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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, June 27, 2013.

Met at one minutes past one o'clock P.M. (Mr. Richard T. Moore in the Chair).

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Wolf for the purpose of an introduction. Mr. Wolf then introduced, in the rear of the Chamber, a group of Cape Cod students, parents and mentors who have all been participants in the ArtWorks Program. This program pairs high school students considering a career in the arts, with professional artists who mentor them. The students' artwork is currently on display in room 511C of the State House. The Senate welcomed them with applause and they withdrew from the Chamber.

Communication.

Communication from the Honorable Benjamin B. Downing in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, June 27, 2013),-- **was placed on file.**

PAPERS FROM THE HOUSE.

Bills

Establishing a sick leave bank for Rose Britton, an employee of the Trial Court (House, No. 3516,-- on petition); and Establishing a sick leave bank for Patricia A. Raftery, an employee of the Massachusetts Department of Transportation (House, No. 3524,-- on petition);

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

A Bill authorizing the town of Chelmsford to continue the employment of Fire Chief Michael Curran (House, No. 2211,-- on petition) [Local approval received],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

There being no objection, at two minutes past one o'clock P.M., the Chair (Mr. Richard T. Moore) declared a recess subject to the call of the Chair; and, at twenty-seven minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

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

Resolutions (filed by Ms. Jehlen and Ms. Creem) "congratulating Doctor William Silverstein on the occasion of his one hundredth birthday"; and

Resolutions (filed by Mr. Timilty) “congratulating Arthur M. O'Neill on his retirement as Chief of the Mansfield Police Department.”

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Janet Everett, an employee of the Massachusetts Department of Transportation (House, No. 3481),-- **ought to pass, with an amendment striking out, in lines 4 and 5, the words “for her illness or the illness of her spouse”.**

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

The bill, as amended, 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.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3536) of John V. Fernandes relative to sales tax exemptions for fuel used in on-site drilling operations.,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Revenue.**

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 Senate Bill authorizing the city of Newburyport to impose liens upon properties in the town of Newbury which connect to the water and sewer systems of the city (Senate, No. 973),-- **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:

Bills

Authorizing the city of Lynn to establish a program for enforcement against illegal dumping (Senate, No. 1784);

Authorizing the town of Nahant to issue bond anticipation notes (Senate, No. 1786);

Relative to the town of Foxborough (House, No. 1819, amended); and

Authorizing the appointment of William M. Cowl, Jr., as a firefighter in the city of Haverhill notwithstanding the maximum age requirement (House, No. 3227)

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

The House Bill making appropriations for the fiscal year 2013 to provide for supplementing certain existing appropriations and for certain other activities and projects (residue of House, No. 3522),-- **was read a second time.**

After remarks, and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1813, Messrs. Kennedy, Keenan and Montigny moved that the proposed new text be amended, by inserting, after section __, the following new section:-

“For a reserve to provide home modifications and moving expenses for certain victims of the Boston Marathon bombings; provided, however, that funding shall only be provided to a person who has either lost a limb or lost the use of a limb as a result of the Boston Marathon bombings that occurred on April 15, 2013; provided, further, that an eligible person shall receive benefits for the purpose of home modification or moving expenses to suitably accessible housing that shall include, but not be limited to, the following: special fixtures or movable facilities, moving expenses to obtain suitable alternative housing and other necessary home modifications due to the person’s disability; provided, further, that the secretary of administration and finance shall promulgate rules and regulations necessary for the identification of eligible victims of the Boston Marathon bombings and the awarding of benefits; and provided, further, that the funds appropriated in this item shall not revert and shall be made available for these purposes through June 30, 2014.....\$200,000”.

The amendment was adopted.

Ms. Lovely and Ms. Donoghue moved that the proposed new text be amended, in section 2, by inserting after line item 7004-2027 the following item:

Office of the Secretary of Education.

Department of Elementary and Secondary Education.

“7035-0005 \$5,250,000”.

After remarks, the amendment was rejected.

Mr. Michael O. Moore and Ms. Chandler moved to amend the proposed new text in section 2, by inserting after line 7066-0009

the following item:-

“XXXX-XXXX For expenses incurred by the city of Worcester for public safety security.....\$47,000”.

After remarks, the amendment was adopted.

Messrs. Tarr and Montigny moved that the proposed new text be amended by inserting before section 3 the following section:-

“SECTION . Chapter 10 of the General Laws is hereby amended by inserting after section 35XX the following section:-

Section 35YY. There shall be established upon the books of the commonwealth a separate fund to be known as the Dockside Testing Trust Fund to be expended, without prior appropriation, by the department of public health. The fund shall consist of fees to collected from harvesters of molluscan shellfish on Georges Bank in waters that are not monitored for the presence of paralytic shellfish toxin in the amount \$35,000 per vessel that harvests molluscan shellfish in those waters. The commissioner shall make necessary expenditures from the fund only for the administrative costs of the operations and programs of the department related to regulating and monitoring the shellfish harvesters, including the testing of shellfish as necessary to ensure that they are safe for human consumption. The department may incur expenses and the comptroller may certify for payment amounts in anticipation of expected receipts, but no expenditure shall be made from the fund that would cause the fund to be in deficit at the close of a fiscal year. Moneys deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund.”

The amendment was adopted.

