

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.

Tuesday, October 11, 2011.

Met at a quarter past one o'clock P.M.

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

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President introduced, in the rear of the Chamber, a group of students from the University of Massachusetts-Amherst. The students are party of the Citizen Scholars Program, a two year academic service learning program at the Commonwealth Honors College at the University. Citizen Scholars is a leadership development program that integrates theory and practice to help students develop the knowledge, skills and vision they need to be effective citizens, advocate for social justice and help build a better Commonwealth. They were guests of Senator Rosenberg and Representative Story. The Senate welcomed them with applause and they withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the Chair (Mr. Hart) introduced former Senator Joan Menard. The Senate welcomed her with applause and she withdrew from the Chamber.

Communications.

Several communications were received and placed on file:

Communication from the Martin J. Benison, Comptroller, submitting notification of the status of all cost avoidance opportunities to date (pursuant to Section 102 of Chapter 182 of the Acts of 2008) (received in the Office of the Clerk of the Senate on Wednesday, October 5, 2011, at a quarter before four o'clock P.M.);

Communication from the Martin J. Benison, Comptroller, submitting notification of the fiscal year 2011 excess state tax revenues (pursuant to Section 6A of Chapter 62F of the General Laws) (received in the Office of the Clerk of the Senate on Friday, October 7, 2011, at a half past three o'clock P.M.); and

Communication from the Martin J. Benison, Comptroller, submitting notification of individual tax related settlements and judgments (pursuant to Section 2H of Chapter 29 of the General Laws, as most recently amended by Section 37 of Chapter 68 of the Acts of 2011) (received in the Office of the Clerk of the Senate on Friday, October 7, 2011, at a half past three o'clock P.M.).

Petition.

Mr. Rodrigues presented a petition (subject to Joint Rule 12) of Michael J. Rodrigues, David B. Sullivan, Steven Howitt, Marc R. Pacheco and other members of the General Court for legislation relative to certain projects referred to the Massachusetts Historical Commission for consultation;

Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPERS FROM THE HOUSE

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

Petition (accompanied by bill, House, No. 3738) of Stephen L. DiNatale and Jennifer L. Flanagan (with the approval of the mayor and city council) relative to authorizing the licensing authority of the city of Fitchburg to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises to A&E Fitchburg, Inc.;

To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 3741) of Gailanne M. Cariddi and Benjamin B. Downing (with the approval of the mayor and city council) for legislation relative to validating the acts and proceedings of the preliminary mayoral election in the city of North Adams;

To the committee on Election Laws.

A Bill establishing a sick leave bank for Elaine Strout-Clement, an employee of the Trial Court (House, No. 3704,-- on petition),-
- was read and, under Senate Rule 27, referred to the committee on Ways and Means.

Resolutions.

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

Resolutions (filed by Mr. Baddour) “recognizing Sister Joyce Khoury, S.N.D., on the occasion of her Golden Jubilee”;

Resolutions (filed by Mr. Pacheco) “congratulating Jamie Farrell on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Dylan Goulart on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Andrew Green on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Timilty) “commending Rabbi Barry Starr’s twenty-five years of dedication, service and leadership to Temple Israel of Sharon.”

PAPERS FROM THE HOUSE

Emergency Preambles Adopted.

An engrossed Bill establishing a sick leave bank for Terri A. Demars, an employee of the Department of State Police (see House, No. 3646), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 10 to 0. The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Louceta Hodge, an employee of the Department of Revenue (see Senate, No. 2023), 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 7 to 0. The bill was signed by the President and sent to the House for enactment.**

Engrossed Bill.

An engrossed Bill increasing the exemption for certain residential real property in the city of Malden (see Senate, No. 1895) (which originated in the Senate), 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.

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

Petition (accompanied by bill, House, No. 3742) of Patrick Higgins and Michael J. Rodrigues relative to the regulation and licensing of locksmiths;

Under suspension of Joint Rule 12, to the committee on the Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 3743) of Garrett J. Bradley for legislation to increase the penalties for hit and run motor vehicle accidents; and

Petition (accompanied by bill, House, No. 3744) of Garrett J. Bradley relative to civil action for the sale, delivery or furnishing of alcoholic beverages to persons under the age of twenty-one;

Severally, under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 3745) of James M. Cantwell and Garrett J. Bradley relative to reimbursement to municipalities for costs relating to storm damage;

Under suspension of Joint Rule 12, to the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 3746) of James M. Cantwell relative to cremation;

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

Petition (accompanied by bill, House, No. 3747) of Joseph F. Wagner and Michael R. Knapik for legislation to establish a sick leave bank for Lawrence Mainville, an employee of the Massachusetts Department of Transportation;

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

Report of a Committee.

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

The House Bill exempting certain water dependent structures from certain harbor lines in Chelsea Creek (House, No. 3690).

There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing certain structures to be exempted from certain harbor lines in Chelsea Creek".

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 Senate Bill amending the contract procedures in the city of Boston (Senate, No. 1054) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The Senate Bill authorizing the appointment of Antonio F. Dinis as a police officer in the town of Milford notwithstanding the maximum age requirements (Senate, No. 1942) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill establishing expanded gaming in the Commonwealth (House, No. 3711),-- **was considered, the main question being on ordering it to a third reading.**

The pending Ways and Means amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2015,-- was considered.

Ms. Clark and Ms. Creem moved to amend the bill in section 16, by inserting, in line 2448, after the word "portfolio" the following text:- " , but may also include payments to decrease the unfunded pension liability of the Pension Reserves Investment Trust fund".

The amendment was adopted.

Messrs. Hart and Richard T. Moore moved to amend the bill in line 735, by striking out the words "and, in consultation with the commission, shall execute", and inserting in place thereof the following words:- "The commission, in consultation with the colonel of the state police, shall facilitate the execution of".

After remarks, the amendment was adopted.

Messrs. Montigny and Pacheco moved to amend the bill by inserting after section 4 the following new section:-

"SECTION 4A. Chapter 10 of the General Laws, as amended by chapter 14 of the acts of 2011, is hereby amended by inserting after section 35QQ, the following section:-

Section 35RR. There shall be established and set up on the books of the commonwealth a Public Safety Building Assistance Fund for use exclusively by municipalities for the construction, expansion and rehabilitation of municipal police, fire, and emergency medical service buildings. Operation of the fund shall be administered by the state treasurer, with building grants up to 50 per cent of project costs awarded similar to the school building assistance fund program formula. The fund shall accept private contributions, publicly or privately-funded grants and funds appropriated by the state or federal government. No expenditure from the fund shall cause the fund to be in deficiency at the close of the fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year. The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment."; and in section 16, in line 2510, by inserting after the word "maintenance", the following:- " ; provided, however, that \$20 million annually from the Fund shall be transferred to the Public Safety Building Assistance Fund, established in section 35RR of chapter 10 for use exclusively by municipalities for the construction, expansion and rehabilitation of municipal police, fire, and emergency medical service buildings. Operation of said building assistance fund shall be administered by the state treasurer, with building grants up to 50 per cent of project costs awarded similar to the school building assistance fund program formula".

The amendment was rejected.

Mr. Downing moved to amend the bill in section 16, by striking out in subsection (8) of section 18 of proposed chapter 23K of the General Laws, the words "10 per cent" and inserting in place thereof the following:- "75 per cent".

After remarks, the amendment was rejected.

