared that a quorum was present.

Messrs. Tarr, Hedlund, Knapik, Ross and Timilty move to amend the bill (Senate, No. 2350) by inserting, after Section \_\_, the following new Sections:-

“SECTION \_\_. Section 2 of chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the words “6.25 per cent” and inserting in place thereof the words “5.6 per cent”, effective August 1, 2013.

SECTION \_\_. Section 2 of said chapter 64H, as so appearing, is hereby amended by striking the words “6.25 per cent” and inserting in place thereof the words “5 per cent”, effective August 1, 2014.

SECTION \_\_. Section 2 of Chapter 64I of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the words “6.25 per cent” and inserting in place thereof the words “5.6 per cent”, effective August 1, 2013.

SECTION \_\_. Section 2 of said chapter 64I, as so appearing, is hereby amended by striking the words “6.25 per cent” and inserting in place thereof the words “5 per cent”, effective August 1, 2014.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at a half past none o’clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 5 — nays 31) [Yeas and Nays No. 258]:

#### YEAS

Hedlund, Robert L.

Tarr, Bruce E.

Knapik, Michael R.

Timilty, James E. — 5.

Ross, Richard J.

#### NAYS

Brewer, Stephen M.

Joyce, Brian A.

Brownsberger, William N.

Keenan, John F.

Candaras, Gale D.	Kennedy, Thomas P.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Moore, Richard T.
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.	Rush, Michael F.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Welch, James T.
Flanagan, Jennifer L.	Wolf, Daniel A. — <b>31.</b>
Jehlen, Patricia D.	

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

Berry, Frederick E.	Hart, John A., Jr.— <b>2.</b>
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The yeas and nays having been completed at twenty-seven minutes before ten o'clock P.M., the amendment was rejected.

Mr. Tarr moves to amend the bill (Senate, No. 2350) by inserting, after Section \_\_, the following new Section:-  
 “SECTION \_\_. Chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking Section 4(b) in its entirety and inserting in place thereof the following:-  
 Section 4(b) “Part B taxable income shall be taxed at the rate of 5.3 per cent for tax years beginning on or after January 1, 2002; provided however that Part B taxable income shall be taxed at:  
 5.2 per cent for the tax year beginning on January 1, 2013;  
 5.1 per cent for the tax year beginning on January 1, 2014; and  
 5.0 per cent for tax years beginning on or after January 1, 2015.”

After remarks, the amendment was rejected.

Mr. Brewer moved that the bill be amended in section 10, in proposed section 46, by striking out the definition of “Department” and inserting in place thereof the following 3 definitions:-

“‘Agency’, the Massachusetts Development Finance Agency established in chapter 23G.

“‘Department”, the department of public utilities established in section 1 of chapter 25.

“EEAC”, the energy efficiency advisory council established in section 22 of chapter 25.”; and  
in said Section 10, by inserting after the word “borrower”, in line 261, the following words:- “calculated to produce lifetime cost savings in excess of its cost”; and  
in said Section 10, by striking out, in line 383, the word “bond” and inserting in place thereof the following word:- “policy”; and  
in said Section 10, by striking out, in line 386, the word “authority” and inserting in place thereof the following word:- “agency”;  
and  
in said Section 10, by inserting after the word “holders”, in line 390, the following words:- “; provided, however, that the agency shall work in consultation with the EEAC, the department of energy resources and electric and natural gas distribution companies and municipal aggregators to ensure that the program will complement and be coordinated with the energy efficiency programs established in sections 19 and 21 of chapter 25. The activities of municipal PACE programs supported by the Massachusetts Energy Conservation Project Fund and subject to the program guidelines shall be reviewed in the 3-year planning process and annual reviews undertaken pursuant to said section 21 of said chapter 25”; and  
in Section 12, in proposed subsection (a½), by inserting after the first sentence the following 3 sentences:- “The financing orders shall grant a lien on such portion of those amounts as the department finds to be in the public interest and necessary to secure bonds in the aggregate amount of not more than \$500,000,000. The department shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the filing of notice by the Massachusetts Development Finance Agency. In processing an application, the department shall consider program guidelines developed by that agency for municipal PACE programs and recommendations of the energy efficiency advisory council, the department of energy resources and electric and natural gas distribution companies and municipal aggregators.”; and  
in said Section 12, in said proposed subsection (a½), in the first paragraph, by adding the following sentence:- “The electric and natural gas distribution companies and municipal aggregators shall ensure that payment of debt service on energy project bonds upon the occurrence of any defaults shall not reduce, restrict or limit the funding available for energy efficiency programs serving customer classes not participating in the programs supported by the Massachusetts Energy Conservation Project Fund.”; and  
in Section 62, by striking out, in line 1844, the words “in collaboration and coordination” and inserting in place thereof the following words:- “at the direction of the Massachusetts Technology Collaborative in conjunction”.

The amendment was adopted.