Messrs. Tarr and McGee, Ms. Lovely and Ms. O’Connor Ives moved that the proposed new text be amended by inserting after section __, the following new section:-

“SECTION __. Salem State University shall study, in consultation with the department of elementary and secondary education, local educational authorities and private educational providers, the delivery of special education services in the commonwealth pursuant to chapter 71B of the General Laws and all applicable federal laws, including the Individuals with Disabilities Educational Act of 1990.

Said study shall include a comprehensive evaluation of existing and potential models for providing special education, and the associated costs and benefits, including but not limited to the costs of personnel compensation, transportation, housing and assistive technologies. Said study shall also seek to identify means by which services and instruction may be provided in a proactive manner, without the requirement or need for an individual education plan, but so as to maximize learning progress in local educational settings.

Said study, together with any legislative recommendations, shall be filed with the joint committee on education and the clerks of the house and the senate not later than May 1, 2014.”

After remarks, the amendment was adopted.

Mr. Rosenberg moved that the proposed new text be amended in section 2, in line item 8910-0108 by striking out “\$350,000” and inserting in place thereof the following:- “\$390,000”.

After remarks, the amendment was adopted.

Mr. Rush and Ms. Donoghue moved that the proposed new text be amended in section 2A by inserting the following:- “4590-0300 For smoking prevention and cessation programs, prior appropriation continued.....\$2,000,000”.

The amendment was rejected.

Ms. Creem, Ms. Donoghue and Ms. Jehlen moved that the proposed new text be amended in section 2, by adding the following new section:-

“SECTION XX. Item 2810-0100 of said Section 2 of said Chapter 139 is hereby amended by adding the following words:- ‘provided further, that not less than \$350,000 shall be expended for the purposes of aquatic invasive species control’.”; and in said item, by striking out the figures:- “\$41,409,387” and inserting in place thereof the following figures:- “\$41,759,387”.

After remarks, the amendment was adopted.

Ms. Creem moved that the proposed new text be amended in section 2, by adding the following new section:-

“SECTION XX. Item 7100-0200 of said Section 2 of said Chapter 139 is hereby amended by adding the following words: ‘and provided further, not less than \$375,000 be allocated to Silent Spring Institute to protect healthy drinking water and any and all findings shall be reported to the Cape Cod Commission to inform the Barnstable County Regional Wastewater Management Plan and the county shall incorporate these findings in their Regional Wastewater Management Plan.’; and by striking out the figure “\$418,107,753” and inserting in place thereof the following figure:- “\$418,482,753”.

The amendment was rejected.

Ms. Creem moved that the proposed new text be amended in section 2, by adding the following new section:-

“SECTION XX. Item 2310-0200 of said Section 2 of said Chapter 139 is hereby amended by adding the following words:- ‘; provided further that \$30,000 shall be provided to the Crystal Lake Conservancy for the purpose of environmental sampling, testing, and monitoring of the waters of Crystal Lake in Newton’.”; and by striking out the figure “\$10,557,069” and inserting in place thereof the following figure:- “\$10,587,069”.

The amendment was rejected.

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

“SECTION X. Item 7008-0900 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ‘; provided further, that not less than \$100,000 shall be expended to the Massachusetts International Festival of the Arts for the planned renovations and reopening of the Victory Theatre in the city of Holyoke, including construction consulting, business planning, and architecture and engineering costs’.”; and by striking, in item 7008-0900, the figure “\$7,217,109” and inserting in place thereof the following figure:- “\$7,317,109”.

The amendment was adopted.

Mr. Knapik moved that the proposed new text be amended by inserting at the end thereof the following new section:-
“SECTION X. Item 2200-0100 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ‘; provided further, that not less than \$25,000 shall be expended for the aquatic vegetation management program at Pequot Pond at Hampton Ponds State Park in the city of Westfield’.”

The amendment was rejected.

Mr. Pacheco moved that the proposed new text be amended in section 2A, by inserting at the end thereof the following new section:

“SECTION X. Item 7008-0900 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ‘provided further, that not less than \$25,000 shall be expended for the Wareham Summer of Celebration Organization for the town of Wareham’s 200th Anniversary of the attack on Wareham harbor by the British sloop HMS Nimrod and the 275th Anniversary of the Incorporation of the Town’.”; and in said item, by striking out the figures “\$7,217,109” and inserting in place thereof the following figure:- “\$7,242,109”.

The amendment was adopted.

Mr. Ross moved that the proposed new text be amended by adding the following new section:-

“SECTION XX. Section 2 of chapter 70 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the third and fourth definitions and inserting in place thereof the following definitions:-

‘Assumed tuitioned-out special education enrollment’, the prior 5 year district average percentage of students included in foundation enrollments on Special Education Individual Education Plan whom the district has placed in out of district placements.

‘Assumed in school special education enrollment’, the prior 5 year district average percentage of students included in foundation enrollments on Special Education Individual Education Plans who attend district schools.”

The amendment was rejected.

Mr. Ross and Ms. Chandler moved to amend the proposed new text in section 47, by inserting after the figure “2011” the following words:- “; provided further, that the department shall expend no less than the amount provided for in chapter 61 of the acts of 2007 to the municipality hosting the Bay State Correctional Center”.

After remarks, the amendment was rejected.

Mr. Tarr moved that the proposed new text be amended by inserting after section _ the following sections:-

“SECTION XX. Section 12 of chapter 68 of the Acts of 2011 is hereby amended by striking the words:- ‘and (9) collaborate with other state agencies, authorities and other entities to carry out these purposes.’ and inserting in place thereof the following:- (9) track all reports, whether completed or not, required by law to be performed by all secretariats, commissions, departments, agencies, quasi-state agencies or entities of the commonwealth and required to be submitted to the clerks of the house or senate or a legislative committee or subcommittee; (10) make all legislative directives conspicuously available and accessible online in searchable format on the office of commonwealth performance, accountability and transparency website; and (11) collaborate with other state agencies, authorities and other entities to carry out these purposes.”