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

“SECTION XX. All slot machines must be affixed with a sticker or label delineating 1. information regarding the programming and therefore non-randomness of slot machines, 2. the odds and holding percentage of the slot machines in that establishment, and 3. a compulsive gambling hotline number. These stickers or labels must be affixed to the front of the machine, in plain sight of the machine user and of sufficient size to be easily read.”

After debate, the amendment was adopted.

Ms. Jehlen moved to amend the bill in section 16 by striking out, in line 2153 and 2154, the words “imprisonment in the house of correction for not more than 6 months or a fine not to exceed \$1,000 , or both” and inserting in place thereof the following words:- “a fine not to exceed \$1,000”.

After remarks, the amendment was adopted.

Mr. Timilty moved to amend the bill in section 16 by striking out subsection (f) of section 45 of proposed chapter 23K of the General Laws and inserting in place thereof the following subsection:-

“(f) The commission shall establish a list of self-excluded persons from gaming establishments. A person may request such person’s name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. The commission shall adopt further regulations, under section 5, for the self-excluded persons list including procedures for placement, removal and transmittal of such list to gaming establishments. The commission may revoke, limit, condition, suspend or fine a gaming establishment if such establishment knowingly or recklessly fails to exclude or eject from its premises any person placed on the list of self-excluded persons.”

After remarks, the amendment was adopted.

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

“SECTION XX. No gaming licensee or gaming establishment shall authorize or conduct marketing and promotional communications relative to gaming to target persons under the age of 21.”

After debate, the amendment was adopted.

Ms. Jehlen moved to amend the bill by inserting in section 16 the following words after the word “licensure” in line 1113:- “and not involving embezzlement, theft, fraud or perjury,”.

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 66, by inserting after the words “an interest in or”, in lines 3057-3058, the following word:- “any”.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in subsection 37 of section 16, by striking the figure “\$100,000” each time it appears and inserting in place thereof, in each instance, the following figure:- “\$250,000”.

After remarks, the amendment was adopted.

Mr. Keenan and Ms. Jehlen and Ms. Clark moved that the bill be amended in section 16 by striking subclause (iv) of section 60 in its entirety; and by striking out in subclause (i) the number “80” and inserting in place thereof the number “84”.

After remarks, the amendment was rejected.

Messrs. Keenan and DiDomenico moved that the bill be amended in section 16 by inserting in paragraph (25) of subsection (a) of section 21 after the words “finding to the” the following:- “state police and”.

After remarks, the amendment was adopted.

Mr. Eldridge moved to amend the bill by inserting in line 1426 after subsection 25 of the proposed new section 21, the following new subsection:-

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

After debate, the amendment was rejected.

Mr. Keenan moved that the bill be amended in section 16 by adding at the end of subsection (a) of section 9 the following new paragraph:-

“(20) clear and convincing evidence that the applicant owns, or has an option to purchase, or has an agreement for tenancy for a term of years under a lease that extends 60 years beyond the term of the gaming license issued under this chapter, the land for the proposed gaming establishment.”

The amendment was rejected.

Mr. Keenan moved that the bill be amended in section 16 by striking subclause (i) of section 16 in its entirety and inserting in place thereof the following subclause:-

“(i) has been convicted of a felony or other convictions involving embezzlement, theft, fraud or perjury;”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at two o'clock P.M., on motion of Mr. Keenan, as follows, to wit (yeas 38 – nays 0) [Yeas and Nays No. 92]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Keenan, John F.
Brewer, Stephen M. 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. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Spilka, Karen E.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E
Hart, John A., Jr. Tolman, Steven A.
Hedlund, Robert L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 38.
NAYS — 0.
ABSENT OR NOT VOTING
Rush, Michael F.—1.

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

Messrs. Keenan and DiDomenico moved that the bill be amended in section 16 by inserting after subsection (b) of section 43 the following new section:-

"(c) Whoever knowingly plays, places wagers at, or collects winnings from a game in a gaming establishment for or on behalf of a person under 21 years old shall be punished by imprisonment in a house of correction for not more than 6 months or a fine not to exceed \$1,000, or both."

Pending the question on adoption of the amendment (Keenan-DiDomenico), Messrs. Tarr, Hedlund, Knapik and Ross moved to further amend the amendment in section 16 by inserting after subsection (b) of section 43 the following new section:-

"(c) Whoever knowingly plays, places wagers at, or collects winnings from a game in a gaming establishment for or on behalf of a person under 18 years old shall be punished by imprisonment in a house of correction for not more than 6 months or a fine not to exceed \$1,000, or both."; and in section 25, by striking clause (h) in its entirety and replacing it with the following:

"(h) No person under the age of 18 shall be permitted to wager or be in a gaming area."

Mr. Baddour in the Chair, after debate, the question on adoption of the further amendment (Tarr, et al) was determined by a call of the yeas and nays, at seventeen minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 5 – nays 33) [Yeas and Nays No. 93]:

YEAS

Hedlund, Robert L. Tarr, Bruce E.
Knapik, Michael R. Timilty, James E. — 5.
Ross, Richard J.
NAYS

Baddour, Steven A. Jehlen, Patricia D.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. 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. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tolman, Steven A.

Finegold, Barry R. Welch, James T.
Flanagan, Jennifer L. Wolf, Daniel A. — 33.
Hart, John A., Jr.
ABSENT OR NOT VOTING
Rush, Michael F.—1.

The yeas and nays having been completed at twenty-one minutes past two o'clock P.M., the further amendment (Tarr, et al) was rejected.

After remarks, the pending amendment (Keenan-DiDomenico) was then considered; and it was adopted.

Mr. Keenan and Ms. Jehlen moved that the bill be amended in section 16 by inserting in subsection (h) of Section 27, after the word "licensees;" the following:

"provided debt collections are conducted in conformance with Chapter 93; and".

The amendment was rejected.

Mr. Eldridge move to amend the bill in line 1624, by striking section 27 and inserting in place thereof, the following new section:-

"SECTION 27. No gaming licensee, establishment, nor any person acting on behalf of a licensee or establishment shall: (i) be permitted to issue credit to a patron of a gaming establishment; (ii) cash any check, make and loan or otherwise provide or allow to a person any credit or advance of anything of value, or which represents value, to enable a person to place a wager;"

The amendment was rejected.

Mr. Keenan moved that the bill be amended in section 16 by striking subsection (h) of section 25 and inserting in place thereof the following subsection:-

"(h) No person under the age of 21 shall be permitted to wager or be in a gaming area."

The amendment was rejected.

Mr. Keenan and Ms. Jehlen moved that the bill be amended in section 16 by inserting after the definition of "Host Community" the following new definition:-

"'Immediate family member', the spouse, parent, child, brother or sister of an individual";

In said Section 16 by inserting in subsection (m) of section 3, in line 490, after the word "employees" the following:- "or by their immediate family members";

By striking Section 8 in its entirety and replacing it with the following:

"SECTION 8. Said chapter 10 is hereby further amended by inserting after section 72 the following section:-

Section 72A. The commissioner of the alcoholic beverages control commission shall establish a gaming liquor enforcement unit whose responsibilities shall include enforcing, regulating and controlling the distribution of alcoholic beverages in a gaming establishment.