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

The bill, as 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 twenty-two minutes before ten o'clock P.M., on motion of Mr. Brewer, as follows to wit (yeas 37 — nays 0) [Yeas and Nays No. 259]:

#### YEAS

Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	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.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 37.
Keenan, John F.	

**NAYS — 0.**

**ABSENT OR NOT VOTING**

Berry, Frederick E.	Hart, John A., Jr.— 2
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**The yeas and nays having been completed at nineteen minutes before ten o'clock P.M., the bill was passed to be engrossed, in concurrence, with amendment [For text of Senate amendment, printed as amended, see Senate, No. 2366]. Sent to the House for concurrence in the amendment**

The Senate Resolutions (offered by Mr. Eldridge, et al) memorializing the Congress of the United States to pass and send to the states for ratification a Constitutional amendment to restore the First Amendment and fair elections to the people,-- was considered.

Pending the question on adoption of the amendment, previously moved by Messrs. Tarr, Hedlund, Knapik and Ross, and pending the main question on adoption of the resolutions, Mr. Hedlund moves to amend Calendar Number 211, the Resolutions offered by Mr. Eldridge et al and by inserting after paragraph five the following new text:-

Whereas, the Board of Governors of the Federal Reserve System (FED) can and has entered into agreements with foreign governments and foreign central banks in total secrecy and the United States Congress is prohibited from overseeing these agreements; and

Whereas, the FED's deals with foreign central banks are not published in Congressional reports and many assets and liabilities of the Federal Reserve Banks are not published anywhere; and,

Whereas, the U.S. Government Accountability Office (GAO) is prohibited from auditing or even seeing these agreements; and, Whereas, allowing the FED to operate our nation's monetary system in almost complete secrecy leads to abuse, inflation, and a lower quality of life for Americans; and

Whereas, auditing means the complete books, and all monies given as "bailouts", to any party, corporation, international bank, and government needs to be public information, including who received money, how much was received, and on what it has been spent; and,

Whereas, the Constitution of the United States gives the Congress the authority to coin money and regulate the value thereof, and auditing the FED will allow Congress to assert its Constitutional authority over monetary policy and help to protect the value of the United States dollar; and,

Whereas, by promoting open and transparent government, an audit of the FED will promote trust in our government and bring back accountability to the Federal Reserve System; and,  
Whereas, H 459 has 268 bipartisan cosponsors and S 202, has 21 bipartisan cosponsors in the United States Senate;  
Resolved, that the Massachusetts State Senate calls upon the United States Congress to act immediately to pass, and upon President Barak Obama to sign into law H 459 and S 202 without changes that weaken the intent of the bill to require a full and complete audit of the FED, to direct the Comptroller General of the United States, as the head of the U.S. Government Accountability Office, to perform a complete audit of the Board of Governors of the Federal Reserve System and of the Federal Reserve banks; and, that upon completion of the audit, the results be immediately provided to the United States Congress and through the Congress to the People of the United States of America  
**Pending the question on adoption of the amendment, and pending the question on adoption of the amendment previously moved by Messrs. Tarr, Hedlund, Knapik and Ross, and pending the main question on adoption of the resolutions, on motion of Mr. Tarr, the further consideration thereof was postponed until Thursday, July 26.**

*Report of a Committee.*

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill relative to oral cancer therapy (Senate, No. 1070),-- ought to pass, with an amendment substituting new text with the same title (Senate, No. 2363).  
**There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.  
The bill (Senate, No. 2363) was then ordered to a third reading, read a third time and passed to be engrossed.  
Sent to the House for concurrence.**

PAPER FROM THE HOUSE

*Order Adopted.*

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered as follows:

*Ordered*, that notwithstanding the provisions of Joint Rule 10, the committee on the Judiciary shall be granted until Tuesday, July 31, 2012, within which to report on current House documents numbered 9, 11, 23, 24,27, 28, 29, 30, 31, 40, 41, 42, 382, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 503, 504, 505, 506, 507, 508, 509, 510, 512, 513, 514, 515, 516, 518, 519, 520, 521, 522, 524, 525, 526, 527, 528, 1274, 1275, 1276, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1388, 1389, 1390, 1835, 1836, 1837, 1838, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2257, 2258, 2259, 2260, 2262, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2684, 2793, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 3137, 3138, 3139, 3140, 3141, 3142, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3229, 3230, 3279, 3280, 3281, 3282, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3330, 3340, 3358, 3359, 3360, 3361, 3362, 3385, 3441, 3471, 3516, 3518, 3545, 3559, 3569, 3587, 3631, 3636, 3681, 3682, 3729, 3739, 3743, 3744, 3766, 3768, 3840, 3884, 3905, 3913, 3934, 3977, 3978, 3987, 4004, 4050, 4055, 4057, 4068 and 4069.

**The rules were suspended, on motion of Ms. Creem and the order was considered forthwith; and, after remarks, was adopted, in concurrence.**

*Order Adopted.*

On motion of Ms. Chandler,--

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

On motion of Ms. Spilka, at fourteen minutes before ten o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.