SECTION XX. Notwithstanding any general or special law to the contrary, all commissions, secretariats, departments, agencies, quasi-state agencies or entities of the commonwealth required by law to file a report with the clerks of the house of representatives and the senate, or with the chairs of any legislative committee, shall file said report via electronic means and shall provide an electronic copy of the report to the office of commonwealth performance, accountability and transparency. Said office of commonwealth performance, accountability and transparency shall monitor the progress of all required reports and prominently make all reports available to the public via its website. A secretariat, department, agency, quasi-state agency or any other entity of the commonwealth shall provide a copy in hard copy format of any report upon request.”

After debate, the amendment was rejected.

Ms. Candaras and Mr. Welch moved to amend the proposed new text by adding the following new section:-

“SECTION XX: Item 7004-0102 of section 2 of chapter 139 of the acts of 2012 is hereby amended by striking out the figure ‘\$40,450,335’, and inserting in place thereof the following figure ‘\$40,597,722’ and by adding the following words:- ; and provided further that \$145,387 shall be expended for the Friends of the Homeless of Springfield.”

After remarks, the amendment was adopted.

Mr. Ross moved that the proposed new text be amended by adding the following new section:-

“SECTION XX. Chapter 94C of the General Laws, as so appearing, is hereby amended by adding after section 32E the following section:-

Section 32E½. As used in this section, the following terms shall have the following meanings:

(a) ‘conviction’ means a conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge;

(b) ‘Drug trafficker’ means a person who has been convicted of a violation of Chapter 94C section 32 subsection (a), or Chapter 94C section 32E subsection (b), or Chapter 94C section 32E subsection (c) and who:

(1) is a resident of Massachusetts;

(2) changes residence to Massachusetts;

(3) does not have an established residence in Massachusetts, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in Massachusetts.

(c) ‘drug offense’ means a conviction for the unlawful trafficking of a controlled substance in violation of Chapter 94C section 32 subsection (a), or Chapter 94C section 32E subsection (b), or Chapter 94C section 32E subsection (c), or in violation of a law or

ordinance of any jurisdiction or state of the United States or of federal, tribal or military law when that law or ordinance prohibits conduct that is unlawful under the provisions of Chapter 94C section 32 subsection (a), or Chapter 94C section 32E subsection (b), or Chapter 94C section 32E subsection (c).

(d) 'registration requirement' means any requirement set forth in Section 2 of this act that requires a drug trafficker to register, provide information, renew, revise or change the trafficker's registration information or provide written notice or disclosure regarding the trafficker's status as a drug trafficker.

Section 2. A drug trafficker residing in Massachusetts shall register with the local police department in the city or town in which the drug trafficker resides no later than ten days after being released from the custody of the corrections department, county jail or a federal, military or tribal correctional facility or detention center.

(a) In the case of any drug trafficker on probation or parole, it shall be the duty of the drug trafficker's probation or parole officer to notify, within forty-eight hours, the local police department in the city or town in which the trafficker resides that a registered drug trafficker is living in their jurisdiction. If a drug trafficker changes the status of his or her residence while on probation or parole, such notification of the change of status shall be sent by the drug trafficker's probation or parole officer, within forty-eight hours, to the local police department of the city and town in which the trafficker resides.

(b) A drug trafficker who changes residence to Massachusetts shall register with the local police department in the city or town in which the drug trafficker resides no later than ten days after arrival in this state.

(c) When a drug trafficker registers with the local police department, the drug trafficker shall provide the following registration information:

(1) legal name and any other names or aliases that the drug trafficker is using or has used;

(2) date of birth;

(3) social security number;

(4) current address;

(5) the drug offense for which the drug trafficker was convicted; and

(6) the date and place of the drug offense conviction.

(d) When a drug trafficker registers with a local police department, the police department shall obtain:

(1) a photograph of the drug trafficker;

(2) a complete set of the drug trafficker's fingerprints; and

(3) a description of any tattoos, scars or other distinguishing features on the drug trafficker's body that would assist in identifying the drug trafficker.

(e) When a registered drug trafficker changes residence within the same city or town, the drug trafficker shall send written notice of the change of address to the local police department no later than ten days after establishing the new residence.

(f) When a registered drug trafficker changes residence to a new city or town in Massachusetts, the drug trafficker shall register with the local police department of the new city or town no later than ten days after establishing the new residence. The drug trafficker shall also send written notice of the change in residence to the local police department with whom the drug trafficker last registered no later than ten days after establishing the new residence.

(g) When a registered drug trafficker does not have an established residence, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in Massachusetts, the drug trafficker shall register with the local police department for each city or town in which the drug trafficker is living or temporarily located. The drug trafficker shall register no later than ten days after a change in living arrangements or temporary location.

(h) Following initial registration pursuant to the provisions of this section, a drug trafficker shall annually renew the drug trafficker's registration with the local police department prior to December 31 of each subsequent calendar year for a period of:

(1) five years for a first drug offense;

(2) ten years for a second drug offense; and

(3) an additional ten years for every subsequent offense after the second offense.

(i) A drug trafficker required to register pursuant to this chapter who knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) who knowingly provides false information shall be punished in accordance with this section.