The gaming liquor enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts gaming commission established in chapter 23K. The commissioner shall assign investigators and employees of the unit to the bureau, who shall report to the director of the bureau and to the commissioner; provided, however, that the Massachusetts gaming commission shall designate the number of investigators and employees necessary to staff the unit. The commissioner shall establish a code of ethics for all unit investigators and employees which shall be more restrictive than chapters 268A and 268B. A copy of the code of ethics shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out this section including, but not limited to: (i) prohibiting the receipt of gifts or anything of value by a unit investigator, employee or immediate family member from a gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission established by chapter 23K; (ii) prohibiting the participation by a unit investigator or employee in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or any other person with whom such employee has a significant relationship as defined in the code; (iii) prohibiting a unit investigator, employee, or immediate family member other than in the performance of official duties, from placing a wager in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located; provided further that unit investigators and employees shall be prohibited from consuming alcohol in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located. The commissioner shall establish a program to rotate investigators in and out of the unit. The alcoholic beverages control commission shall be reimbursed by the Massachusetts gaming commission for the costs of operating the unit; provided, however, that the Massachusetts gaming commission shall have final approval over the budget of the unit."; and

In the second paragraph of subsection (c) of section 11M as found in section 9 of the bill by striking said subsection in its entirety and inserting in place thereof the following subsection:-

"(c) No employee of the division and no person engaged by the division in the course of an investigation, other than in the performance of their official duties, shall place a wager or consume alcohol in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located during the period of their employment or assignment with the division. The attorney general shall establish a code of ethics for all unit investigators and employees which shall be more restrictive than chapters 268A and 268B. A copy of the code of ethics shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out this section including, but not limited to: (i) prohibiting the receipt of gifts or anything of value by a division employee or immediate family member from a gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission

established by chapter 23K; (ii) prohibiting the participation by a division employee in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or any other person with whom such employee has a significant relationship as defined in the code; (iii) prohibiting a division employee, or immediate family member other than in the performance of official duties, from placing a wager in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located; provided further that unit investigators and employees shall be prohibited from consuming alcohol in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located.”; and

In section 15 by striking the section in its entirety and inserting in place thereof the following section:-

“SECTION 15. Said chapter 22C is hereby further amended by adding the following section:-

Section 70. The colonel of state police shall establish a gaming enforcement unit the responsibilities of which shall include, but not be limited to, the investigation of criminal violations of chapter 23K or any other general or special law pertaining to gaming. The gaming enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts gaming commission to enforce chapter 23K and with the division of gaming enforcement within the office of the attorney general to investigate criminal activity related to gaming. Officers and employees of the unit shall be assigned to the investigations and enforcement bureau and shall report to the deputy director of investigations and enforcement and to the colonel of state police. The colonel shall also assign officers of the unit to the division of gaming enforcement, who shall report to the chief of gaming enforcement and to the colonel of state police. The colonel shall establish a code of ethics for all unit officers and employees which shall be more restrictive than chapters 268A and 268B. A copy of the code of ethics shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out this section including, but not limited to: (i) prohibiting the receipt of gifts or anything of value by a unit officer, employee or immediate family member from a gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission established by chapter 23K; (ii) prohibiting the participation by a unit officer or employee in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or any other person with whom such employee has a significant relationship as defined in the code; (iii) prohibiting a unit officer, employee, or immediate family member other than in the performance of official duties, from placing a wager in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located; provided further that unit officers and employees shall be prohibited from consuming alcohol in a gaming establishment whether or not licensed under chapter 23K in Massachusetts, or in any other gaming establishment, regardless of where it is located. The colonel shall establish a program to rotate officers in and out of the unit.”

Pending the question on adoption of the amendment (Keenan-Jehlen) Ms. Fargo and Ms. Jehlen moved to further amend the pending amendment by striking subsection (c) of Section 26 of Chapter 23K of the General Laws, as inserted by section 16 in its entirety and inserting in place thereof the following paragraph: -

“(c) Nothing in this section shall permit a licensee to offer or deliver any free or complimentary drinks to any person or group of persons. The Commission in conjunction with the ABCC shall promulgate regulations to establish forms of identification that may be presented to the gaming licensee to demonstrate proof that a person has attained the age of 21; provided further, that such regulations shall include requirements relative to alcohol training certification for any employee who serves alcohol at the gaming establishment.”

The President in the Chair, after debate, the question on adoption of the further amendment (Fargo-Jehlen) was determined by a call of the yeas and nays, at twelve minutes before three o'clock P.M., on motion of Ms. Fargo, as follows, to wit (yeas 12 – nays 26) [Yeas and Nays No. 94]:

YEAS

Chang-Diaz, Sonia Finegold, Barry R.
Creem, Cynthia Stone Hedlund, Robert L.
DiDomenico, Sal N. Jehlen, Patricia D.
Downing, Benjamin B. Montigny, Mark C.
Eldridge, James B. Moore, Richard T.
Fargo, Susan C. Wolf, Daniel A. — 12.

NAYS

Baddour, Steven A. Knapik, Michael R.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Moore, Michael O.
Candaras, Gale D. Pacheco, Marc R.
Chandler, Harriette L. Petruccelli, Anthony
Clark, Katherine M. Rodrigues, Michael J.
Donnelly, Kenneth J. Rosenberg, Stanley C.
Donoghue, Eileen M. Ross, Richard J.
Flanagan, Jennifer L. Spilka, Karen E.
Hart, John A., Jr. Tarr, Bruce E.
Joyce, Brian A. Timilty, James E.
Keenan, John F. Tolman, Steven A.

Kennedy, Thomas P. Welch, James T. — 26.

ABSENT OR NOT VOTING

Rush, Michael F.—1.

The yeas and nays having been completed at eight minutes before three o'clock P.M., the further amendment (Fargo-Jehlen) was rejected.

Mr. Hedlund moved to further amend the pending amendment (Keenan-Jehlen) by striking out the text and inserting in place thereof the following text:-

By inserting after section 43 the following section:-

‘SECTION 43A. Section 24 of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘thereof’, in line 17, the following words:- ; provided further, that regulations relating to licensees licensed to sell alcoholic beverages to be served or drunk on the premises shall not be more restrictive than subsection (c) of section 26 of chapter 23K and the regulations promulgated under said section for gaming establishments.’

After remarks, the question on adoption of the further amendment (Hedlund) was determined by a call of the yeas and nays, at twelve minutes past three o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 25 – nays 13) [Yeas and Nays No. 95]:

YEAS

Baddour, Steven A. Knapik, Michael R.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Moore, Michael O.
Candaras, Gale D. Pacheco, Marc R.
Chang-Diaz, Sonia Petruccelli, Anthony
Donnelly, Kenneth J. Rodrigues, Michael J.
Donoghue, Eileen M. Rosenberg, Stanley C.
Downing, Benjamin B. Ross, Richard J.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E
Hedlund, Robert L. Welch, James T.
Joyce, Brian A. Wolf, Daniel A. — 25.
Kennedy, Thomas P.

NAYS

Chandler, Harriette L. Jehlen, Patricia D.
Clark, Katherine M. Keenan, John F.
Creem, Cynthia Stone Montigny, Mark C.
DiDomenico, Sal N. Moore, Richard T.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tolman, Steven A. — 13.
Finegold, Barry R.

ABSENT OR NOT VOTING

Rush, Michael F.—1.

The yeas and nays having been completed at sixteen minutes past three o'clock P.M., the further amendment (Hedlund) was adopted.