(1) A first conviction under this subsection shall be punished by imprisonment for not less than six months and not more than two and one-half years in a house of correction nor more than five years in a state prison or by a fine of not more than \$1,000 or by both such fine and imprisonment.

(2) A second and subsequent conviction under this subsection shall be punished by imprisonment in the state prison for not less than five years.

Section 3. If a drug trafficker intends to move from Massachusetts to another state, no later than thirty days prior to moving to the other state, the drug trafficker shall:

(1) notify the local police department where the drug trafficker resides that the drug trafficker is moving to the other state; and

(2) provide the local police department with a written notice that identifies the state to which the drug trafficker is moving.

(a) Within five days of receiving a drug trafficker's written notice of intent to move to another state, the local police department shall transmit that information to Department of Criminal Justice Information Services (DCJIS).

(b) A drug trafficker who willfully fails to comply with the requirements set forth in this section is guilty and subject to the penalties outlined in Section 2, subsection i, clauses 1 and 2 of this act.

Section 4. A court shall provide a drug trafficker convicted in that court with written notice of the drug trafficker's duty to register pursuant to the provisions of this act and Subsection C of this section. The written notice shall be included in judgment and

sentence forms provided to the drug trafficker.

(a) The corrections department, county jail or a detention center shall provide a drug trafficker with written notice of the drug trafficker's duty to register at the time of release of a drug trafficker in its custody, pursuant to the provisions of this act and Subsection C of this section.

(b) The written notice shall inform the drug trafficker that, pursuant to this act, the drug trafficker is required to do the following:

- (1) register with the local police department in the city or town in which the drug trafficker will reside or, if the drug trafficker will not have an established residence, with the local police department in the city or town in which the drug trafficker will live or temporarily be located;

- (2) report subsequent changes of address;

- (3) notify the local police department in the city or town in which the drug trafficker resides if the drug trafficker intends to move to another state and that the drug trafficker may be required to register in the other state;

- (4) read and sign a form that indicates that the drug trafficker has received the written notice and that:

- (i) a responsible court official, designated by the chief judge for that judicial district, has explained the written notice to the drug trafficker; or

- (ii) a responsible corrections department official, designated by the commissioner of the department of corrections, or a responsible county jail official or detention center official has explained the written notice to the drug trafficker.

(c) A court, the corrections department, a county jail or a detention center shall also provide written notification regarding a drug trafficker's release to the local police department in the city or town in which the drug trafficker is released and to the Department of Criminal Justice Information Services (DCJIS).

(d) The DCJIS, when notified by officials from another state that a drug trafficker will be establishing residence in Massachusetts, shall provide written notice to the drug trafficker of the duty to register pursuant to the provisions of this act. Section 5. A local police department shall maintain a local registry of drug traffickers in the city or town who are required to register pursuant to the provisions of this act.

(a) A local police department shall forward to the DCJIS initial registration information and any new registration information subsequently obtained from a drug trafficker no later than ten working days after the information is obtained from a drug trafficker. If the DCJIS receives information regarding a drug trafficker from a governmental entity other than a local police department, EOPPS shall send that information to the local police department in which the drug trafficker resides.

(b) The DCJIS shall maintain a central registry of drug traffickers required to register pursuant to the provisions of this act. The department shall retain registration information regarding a drug trafficker for the following periods of time:

- (1) five years for a drug trafficker convicted of one drug offense;

- (2) ten years for a drug trafficker convicted of two drug offenses; and

- (3) an additional ten years for every subsequent offense after the second offense.

(c) The DCJIS shall adopt rules as necessary to carry out the provisions of this act.

Section 6. A local police department shall forward registration information obtained from a drug trafficker to the DCJIS.

(a) A person who wants to obtain registration information regarding a drug trafficker may request that information from the:

- (1) local police department in the city or town in which the drug trafficker resides;

- (2) Secretary of the DCJIS.

(b) Upon receiving a request for registration information regarding a drug trafficker, a local police department or the DCJIS shall provide that registration information, with the exception of a drug trafficker's social security number, within a reasonable period of time but no later than seven days after receiving the request.

(c) Within seven days of receiving registration information from a drug trafficker, the local police department shall contact every elementary school, middle school and high school within a one-mile radius of the drug trafficker's residence and provide them with the drug trafficker's registration information, with the exception of the drug trafficker's social security number.

(d) The DCJIS shall establish and manage an internet web site that provides the public with registration information regarding drug traffickers, except that the DCJIS shall not provide registration information on the internet web site regarding a drug trafficker who was less than eighteen years of age when the drug trafficker committed the drug offense for which the drug trafficker was adjudicated. The registration information provided to the public pursuant to this subsection shall not include a drug trafficker's social security number or a drug trafficker's place of employment, unless the drug trafficker's employment requires the drug trafficker to have direct contact with children or youth.

Section 7. Police officials and other public employees acting in good faith shall not be liable in a civil or criminal proceeding for any publication on the internet under this act or other dissemination of drug trafficker registry information or for any act or omission pursuant to the provisions of this act.

Section 8. Information contained in the drug trafficker registry shall not be used to commit a crime against a drug trafficker or to engage in illegal discrimination or harassment of a drug trafficker. Any person who uses information disclosed pursuant to the provisions of this act, for such purpose shall be punished by not more than two and one-half years in a house of correction or by a fine of not more than \$1,000 or by both such fine and imprisonment.