The pending amendment (Keenan-Jehlen), as amended (Hedlund), was then considered; and it was adopted.

Mr. Hedlund moved to amend the bill by inserting, in line 343, after the words “slot machine” the following:- “and all slot machines must be affixed with a sticker or label delineating 1. information regarding the programming and therefore non-randomness of slot machines, and 2.compulsive gambling hotline number. These stickers or labels must be affixed to the front of the machine, in plain sight of the machine user and of sufficient size to be easily read”.

The amendment was rejected.

Ms. Chang-Díaz, Ms. Jehlen, Mr. Eldridge and Ms. Fargo moved to amend the bill in section 16 in section 15, in proposed chapter 23K, by striking out paragraph (13) and inserting in place thereof the following paragraph:-

“(13) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; provided, however that the vote shall take place after the effective date of this chapter; provided further that upon receipt of a request for an election, the governing body of the municipality shall call for the election to be held not less than 35 days but not more than 90 days from the date that the request was received; provided further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the host community and the applicant as provided in clause (8); provided further, that the municipality that holds an election shall be reimbursed for its expenses related to the election by the applicant; provided further, that, upon the signing of an agreement between the host community and the applicant, and upon the request of the applicant, the city or town clerk shall set a date certain for an election on the ballot question in the host community; provided further, that at such election, the question submitted to the voters shall be worded as follows: ‘Shall the (city/town) of _____ permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission to be located at _____ [description of site] _____? YES _____ NO _____’; provided further, that if a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, the host community shall be taken to have voted in favor of the applicant’s

license; provided further, that if a proposed gaming establishment is situated in 2 or more cities or towns, the applicant shall execute an agreement with each host community, or a joint agreement with both communities, and receive a certified and binding vote on a ballot question at an election held in each host community, in favor of such a license;.”
After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes past four o’clock P.M., on motion of Ms. Chang-Diaz, as follows, to wit (yeas 11 – nays 27) [Yeas and Nays No. 96]:

YEAS

Chandler, Harriette L. Hedlund, Robert L.
Chang-Diaz, Sonia Jehlen, Patricia D.
Creem, Cynthia Stone Keenan, John F.
Eldridge, James B. Moore, Michael O.
Fargo, Susan C. Ross, Richard J. — 11.
Finegold, Barry R.

NAYS

Baddour, Steven A. McGee, Thomas M.
Berry, Frederick E. Montigny, Mark C.
Brewer, Stephen M. Moore, Richard T.
Candaras, Gale D. Pacheco, Marc R.
Clark, Katherine M. Petruccelli, Anthony
DiDomenico, Sal N. Rodrigues, Michael J.
Donnelly, Kenneth J. Rosenberg, Stanley C.
Donoghue, Eileen M. Spilka, Karen E.
Downing, Benjamin B. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E
Hart, John A., Jr. Tolman, Steven A.
Joyce, Brian A. Welch, James T.
Kennedy, Thomas P. Wolf, Daniel A. — 27.
Knapik, Michael R.

ABSENT OR NOT VOTING

Rush, Michael F.—1.

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

Messrs. Michael O. Moore and Welch and Ms. Donoghue moved to amend the bill in section 16, by adding after the first sentence, in section 64 of proposed chapter 23K the following 3 sentences:- “Eligible expenditures from this Fund shall include early education programs, K-12 funding, and higher education. Expenditures from said fund for early education shall be used to supplement, and not offset, any reduction in the general appropriation act from the previous fiscal year. Expenditures from said fund for higher education shall be used to supplement, and not offset, any reduction in the general appropriation act from the previous year; provided further, that not less than one-third of funds received shall be expended for higher education.”

After remarks, the amendment was adopted.

Messrs. Knapik and Welch moved to amend the bill by striking out clause (a) of sub-section 10 of section 16 and inserting in place thereof the following new clause:-

“Section 10. (a) The commission shall consider the minimum capital investment for all category 1 licenses; provided, however, that all gaming licensees shall make a minimum capital investment of not less than \$400,000,000 and not more than \$600,000,000 into the gaming establishment, which shall include, but not be limited to, a gaming area, at least 1 hotel and other amenities as proposed in the application for a category 1 license; and provided further, that the commission shall determine whether it will include the purchase or lease price of the land where the gaming establishment will be located or any infrastructure designed to support the site, including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues, whether or not the applicant is an eligible owner or operator under chapter 206 of the acts of 1998, and has suitable capital to finance its operations and the proposed capital investment. Upon award of a gaming license by the commission, the applicant shall be required to deposit 10 per cent of the total investment proposed in the application into an interest-bearing account. Monies received from the applicant shall be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the licensee’s application and approved by the commission, at which time the deposit shall be returned to the applicant to be applied for the final stage. Should the applicant be unable to complete the gaming establishment, the deposit shall be forfeited to the commonwealth. In place of a cash deposit, the commission may allow for an applicant to secure a deposit bond insuring that 10 per cent of the proposed capital investment shall be forfeited to the commonwealth if the applicant is unable to complete the gaming establishment.”

The amendment was rejected.

Ms. Spilka moved that the bill be amended in section 2 of chapter 23K, as inserted by Section 16, by striking out the definition of “Surrounding communities” and inserting in place thereof the following definition:-

““Surrounding communities’, municipalities (a) that are located in whole or in part within 3 miles of the site of an existing or proposed gaming establishment; or (b) from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment in proximity to a host community; or (c) that the commission determines experience or are likely

to experience impacts from the development or operation of a gaming establishment.”

After debate, the amendment was rejected.

Ms. Spilka moved that the bill be amended at paragraph 13 of section 9 in chapter 23K, as inserted by section 16, by inserting, at line 1077, after the word “election;” the following:- “provided further, that if a gaming establishment is proposed to be located in a municipality with a population of no more than 30,000 residents according to the most recently enumerated federal census, at a site which is within .75 miles of any other municipality with a population of no more than 30,000 residents according to the most recently enumerated federal census, then “host community” shall mean each such municipality for the purpose of receiving a certified and binding vote on a ballot question at an election;”.

Mr. Hart in the Chair, after debate, the amendment was rejected.

Ms. Spilka moved to amend the bill in section 19 of chapter 23K, as inserted by section 16, by inserting after subsection (d) the following new subsection:-

“(d½) In determining which gaming applicant shall receive a gaming license in each region, the commission shall consider the relative support or opposition to each gaming applicant from the public in host and surrounding communities, including, but not limited to, the oral and written testimony received during the public hearing conducted pursuant to Section 17.”

The amendment was adopted.

Ms. Spilka moved to amend the bill in subsection (b) of section 68 of chapter 23K, as inserted by section 16, by striking out, in line 2566, the figure “7” and inserting in place thereof the following figure:- “10”; in Subsection (b) of section 68 of chapter 23K, as inserted by section 16, by inserting, in line 2571, after the words “community mitigation related to gaming;” the following:- “1 of whom shall represent the local community mitigation advisory committee in region A; 1 of whom shall represent the local community mitigation advisory committee in region C;”; and in subsection (c) of section 68 of chapter 23K, as inserted by section 16, by inserting at the end of the first paragraph the following sentence:- “Each local committee shall annually elect one committee member from those members appointed by surrounding communities to represent the local committee in the subcommittee on community mitigation under Subsection (b) of Section 68.”