Section 9. Whenever a police officer has probable cause to believe that a drug trafficker has failed to comply with the registration requirements of this act, such officer shall have the right to arrest such drug trafficker without a warrant and to keep such drug trafficker in custody.

Section 10. If any part or application of this act is held invalid, the remainder of this act and its application to other situations or persons shall not be affected.

Section 11. The provisions of this act apply to a person who committed a drug offense on or after October 1, 2014.

Section 12. The effective date of the provisions of this act is October 1, 2014.”

The amendment was rejected.

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

“SECTION X. Item 7008-0900 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ‘; provided further, that not less than \$50,000 shall be expended for the Amelia Park Children’s Museum in the city of Westfield’.”; and further by striking, in item 7008-0900, the figure “\$6,714,728” and inserting in place thereof the following figure:- “\$6,764,728”.

The amendment was rejected.

Mr. Kennedy moved that the proposed new text be amended by inserting after section __, the following new section:-

“SECTION __ Chapter 32, Section 100 is hereby amended in line 14 after the word, ‘death,’ by inserting the following:- ‘or if a municipal or public emergency medical technician while in the performance of his duties and as a result of an assault on his person or as a result of an accident involving an emergency medical services vehicle which he is operating or in which he is riding in the performance of his duties as a emergency medical technician is killed or sustains injuries which result in his death,’; and by striking every instance therein where the following phrase appears: ‘firefighter, police officer, or corrections officer’ and inserting in place thereof the following:- ‘firefighter, police officer, correction officer, or municipal or public emergency medical technician’.”

The amendment was rejected.

Mr. Tarr and Ms. Donoghue moved that the proposed new text be amended by inserting after section _ the following sections:-

“SECTION _ . Section 1 of chapter 138 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of ‘Alcoholic beverages’ the following definition:-

‘Alcoholic beverages expert’, an individual who is recognized for their written contributions evaluating alcoholic beverages in trade publications, newspapers, magazines, websites, newsletters, and other media for public distribution.

SECTION _ . Chapter 138 of the General Laws, as so appearing, is hereby amended by striking section 19F and inserting in place thereof the following section:-

Section 19F. (a) Notwithstanding any general or special law to the contrary, an applicant that is currently licensed in the Commonwealth, or any other state, to manufacture, export and sell wine, who obtains a direct shipment license pursuant to this section, may sell and ship wine directly to a resident of the Commonwealth, who is at least 21 years of age, for such resident’s personal use, and not for resale.

(b) The commission may issue a direct shipment license to an applicant who: (1) Is authorized by their home state licensing authority to manufacture, export and sell wine; (2) Files an application with the commission; and (3) Pays an annual license fee per winery.

(c) The annual license fee for a license issued under this section shall be \$100.00 per winery; provided that an affiliate, franchise, or subsidiary thereof shall require a separate license. The applicant shall provide the commission and the department of revenue with a true copy of the applicable alcoholic beverage license to manufacture, export and sell its wine as issued by the appropriate licensing authority. A copy of the wine shipment license obtained under this section shall be sent by the commission to the department of revenue to be kept on file.

(d) A person licensed under this section shall ship wine in accordance with section 22.

(e) A person licensed under this section shall: (i) report monthly to the commission and the department of revenue the total number of gallons of wine shipped into the commonwealth for the preceding month; (ii) pay to the department of revenue, under the department’s rules and regulations, all taxes due, the amount of such taxes to be calculated as if the sale were at the location where the delivery is made; provided, however, that the licensee shall pay, for each shipment of wine, the excise levied on importations of wine calculated under section 21 and any and all other applicable taxes, including sales tax; and (iii) upon request, allow the commission or the department of revenue to perform an audit of the licensee’s records.

(f) No person shall direct ship wine to consumers without a license to sell and ship wine. A person who manufactures, transports, imports, or exports wine in violation of this chapter shall be deemed to have engaged in a deceptive act or practice under chapter 93A.

If a violation of this section involves a sale or delivery to a person under 21 years of age, a first offense shall carry a fine of \$1000; for a second violation, a fine of \$2000; for a third violation within one calendar year, by a prohibition of the winery from making any direct shipment of wine under this section, by a fine of up to \$10,000, or both; provided that after 1 year, the winery may reapply for the authority to directly ship wine under this section. Nothing in this clause shall preclude punishment under section 34.

(g) The commission may promulgate rules and regulations to effectuate the purposes of this law in accordance with its powers under section 24 of chapter 138. The department of revenue may promulgate rules and regulations necessary to effectuate the tax oversight, collection and enforcement provisions of the General Laws as they relate to this section.

(h) The commission shall issue an annual report to the house and senate committees on ways and means and the joint committee on consumer protection and professional licensure, which shall include, but not limited to, a determination of direct shipment licenses issued, a review of violations and enforcement measures under this section and an analysis of the need for changes in the law and regulations relative thereto.

SECTION _ . Section 22 of said chapter 138, as so appearing, is hereby amended by striking paragraph 9 and inserting in place thereof the following paragraph:-

Notwithstanding any other provision of this section, any individual, partnership, or corporation, regularly and lawfully conducting a parcel delivery service, or a general express or trucking business, or regularly and lawfully engaged in the business

of leasing trucks for hire, with or without drivers, may transport and deliver the products sold at retail by licensees under section 19F, farmer-winery licensees under 19B, or farmer-brewery licensees under section 19E, to the ultimate consumers of such products pursuant to this section. Licensees under sections 19F and 19E shall ensure that the outside of each parcel transported or delivered under this section shall be clearly labeled with the words 'CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.' Receipts for delivery of such parcels shall contain a check box next to the recipient's signature where the recipient shall certify that he or she is not under 21 years of age and a check box where the delivery person shall certify that a valid form of photographic identification showing that the recipient is not under 21 years of age was presented by the recipient upon delivery. Notwithstanding the foregoing, a delivery company may use an electronic device to receive the signature of a person accepting delivery of a parcel under this section and to certify that the person has displayed a valid identification as so required.