After remarks, the amendment was adopted.

Ms. Spilka moved that the bill be amended in section 2 of chapter 23K, as inserted by section 16, by striking out the definition of “Surrounding communities” and inserting in place thereof the following definition:-

““Surrounding communities”, municipalities in proximity to a host community that the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment; provided that all communities that abut a host community shall be deemed surrounding communities; provided further that communities that are contiguous to an abutting community shall also be deemed surrounding communities.”

The amendment was rejected.

Ms. Spilka moved to amend the bill in section 15 of chapter 23K, as inserted by section 16, by inserting, after subsection (16), the following new subsection:-

“(17) provide to the commission comments on the proposed application received from the public; provided that the applicant shall provide the public with an opportunity to receive information about the development and operation of the proposed gaming establishment and to provide oral or written comment; provided further that the applicant shall notify residents and officials in the host community and municipalities within 3 miles of the proposed gaming establishment in a manner which complies with notification requirements established by the commission of their opportunity to comment.”;

In section 18 of chapter 23K, as inserted by section 16, by inserting, after subsection (18), the following new subsection:-

“(19) whether the applicant has the support of the public in the host and surrounding communities, including, but not limited to, any public comment received by the commission or gaming applicant.”; and

In section 19 of chapter 23K, as inserted by section 16, by inserting after subsection (d) the following new subsection:-

“(d ½) In determining which gaming applicant shall receive a gaming license in each region, the commission shall consider the relative support or opposition to each gaming applicant from the public in the host and surrounding communities; provided that the commission shall consider the oral and written testimony received during the public hearing under conducted pursuant to Section 17 and public comment provided by the gaming applicant pursuant to Section 15.”

After remarks, the amendment was adopted.

Mr. Donnelly moved to amend the bill in section 16 by striking out paragraph (i) of section 59 of the proposed chapter 23K and inserting in place thereof the following:

“(i) Until such time as the commonwealth's pension liability is fully funded 10% shall be used, in addition to amounts appropriated pursuant to the commonwealth funding schedule established under chapter 32, to reduce the commonwealth's pension liability. Thereafter 10% shall be used for debt reduction through a program of debt defeasance and accelerated debt payments; provided, however, that this program shall be developed jointly by the state treasurer and the secretary of administration and finance and shall be implemented in compliance with state finance law; provided, further, that this program shall prioritize the reduction of risk in the commonwealth's debt portfolio; and provided, further, that the state secretary and state treasurer shall provide a written description of the program to the finance advisory board established in section 97 of chapter 6 for the board's review and comment before the program is implemented and shall file a copy of that description with the house and senate committees on ways and means and the house and senate committees on bonding, capital expenditures and state assets when it is submitted to the finance advisory board.”.

The amendment was rejected.

Ms. Spilka moved to amend the bill by striking out clause (13) of section 15 of chapter 23K, as inserted by section 16 and inserting in place thereof the following clause:--

“(13) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; have received a certified and binding vote on a ballot question at an election in each surrounding community located within 3 miles of the site at which the gaming establishment is proposed to be located, where the majority of such surrounding community votes were in favor of such license; provided, however that the vote shall take place after the effective date of this chapter; provided further that upon receipt of a request for an election, the governing body of the municipality shall call for the election to be held not less than 35 days but not more than 90 days from the date that the request was received; provided further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the municipality and the applicant as provided in clauses (8) and (9); provided further, that the municipality that holds an election shall be reimbursed for its expenses related to the election by the applicant; provided further, that, for purposes of this clause, if the gaming establishment is proposed to be located in a city with a population of at least 125,000 residents according to the most recent enumerated federal census, ‘host community’ shall mean the ward in which the gaming establishment is to be located for the purpose of receiving a certified and binding vote on a ballot question at an election; provided further, that, upon the signing of an agreement between the municipality and the applicant as provided for in clauses (8) and (9) and upon the request of the applicant, the city or town clerk shall set a date certain for an election on the ballot question in the municipality; provided further, that at such election, the question submitted to the voters shall be worded as follows: ‘Shall the (city/town) of _____ permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission to be located at ____ [description of site] ____? YES ____ NO ____’; provided further, that if a majority of the votes cast in a municipality in answer to the ballot question is in the affirmative, the municipality shall be taken to have voted in favor of the applicant’s license; provided further, that if a proposed gaming establishment is situated in 2 or more cities or towns, the applicant shall execute an agreement with each host community, or a joint agreement with both communities, and receive a certified and binding vote on a ballot question at an election held in each host community, in favor of such a license;”.

The amendment was rejected.

Ms. Spilka moved to amend the bill in section 2 of chapter 23K of the General Laws, as inserted by section 16, in lines 351 to 354, by striking out the definition of “Surrounding communities” and inserting in place thereof the following 2 definitions:--

“‘Substantially impacted community’, a municipality, other than a host community, (i) that has residentially zoned property within 3 miles of a proposed gaming establishment; and (ii) that has been designated as such by the commission under clause 33A of section (4).

‘Surrounding community’, a municipality, other than a substantially impacted community, that is in proximity to a host community and which the commission determines experiences or is likely to experience impacts from the development or operation of a gaming establishment, including a municipality from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.”;

By inserting after clause (33) of section 4 of said chapter 23K, as so inserted, after line 637, the following clause:--

“(33A) designate a municipality, other than a host community, as a substantially impacted community if requested to do so by a municipality: (i) that has residentially zoned property within 3 miles of a proposed gaming establishment and (ii) whose legislative body, subject to the charter of the municipality, has voted to request such designation. The commission shall not consider any factors other than the 3-mile requirement and the request made by the municipality.”;

By striking out clause 13 of subsection (a) of section 9 of said chapter 23K, as so inserted, in lines 811 to 819, and inserting in place thereof the following clause:--

“(13) completed studies and reports as required by the commission, which shall include, but not be limited to, an examination of the proposed gaming establishment’s: (i) economic benefits to the region and the commonwealth; (ii) local and regional social, environmental, traffic and infrastructure impacts; (iii) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community, substantially impacted communities and surrounding communities; (iv) cost to the host community, substantially impacted communities and surrounding communities and the commonwealth for the proposed gaming establishment to be located at the proposed location; and (v) the estimated municipal and state tax revenue to be generated by the gaming establishment;”;

By striking out clause (6) of section 15 of said chapter 23K, as so inserted, in lines 1030 to 1033, and inserting in place thereof the following clause:--

“(6) demonstrate to the commission how the applicant proposes to address lottery mitigation, compulsive gambling problems, workforce development and community development, as well as the impact on the host community, substantially impacted communities and surrounding communities and mitigation issues as set forth in the memoranda of understanding required under this chapter;”;

By striking out clause (7) of said section 15 of said chapter 23K, as so inserted, in lines 1034 to 1036, and inserting in place thereof the following clause:--

“(7) identify the infrastructure costs of the host, substantially impacted and surrounding communities incurred in direct relation to the construction and operation of a gaming establishment and commit to a community mitigation plan for those communities;”;

By inserting after clause (8) of said section 15 of said chapter 23K, as so inserted, after line 1042, the following clause:--

“(8A) provide to the commission a signed agreement between the substantially impacted communities and the applicant setting forth the conditions to have a gaming establishment located in proximity to the substantially impacted communities; provided, however, that the agreement shall include a community impact fee for each substantially impacted community and all stipulations of responsibilities between each substantially impacted community and the applicant, including stipulations of known impacts

from the development and operation of a gaming establishment;”;

By striking out clause (13) of said section 15 of said chapter 23K, as so inserted, in lines 1065 to 1089, and inserting in place thereof the following clause:-

“(13) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; have received a certified and binding vote on a ballot question at an election in each of the substantially impacted communities in favor of such license; provided, however that the vote shall take place after the effective date of this chapter; provided further that upon receipt of a request for an election, the governing body of the municipality shall call for the election to be held not less than 35 days but not more than 90 days from the date that the request was received; provided further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the municipality and the applicant as provided in clauses (8) and (8A); provided further, that the municipality that holds an election shall be reimbursed for its expenses related to the election by the applicant; provided further, that, for purposes of this clause, if the gaming establishment is proposed to be located in a city with a population of at least 125,000 residents according to the most recent enumerated federal census, ‘host community’ shall mean the ward in which the gaming establishment is to be located for the purpose of receiving a certified and binding vote on a ballot question at an election; provided further, that, upon the signing of an agreement between the municipality and the applicant as provided for in clauses (8) and (8A), and upon the request of the applicant, the city or town clerk shall set a date certain for an election on the ballot question in the municipality; provided further, that at such election, the question submitted to the voters shall be worded as follows: ‘Shall the (city/town) of _____ permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission to be located at ____ [description of site] ____? YES ____ NO ____’; provided further, that if a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, the host community shall be taken to have voted in favor of the applicant’s license; provided further, that if a proposed gaming establishment is situated in 2 or more cities or towns, the applicant shall execute an agreement with each host community, or a joint agreement with both communities, and receive a certified and binding vote on a ballot question at an election held in each host community, in favor of such a license; provided further, that if a majority of the votes cast in a substantially impacted community in answer to the ballot question is in the affirmative, the substantially impacted community shall be taken to have voted in favor of the applicant’s license;”;

By inserting after section 16 of said chapter 23K, as so inserted, after line 1120, the following section:-

“Section 16A. Prior to completing its review of the entire application and any independent evaluations, the commission shall complete any pending requests for designation as a substantially impacted community made under clause 33A of section 4. If the applicant has not included a signed agreement with each substantially impacted community in its application, the applicant shall negotiate a signed agreement with that community within 30 days and no action shall be taken on its application prior to the execution of that agreement. When necessary the commission may facilitate the negotiation of fair and reasonable agreements between the applicant and substantially impacted communities.”;

By striking out subsection (c) of section 17 of said chapter 23K, as so inserted, in lines 1148 to 1152, and inserting in place thereof the following clause:-

“(c) The commission shall conduct a public hearing on the application pursuant to section 11 ½ of chapter 30A. An applicant for a gaming license and a municipality designated as a host, substantially impacted or surrounding community shall be given at least 30 days notice of the public hearing. The commission shall hold the public hearing within the host community; provided, however, that the host community may request that the commission hold the hearing in another city or town.”;

By striking out clause (2) of section 18 of said chapter 23K, as so inserted, in lines 1181 to 1183, and inserting in place thereof the following clause:-

“(2) promoting local businesses in host, substantially impacted and surrounding communities, including developing cross-marketing strategies with local restaurants, hotels, retail outlets and impacted live entertainment venues;”;

By striking out clause (14) of said section 18 of said chapter 23K, as so inserted, in lines 1229 to 1230, and inserting in place thereof the following clause:-

“(14) mitigating potential impacts on host, substantially impacted and surrounding communities which might result from the development or operation of the gaming establishment;”;

By striking out subsection (j) of section 25 of said chapter 23K, as so inserted, in lines 1576 to 1585, and inserting in place thereof the following subsection:-

“(j) Each gaming establishment shall file an emergency response plan with the fire department and police departments of the host community and substantially impacted communities which shall include, but not be limited to: (i) a layout identifying all areas within the facility and grounds, including support systems and the internal and external access routes; (ii) the location and inventory of emergency response equipment and the contact information of the emergency response coordinator for the gaming establishment; (iii) the location of any hazardous substances and a description of any public health or safety hazards present on site; (iv) a description of any special equipment needed to respond to an emergency at the gaming establishment; (v) an evacuation plan; and (vi) any other information relating to emergency response as requested by the commission, the fire department or the police department of the host community or substantially impacted communities.”;

By striking out section 47 of said chapter 23K, as so inserted, in lines 2254 to 2263, and inserting in place thereof the following section:-

“Section 47. All political contributions or contributions in kind made by an applicant for a gaming license to a municipality or a municipal employee, as defined in section 1 of chapter 268A, of the host community or of a substantially impacted community of the applicant’s proposed gaming establishment shall be disclosed, by the applicant, to the commission and the city or town clerk of the host community or substantially impacted community, as applicable. Such disclosure shall be made by the applicant bi-

annually, on or before July 15 for the period covering January 1 through June 30 of that year and on or before January 15 for the period covering July 1 through December 31 of the preceding year. The office of campaign and political finance shall promulgate regulations to provide for timely and expeditious public reporting, which shall include electronic means or public posting in a city or town hall and post office, by city and town clerks of the contribution disclosures they receive from applicants.”;

By striking out subsection (b) of section 61 of said chapter 23K, as so inserted, in lines 2490 to 2496, and inserting in place thereof the following subsection:--

“(b) The commission shall administer the fund and, without further appropriation, shall expend monies in the fund to assist the host community, substantially impacted communities and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services.”;

By inserting in subsection (a) of section 68 of said chapter 23K, as so inserted, in line 2558, after the words “host community” the following:-- “, substantially impacted community”;

By in subsection (b) of section 68 of said chapter 23K, as so inserted, in line 2576, after the words “as well as” by inserting the following:-- “substantially impacted communities and”;

By in subsection (e) of section 68 of said chapter 23K, as so inserted, in line 2613, after the word “host” by inserting the following:-- “, substantially impacted”;

In line 2624, after the word “host” by inserting the following:-- “, substantially impacted”;

By striking out subsection (c) of section 89, in lines 3237 to 3240, and inserting in place thereof the following subsection:--

“(c) The governor shall only enter into negotiations under this section with a tribe that has purchased, or entered into an agreement to purchase, a parcel of land for the proposed tribal gaming development and scheduled a vote in the host communities and a vote in any substantially impacted communities for approval of the proposed tribal gaming development.”

The amendment was rejected.

Messrs. Tarr, Timilty, Knapik, and Ross moved to amend the bill in section 16, by striking section 60 of proposed chapter 23K of the General Laws and inserting in place thereof the following section:--

"Section 60. (a) There shall be established and set up on the books of the commonwealth a Race Horse Development Fund to be administered by the commission. The fund shall consist of monies deposited under subsection (c) of section 55. The commission shall make distributions from the Race Horse Development Fund to each licensee under chapter 128A. Any category 1 or category 2 licensee, licensed under this chapter, which establishes live racing shall not be eligible for any distributions from this fund.