SECTION __. Section 22A of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following two paragraphs:-

(1) Upon payment of annual fee of \$100.00, the commission may grant to an alcoholic beverages expert a permit which shall authorize such individual to accept delivery of alcoholic beverages from a licensee under this chapter. These beverages, known as samples, are acquired otherwise than by purchase and are not intended for sale. The holder of a permit issued under this section shall use the samples obtained for the express purpose of evaluation and analysis related to consumer consumption of an item having a brand name. The permit shall allow for the delivery of the samples to the premises where the research is to be conducted.

(2) Before an individual may qualify as an expert under this section, the individual shall submit credentials, with their initial application fee, to be approved by the commission."

The amendment was rejected.

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

"SECTION X. Item 8100-1001 in section 2 of Chapter 139 of the Acts 2012 is hereby amended by adding the following:- ' ; provided further that not less than \$100,000 shall be expended for the purpose of enhancing the state police presence in the city of Springfield' ."; and in said item 8100-1001 by striking out the figure "\$244,122,688" and inserting in place thereof the following figure:- "\$244,222,688."

The amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by inserting after section __, the following new section:-

"SECTION __. Notwithstanding any general or special law to the contrary, the allotments to all Local Aid, including the following line items: 1231-1000, 1232-0100, 1410-0400, 7035-0005, 7035-0006, 7061-0011, 7061-0012, 7061-9010, 1233-2350, reduced by the governor on December 4, 2012 pursuant to section 9C of chapter 29 of the General Laws and not restored by the governor on May 17, 2013 shall be restored to the funding levels authorized by Chapter 139 of the Acts of 2012."

The amendment was rejected.

Mr. Hedlund moves that the proposed new text be amended by inserting after section __, the following new section:

"SECTION __. Section 104 of Chapter 68 of the Acts of 2011 is hereby amended by adding the following words:- ; provided further, that the amount of said fee for said certificate shall not exceed \$25.00; and provided further, that this section shall not apply to a building, structure or portions thereof used principally as a house of worship, public school building, municipal council on aging, or veterans' service organization."

After remarks, the amendment was rejected.

Mr. Richard T. Moore in the Chair, Mr. Tarr moved that the proposed new text be amended by inserting after section __ the following section:—

"SECTION XX. Paragraph 2 of subsection (c) of section 41 of chapter 209 of the acts of 2012 is hereby amended by striking out 'July 1, 2013', as it appears, and inserting in place thereof the following:- October 31, 2013."

The amendment was adopted.

Mr. Michael O. Moore, Ms. Forry, Mr. Finegold and Ms. O'Connor Ives move to amend the bill, in section 2, by inserting after item 1750-0300 the following item:-

"4000-0265.....\$1,000,000"; and

by inserting after section __, the following section:-

SECTION _____. Notwithstanding any general or special law to the contrary, the funds appropriated in item 4000-0265 of section 2A of chapter 142 of the acts of 2011 shall be again appropriated for the same dollar amount in line item 4000-0265 and shall be distributed and managed in the same manner as designated in section 60 of chapter 118 of the acts of 2012."

The amendment was rejected.

Ms. Donoghue and Mr. Downing moved that the proposed new text be amended by inserting in section 2, after line item 7066-0009, the following item:-

"XXXX-XXXX. (a) For the purposes of reducing the need for remediation following matriculation into a postsecondary setting, the comptroller shall transfer \$30,000 from the General Fund to the department of elementary and secondary education ("department") to administer a pilot program called Uniform College and Career Readiness.

(b) The Uniform College and Career Readiness pilot program ("pilot program") is hereby established to be administered by the department for the 2013-2014 school year for the school districts, charter schools, and innovation schools in gateway cities. The pilot program shall be administered to approximately 750 students and will consist of (1) placement tests (2) diagnostic

assessment tests, (3) intervention programs be administered to students over a 10-week period as indicated by a student's score on the diagnostic assessment test to ensure that the student receives online education services necessary for the student to demonstrate postsecondary and workforce readiness with either a reduced or eliminated need for remediation, and (4) second placement tests following the delivery of any intervention services in order to collect data necessary to determine the pilot program's efficacy. The placement tests and diagnostic assessment tests shall be those tests commonly administered by public institutions of higher education. The selected school districts, charter schools, or innovation schools shall receive funding to administer the tests and deliver the diagnosed remediation services. Administration of the placement tests, diagnostic assessment tests and intervention services shall commence when a student enters the eleventh grade.

(c) At the end of the pilot program, all recipient schools shall provide a report to the department that includes data of the efficacy of their program efforts by comparing the initial placement tests to the placement tests administered following the delivery of remediation services, 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, and the joint committee on higher education by August 2014, for the purpose of determining whether the pilot program shall be more broadly implemented."

After remarks, the amendment was adopted.

Ms. Clark moved that the proposed new text be amended by inserting the following:-

"XXXX-XXXX. No less than \$75,000 shall be expended for infrastructure improvements to the Milano Senior Center in the City of Melrose".

The amendment was rejected.