(b) There shall be a 5-member horse racing committee whose membership shall include the governor or the governor’s designee, who shall serve as chair; the state treasurer, or a designee; the chairman of the Massachusetts gaming commission, or a designee; and 2 members to represent the thoroughbred and standardbred racing industry, 1 of whom shall be appointed by the New England Horsemen’s Benevolent and Protective Association and Massachusetts Thoroughbred Breeding Program, and 1 of whom shall be appointed by Harness Horsemen’s Association of New England, the Massachusetts Standardbred Breeding Program and the Standardbred Breeder Development Program. The horse racing committee shall make recommendations on how the funds received in subsection (a) shall be distributed among the licensees under chapter 128A to support both the thoroughbred and standardbred horse racing industries under this section. The committee shall consider criteria, including, but not limited to, (1) the average purses awarded by licensees to each horse racing industry, (2) the total amount of employment, both direct and indirect, attributable to each horse racing industry, (3) the relative needs for increased purses to each horse racing industry, (4) the amount of the live racing handle generated by each horse racing industry, and (5) the amount of breeding and training farms located in the state. The committee shall submit its recommendations for the distribution percentage to the clerk of the house of representatives and the clerk of the senate no less than 30 days before submitting the recommendations to the commission for final approval. Any subsequent changes to the distribution percentage by the commission shall be reported to the clerk of the house of representatives and the clerk of the senate no less than 30 days before implementation. Each industry’s share shall be distributed as follows:

(i) 80 per cent shall be deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of the horsemen; provided, however, that the earned interest on the account shall be credited to the purse account; and provided further, that licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen;

(ii) For a thoroughbred track, 16 per cent shall be deposited on a monthly basis into the Massachusetts Thoroughbred Breeding Program authorized by the commission in section 2 of chapter 128. For a harnessbred track, 16 per cent shall be deposited on a monthly basis into the Massachusetts Standardbred Breeding Program authorized by the commission in section 2 of chapter 128, and the Standardbred Breeder Development Program authorized by the commission; and

(iii) 4 per cent shall be used to fund health and pension benefits for the members of the horsemen’s organizations representing the owners and trainers at the racetrack at which the category 2 licensee operates for the benefit of the organization’s members, their families, employees and others under the rule and eligibility requirements of the organization, as approved by the commission; provided, however, that this amount shall be deposited within 5 business days of the end of each month into a separate account to be established by each respective horsemen’s organization at a banking institution of its choice; and provided further, that of this amount, the commission shall determine how much shall be paid annually by the horsemen’s organization to the thoroughbred jockeys or standardbred drivers organization at the racetrack at which the licensed racing entity operates for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers under the rules and eligibility

requirements of that organization."

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by striking lines 351 through 354, inclusive, and inserting, in place thereof, the following:

“‘Surrounding communities’, municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment; provided, however, that all communities that abut a host community shall be deemed surrounding communities.”

After debate, the amendment was rejected.

Messrs. Welch and Knapik moved that the bill be amended by striking out clause (d) of subsection 10 of section 16 and inserting in place thereof the following section:-

“(d) The commission shall determine a minimum licensing fee for each region, which shall be not less than \$50,000,000 and not more than \$85,000,000, to be paid by a category 1 licensee within 30 days after the final award of the license. The license shall set forth the conditions to be satisfied by the licensee before the gaming establishment shall be opened to the public. The commission shall set any renewal fee for such license based on the cost of fees associated with the evaluation of a category 1 licensee under this chapter which shall be deposited into the Gaming Revenue Fund. Such renewal fee will be exclusive of any subsequent licensing fees under this section.”

The amendment was rejected.

Mr. Welch moved to amend the bill in section 27, in line 1650, by inserting after the word “revenue” the following text: - “so long as the aggregate promotional gaming credits wagered in slot machines for any establishment do not exceed 10 per cent of the net slot machine gaming revenues derived from the establishment for the same month”.

The amendment was rejected.

Ms. Clark and Messrs. Tarr, Hedlund, Knapik, Ross, McGee and Joyce moved to amend the bill in section 16, by inserting, in line 2519, after the word “act” the following text:- “and priority shall be given within these expenditures to move communities to their target aid levels and reduce funding inequities under the Chapter 70 school aid program so called or any funds distributed in fulfillment of the obligations thereof”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes before five o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 34 – nays 4) [Yeas and Nays No. 97]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Clark, Katherine M. Moore, Michael O.
Creem, Cynthia Stone Moore, Richard T.
DiDomenico, Sal N. Petrucci, Anthony
Donnelly, Kenneth J. Rodrigues, Michael J.
Donoghue, Eileen M. Rosenberg, Stanley C.
Downing, Benjamin B. Ross, Richard J.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Finegold, Barry R. Timilty, James E.
Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.

NAYS

Chang-Diaz, Sonia Montigny, Mark C.
Jehlen, Patricia D. Pacheco, Marc R. —4.

ABSENT OR NOT VOTING

Rush, Michael F.—1.

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

Mr. Pacheco moved that the Senate reconsider the adoption of the amendment; and, after debate, the motion to reconsider was negatived.

Pending the question on adoption of the Ways and Means new text (Senate, No. 2015), as amended, and pending the main question on ordering the bill to a third reading, on motion of Mr. Hart, the further consideration thereof was postponed to the next session.

The Senate Resolutions (offered by Mr. Tolman) memorializing the Congress of the United States to support legislation that reforms the Toxic Substances Control Act of 1976,— was considered.

Pending the question on adoption of the resolutions, Mr. Tolman moved that the resolutions be amended by striking out the text

and inserting in place thereof the following text:

“WHEREAS, CHILDREN AND PREGNANT WOMEN, INCLUDING EFFECTS ON THE DEVELOPING FETUS ARE UNIQUELY VULNERABLE TO THE HEALTH THREATS OF TOXIC CHEMICALS, AND EARLY-LIFE CHEMICAL EXPOSURES HAVE BEEN LINKED TO CHRONIC DISEASE LATER IN LIFE; AND
WHEREAS, A GROWING BODY OF PEER-REVIEWED SCIENTIFIC EVIDENCE LINKS EXPOSURE TO TOXIC CHEMICALS TO MANY DISEASES AND HEALTH CONDITIONS THAT ARE RISING IN INCIDENCE INCLUDING CHILDHOOD CANCERS, PROSTATE CANCER, BREAST CANCER, LEARNING AND DEVELOPMENTAL DISABILITIES, INFERTILITY AND OBESITY; AND
WHEREAS, THE PRESIDENT’S CANCER PANEL REPORT RELEASED IN MAY STATES THAT ENVIRONMENTALLY INDUCED CANCERS HAVE BEEN GROSSLY UNDERESTIMATED; AND
WHEREAS, TOXIC CHEMICALS WHICH MAY BE IN USE OR ARE IN USE POSE THREATS TO HEALTH, INCLUDING WORKER ABSENTEEISM, WORKER COMPENSATION CLAIMS, AND HEALTHCARE COSTS THAT BURDEN THE ECONOMY; AND
WHEREAS, A RECENT NATIONAL POLL FOUND THAT 78 PERCENT OF LIKELY AMERICAN VOTERS WERE SERIOUSLY CONCERNED ABOUT THE THREAT TO CHILDREN’S HEALTH FROM EXPOSURE TO TOXIC CHEMICALS IN DAY-TO-DAY LIFE; AND
WHEREAS, STATES BEAR AN UNDUE BURDEN FROM TOXIC CHEMICALS, INCLUDING HEALTH CARE COSTS AND ENVIRONMENTAL DAMAGES, DISADVANTAGING BUSINESSES WHO LACK INFORMATION ON CHEMICALS IN THEIR SUPPLY CHAIN AND INCREASING DEMANDS FOR STATE REGULATION; AND
WHEREAS, THE PRIMARY GOVERNING FEDERAL STATUTE , THE TOXIC SUBSTANCES CONTROL ACT OF 1976, WAS INTENDED TO AUTHORIZE THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT FROM TOXIC CHEMICALS; AND
WHEREAS, WHEN THE TOXIC SUBSTANCE CONTROL ACT OF 1976 WAS PASSED ABOUT 62,000 CHEMICALS WERE EXEMPTED WITHOUT ANY REQUIRED TESTING FOR HEALTH AND SAFETY HAZARDS OR ANY RESTRICTIONS ON USAGE; AND
WHEREAS, IN THE 35 YEARS SINCE THE TOXIC SUBSTANCES CONTROL ACT OF 1976 PASSED, THE ENVIRONMENTAL PROTECTION AGENCY HAS REQUIRED CHEMICAL COMPANIES TO TEST ONLY ABOUT 200 OF THOSE CHEMICALS FOR HEALTH HAZARDS AND HAS ISSUED PARTIAL RESTRICTIONS OF ONLY 5 CHEMICALS; AND
WHEREAS, THE TOXIC SUBSTANCES CONTROL ACT OF 1976 HAS BEEN WIDELY RECOGNIZED AS INEFFECTIVE AND OBSOLETE DUE TO LEGAL AND PROCEDURAL HURDLES THAT PREVENT THE EPA FROM TAKING QUICK AND EFFECTIVE REGULATORY ACTION TO PROTECT THE PUBLIC AGAINST WELL-KNOWN CHEMICAL THREATS; AND
WHEREAS, THE NATIONAL CONFERENCE OF STATE LEGISLATURES UNANIMOUSLY ADOPTED A RESOLUTION IN JULY 2009 THAT ARTICULATED PRINCIPLES FOR THE TOXIC SUBSTANCES CONTROL ACT OF 1976 REFORM AND CALLED ON CONGRESS TO ACT TO UPDATE THE LAW; AND
WHEREAS, IN AUGUST 2010, THE ENVIRONMENTAL COUNCIL OF STATES, THE NATIONAL ASSOCIATION OF STATE ENVIRONMENTAL AGENCY DIRECTORS, UNANIMOUSLY ADOPTED A RESOLUTION ENTITLED REFORMING THE TOXIC SUBSTANCES CONTROL ACT, WHICH ENDORSED SPECIFIC POLICY REFORMS; AND
WHEREAS, TEN STATES HAVE COME TOGETHER TO LAUNCH THE INTERSTATE CHEMICALS CLEARINGHOUSE TO COORDINATE STATE CHEMICAL INFORMATION MANAGEMENT PROGRAMS, AND A COALITION OF 13 STATES ISSUED GUIDING PRINCIPLES FOR THE TOXIC SUBSTANCES CONTROL ACT OF 1976 REFORM; AND
WHEREAS, 71 STATE LAWS ON CHEMICAL SAFETY HAVE BEEN ENACTED AND SIGNED INTO LAW IN 18 STATES WITH BROAD BIPARTISAN SUPPORT OVER THE LAST EIGHT YEARS; AND
WHEREAS, THE COMMONWEALTH OF MASSACHUSETTS HAS PASSED NUMEROUS LAWS TO PROTECT CHILDREN’S HEALTH WITH BROAD BIPARTISAN SUPPORT; AND
WHEREAS, STATE POLICY LEADERSHIP ON CHEMICAL MANAGEMENT, ALTHOUGH OUTSTANDING, CANNOT SUBSTITUTE FOR CONGRESSIONAL LEADERSHIP TO REFORM THE TOXIC SUBSTANCES CONTROL ACT OF 1976, A REFORM WHICH ALL PARTIES AGREE IS URGENTLY NEEDED; AND
WHEREAS, THE TOXIC SUBSTANCES CONTROL ACT OF 1976 IS THE ONLY MAJOR FEDERAL ENVIRONMENTAL STATUTE THAT HAS NEVER BEEN UPDATED OR REAUTHORIZED; AND
WHEREAS, LEGISLATION TO SUBSTANTIALLY REFORM THE TOXIC SUBSTANCES CONTROL ACT OF 1976 WAS INTRODUCED DURING THE 109TH CONGRESS IN 2005, THE 110TH CONGRESS IN 2008, AND AGAIN IN THE 111TH CONGRESS IN 2010, NOW THEREFORE BE IT
RESOLVED, THAT THE MASSACHUSETTS SENATE ENCOURAGES THE 112TH UNITED STATES CONGRESS TO ENACT FEDERAL LEGISLATION TO MODERNIZE THE TOXIC SUBSTANCES CONTROL ACT OF 1976 TO STRENGTHEN CHEMICALS MANAGEMENT THROUGH POLICY REFORMS THAT REQUIRE IMMEDIATE ACTION TO REDUCE OR ELIMINATE THE WORST CHEMICALS, INCLUDING PERSISTENT, BIOACCUMULATIVE AND TOXIC CHEMICALS AND OTHER PRIORITY TOXICS TO WHICH THERE IS ALREADY WIDESPREAD EXPOSURE AND ESTABLISH HEALTH SAFETY STANDARDS FOR CHEMICALS THAT RELY ON THE BEST AVAILABLE SCIENCE TO PROTECT THE MOST VULNERABLE AMONG US, SUCH AS CHILDREN AND THE DEVELOPING

FETUS; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THIS RESOLUTION BE TRANSMITTED FORTHWITH BY THE CLERK OF THE SENATE TO ALL MEMBERS OF THE MASSACHUSETTS CONGRESSIONAL DELEGATION.”; and by striking out the title and inserting the following title: “RESOLUTIONS IN SUPPORT OF REFORMING THE FEDERAL TOXIC SUBSTANCES CONTROL ACT OF 1976”.

The amendment was adopted.

The resolutions, as amended, were then adopted.

PAPER FROM THE HOUSE.

A Bill establishing the position of treasurer-collector in the town of Plympton (House, No. 3676,-- on petition) [Local approval received],-- was read.

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, in concurrence.

Communication.

The Clerk read the following communication:

OFFICE OF THE ASSISTANT MAJORITY LEADER
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON, MA 02133-1007

October 11, 2011

The Honorable Therese Murray, President
Massachusetts State Senate
State House, Room 332
Boston, MA 02133

Dear Madame President:

Please accept this letter as notice of my resignation from the Massachusetts State Senate representing the Second Suffolk and Middlesex District effective at the close of business on Thursday, October 13, 2011.

I would like to take this opportunity to thank you for your friendship and leadership during the time we served in the Senate together. Although I am deeply saddened by my impending departure from the Senate, I welcome the opportunity to represent the working people of Massachusetts by serving as President of the Massachusetts AFL-CIO.

I look forward to continuing to work with you, and all my colleagues, on issues that effect the working families of the Commonwealth.

Sincerely,

STEVEN A. TOLMAN,

State Senator

Second Suffolk and Middlesex District.

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

Order Adopted.

On motion of Mr. Berry,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at one o'clock P.M., in a full formal session with a calendar.

On motion of Mr. Baddour, at twenty-four minutes past five o'clock P.M., the Senate adjourned to meet again on Thursday next at one o'clock P.M.