Ms. Clark moved that the bill be amended by inserting the following:-

"XXXX-XXXX. No less than \$75,000 shall be expended for parking, safety, traffic improvements to the Friends Municipal Parking Lot in downtown Melrose".

The amendment was rejected.

The President in the Chair, Messrs. Rush, Petrucci and DiDomenico, Ms. Chang-Diaz, Ms. Forry and Mr. Brownsberger moved that the proposed new text be amended by inserting the following section:-

"SECTION XX. Item 4516-1010 of section 2 of chapter 139 of the acts of 2012 is hereby amended by adding at the end thereof the following words:- 'provided further, that not less than \$1,000,000 shall be expended to the City of Boston's Public Health Department for emergency preparedness and ambulance services at public events'. "; and in said item, by striking the figure "2,197,411" and inserting in place thereof the figure "3,197,411".

The amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by inserting, after section __, the following new section:-

"SECTION __. Section 6 of chapter 62 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after subsection (r) the following new subsection:-

(s) (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) Beginning January 1, 2014, 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, 2017.

(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, 2021.

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

The amendment was rejected.

Messrs. Ross and Montigny moved that the bill be amended by adding the following new section:-

"SECTION XX. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the word 'services.' in line 204 the following new sentence:- "In the case of the sale by a vendor of a mobile telecommunications device with mobile telecommunications service, the tax shall be imposed upon the sales price of the mobile telecommunications device."

After remarks, the amendment was rejected.

Mr. Ross moved that the proposed new text be amended by adding the following new section:-

"SECTION XX. Chapter 64A is hereby amended by inserting after section 7A the following section:-

Section 7B. Any municipality of the commonwealth that buys any fuel on which an excise tax has been paid under chapter 64A and, which fuel has been purchased for its municipal consumption and use, shall be reimbursed the amount of such excise tax paid in the manner and subject to the conditions herein provided. All claims for reimbursement shall be filed with the

commissioner of revenue and shall be made in such form and containing such information, and accompanied with supporting documentation, as the commissioner of revenue shall prescribe. The commissioner of revenue shall establish a quarterly calendar year schedule for the submission of claims by municipalities for reimbursement of such paid fuel excise taxes. No reimbursement for such excise tax paid shall be made for any claim submitted after 6 months from the date of the purchase of such fuel. The commissioner of revenue shall transmit all claims approved by him to the comptroller for certification, and the amount so approved and certified as aforesaid shall be paid forthwith from the proceeds of the excise tax levied under this chapter 64A, without specific appropriation. No claim for reimbursement for said excise tax shall be made by a municipality under sections 7 and 7A of chapter 64A, for fuel purchased during said period, to which a municipality is entitled to claim a reimbursement under this section.

SECTION 2. Section 13 of Chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words 'seven and seven A' in line 3, and inserting in place thereof, the following words:- 'seven, seven A and seven B'."

The amendment was rejected.

Ms. Clark and Mr. Montigny moved that the proposed new text be amended by inserting the following section:-

"SECTION XX. Notwithstanding any general or special law to the contrary, an employee of the Commonwealth of Massachusetts or any political subdivision therein, who is an immediate family member of a person or persons injured as a direct result of the explosions at the Boston Marathon on April 15, 2013, and who is entitled to two or less weeks of sick-leave or has exhausted all but two or less weeks of sick-leave, shall be eligible for up to twelve weeks of additional paid sick-leave to be used to provide care for and assistance to the injured person or persons, or their dependents. Such sick-leave days shall not be used for absences unrelated to the care for or assistance to the injured person or persons or their dependents, and shall not be considered for purposes of determining an employee's total accumulated sick-leave days. All sick-leave provided by this act must be used within one year of the effective date of this act."

The amendment was rejected.

Messrs. Tarr and Montigny moved that the proposed new text be amended by adding the following:-

"SECTION. The report required by section 37 shall be made available online."

The amendment was adopted.

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

"SECTION X. Item 1410-0010 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ' ; provided further, that not less than \$25,000 shall be expended for the War Memorial in the town of Southwick to ensure compliance with the Americans with Disabilities Act'."; and by striking, in item 1410-0010, the figure "\$2,695,839" and inserting in place thereof the following figure:- "\$2,720,839".

The amendment was adopted.

Mr. Richard T. Moore moved that the proposed new text be amended by inserting after section 33 the following 2 sections:-

"SECTION 33A. Item 8324-0000 of said section 2 of said chapter 139 is hereby amended by adding the following words:- ' ; and provided further, that \$50,000 shall be expended for conceptual planning and development for fire safety improvements in the town of Dudley.

SECTION 33B. Said item 8324-0000 of said section 2 of said chapter 139 is hereby further amended by striking out the figure amended by striking out the figure '\$18,513,773' and inserting in place thereof the following figure:- '\$18,563,773'."

The amendment was adopted.

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

"SECTION X. Item 7008-0900 in section 2 of Chapter 139 of the Acts of 2012 is hereby amended by adding the following words:- ' provided further, that not less than \$50,000 shall be expended to the New Bedford Whaling Museum, in cooperation with the City of New Bedford, for the visit of the whaling ship Charles W. Morgan to New Bedford in June, 2014; provided further that not less than \$100,000 shall be expended for the New Bedford Ocean Explorium; and provided further, that not less than \$150,000 shall be expended for the Frederick Douglas House in New Bedford for educational services, interpretative and museum services, programs and acquisitions and undertake tourism and marketing activities'."; and in said item, by striking out the figures "\$7,217,109" and inserting in place thereof the following figure:- "\$7,517,109".

The amendment was adopted.

Ms. Forry moved that the proposed new text be amended by inserting after section 31 the following 2 sections:-

"SECTION 31A. Item 4513-1098 of said section 2 of said chapter 139 is hereby amended by adding the following words:- ' ; and provided further, that any unexpended funds shall not revert but shall be made available for expenditure until June 30, 2014'.

SECTION 31B. Said item 4513-1098 of said section 2 of said chapter 139 is hereby further amended by striking out the figure '\$125,000' and inserting in place thereof the following figure:- '\$275,000."

The amendment was adopted.

Mr. Kennedy moved that the proposed new text be amended by inserting after section __, the following section:-

"SECTION X. Notwithstanding sections 6 and 7 of chapter 53 and sections 86 and 95 of chapter 54 of the General Laws or any general or special law to the contrary, the secretary only for compliance with the federal Uniformed and Overseas Citizen Absentee Voting Act, 42 USC §§ 1973ff, shall have the authority to add or change any dates relating to such special primaries or

election for Representative in Congress in the year 2013 as the secretary deems necessary for the orderly administration of the election and so that absentee ballots will be available to active duty military and overseas citizen voters not later than 45 days before any special federal primary or election. The secretary shall provide notice of these changes with the rules and regulations division and by posting on the secretary's website and by whatever other means the secretary deems appropriate."

The amendment was adopted.

Mr. Brewer moved that the proposed new text be amended by striking out section 22 and inserting in place thereof the following section:-

"SECTION 22. Section 40 of said chapter 262, as appearing in section 60 of chapter 140 of the acts of 2012, is hereby amended by adding the following sentence:- No fee under this section shall be charged to the commonwealth or a state agency, but if an action initiated by the commonwealth or a state agency results in the appointment of a fiduciary with control over the assets of an estate, then any such fees normally chargeable to an estate shall be deferred until the fiduciary is duly appointed and authorized to expend the assets of the estate.";

By inserting after section 31 the following 2 sections:-

"SECTION 31A. Item 7008-0900 of said section 2 of said chapter 139 is hereby amended by adding the following words:- ; provided further, that not less than \$100,000 shall be expended for accessibility at the Arc of Greater Plymouth; and provided further, that not less than \$50,000 shall be expended to the Greater Plymouth Performing Arts Center.

SECTION 31B. Said item 7008-0900 of said section 2 of said chapter 139 is hereby further amended by striking out the figure '\$7,217,109' and inserting in place thereof the following figure:- \$7,792,109.";

By inserting after section 40 the following section:-

"SECTION 40A. Notwithstanding any general or special law or rule or regulation to the contrary, any unexpended balances, not exceeding a total of \$20,000,000, in items 4000-0600 and 4000-0700 of section 2 of chapter 139 of the acts of 2012, shall not revert to the General Fund until September 1, 2013 and may be expended by the executive office of health and human services to pay for services enumerated in said items 4000-0600 and 4000-0700 of said section 2 of said chapter 139 provided during fiscal year 2013.";

By inserting after section 48 the following 2 sections:-

"SECTION 48A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Section 1202 Trust Fund. An amount equal to the federal financial participation received for the portion of expenditures eligible for 100 per cent federal financial participation under section 1202 of the Patient Protection and Affordable Care Act and regulations adopted thereunder shall be deposited into the fund. The amount deposited shall not exceed the amount expended from the fund. The secretary of health and human services shall be the trustee of the fund and shall expend moneys in the fund, without further appropriation, exclusively for services provided in calendar years 2013 and 2014 that are eligible for 100 per cent federal financial participation under said section 1202. The secretary may incur expenses and the comptroller may certify for payment from the fund amounts in anticipation of expected receipts, but no expenditure shall be made from the fund that shall cause the fund to be in deficit at the close of a fiscal year. Any remaining balances in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available during the following fiscal year for the purposes of this section. Funds may be expended for services provided in prior fiscal years.

SECTION 48B. Section 48A is hereby repealed."; and by adding the following section:-

"SECTION 50. Section 48B shall take effect on June 30, 2015."

The amendment was adopted.

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

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, in concurrence, with the amendment, was determined by a call of the yeas and nays, at twenty-four minute past three o'clock P.M., on motion of Ms. Flanagan, as follows, to wit (yeas 39 — nays 1) [Yeas and Nays No. 98]:

YEAS.

Barrett, Michael J. Knapik, Michael R.
Brewer, Stephen M. Lovely, Joan B.
Brownsberger, William N. McGee, Thomas M.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Chang-Diaz, Sonia Moore, Richard T.
Clark, Katherine M. Murray, Therese
Creem, Cynthia Stone O'Connor Ives, Kathleen
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petrucci, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.

Forry, Linda Dorcena Tarr, Bruce E.
Jehlen, Patricia D. Timilty, James
Joyce, Brian A. Welch, James T.
Keenan, John F. Wolf, Daniel A. – 39.
Kennedy, Thomas P.
NAYS.
Hedlund, Robert L. – 1.

The yeas and nays having been completed at twenty-eight minutes past three o'clock P.M., the bill passed to be engrossed, in concurrence, with the amendment [For text of Senate amendment, printed as amended, see Senate, No. 1814].

Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Donnelly,--

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

On motion of Mr. Brewer, at twenty-nine minutes past three o'clock P.M., the Senate adjourned to meet again tomorrow at eleven o'clock A.M.