

Wednesday, April 28, 2004 (at 10:00 o'clock A.M.).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, we begin each day with the good and a sincere intention of serving You and the people who depend upon our reasoned judgments, in a faithful and conscientious manner. When we are successful by achieving our goals, we are grateful for Your assistance. When we fail, we ask for pardon. Coping with the stresses in our own lives as well as the demands and expectations (sometimes unrealistic) of the electorate is made easier with Your help. Inspire us to ask for that help and direction during the day. As elected leaders guide our efforts to resolve all disagreements on priorities, programs and policies rationally. In our own daily lives grant us the courage and wisdom to remain committed to our philosophical and political principles and to our religious beliefs and practices.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of allegiance.

Statement of Representative Kafka of Sharon.

A statement of Mr. Kafka of Sharon was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for yesterday's sitting due to a family medical concern. Any roll calls that I may have missed yesterday is due entirely to the reason stated.

Statement of Representative Kafka of Sharon.

Statement Concerning Representative Kaufman of Lexington.

A statement of Mr. DiMasi of Boston concerning Mr. Kaufman of Lexington was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kaufman of Lexington, will not be present in the House Chamber for today's sitting due to a family emergency. Any roll calls that he may miss today or for the next few days will be due entirely to the reason stated.

Statement concerning Representative Kaufman of Lexington.

Guests of the House.

During the session Mrs. Poirier of North Attleborough took the Chair, declared a brief recess and introduced H. Mason Hedberg, a 17-year old senior at North Attleborough High School. Mrs. Poirier then read resolutions previously adopted by the House honoring him and presented said resolutions to him. Mr. Hedberg, winner of the national Intel Science Talent Search, worked for 2 years on a project developing a more efficient method to diagnose cancer. He has received a \$100,000 scholarship and plans to attend Brown University in September. Mr. Hedberg, who was accompanied by his parents, Herbert and Cynthia, his sister Mary Lou, and his grandparents, William and Mary Lou Hjerpe, then addressed the House briefly. They were all guests of Representative Poirier.

H. Mason Hedberg.

Resolutions.

Resolutions (filed with the Clerk by Representatives Spilka of Ashland and Blumer of Framingham) congratulating Edward Albert Roos upon his elevation to the rank of Eagle Scout, were referred, under Rule 85, to the committee on Rules.

Mr. Miceli of Wilmington, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Ms. Spilka, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the disposition of certain state-owned land in the city of Medford (see House, No. 3076, amended) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call (Mr. Donato of Medford being in the Chair) 154 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 603 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bill.

The Speaker having returned to the Chair,— the engrossed Bill exempting certain positions in the city of Westfield from the civil service law (see House bill printed as Senate, No. 1928) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Walsh of Boston moved that it be amended by adding at the end thereof the following section:

“SECTION 217. Notwithstanding the provisions of any general or special law to the contrary any funds remaining with the City of Boston in account #201-13196N-1997 of deeds excise tax revenue, under Chapter 64D-12 of the General Laws (deeds excise monies) shall immediately be transferred to line item 0540-2001 (Suffolk

County — deeds excise fund) and provided further that said funds shall be expended no later than June 30, 2005.”

The amendment was adopted.

Mr. Koutoujian of Waltham then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 218. Section 23 of chapter 32 of the General Laws, as most recently amended by section 3 of chapter 502 of the acts of 2002, is hereby further amended by adding after subdivision (5) the following subdivision:

(6) Confidentiality of certain records. Any documentary material or data made or received by any person of the state investment (PRIM) board, which consists of trade secrets or commercial or financial information that relates to the investment of public trust or retirement funds, shall not be disclosed to the public if disclosure is likely to impair the government’s ability to obtain such information in the future or is likely to cause substantial harm to the competitive position of the person or entity from whom the information was obtained. The provisions of the open meeting law shall not apply to the PRIM Board when it is discussing the information described in this paragraph. This subdivision shall apply to any request for information covered by this subdivision for which no disclosure has been made by the effective date of this subdivision.”

The amendment was adopted.

Mr. Marzilli of Arlington then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 219. Paragraph (o) of subsection (1) of section 4 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 229 and 230, the words ‘alderman, city councilor, school committee member or town moderator’ and inserting in place thereof the following words:— alderman, city councilor or school committee member.”

The amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 219. Section 1 of chapter 32 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the definition of ‘Teacher’ and inserting in place thereof the following definition:—

‘Teacher’, any person who is employed by one or more school committees or boards of trustees or by any combination of such committees and boards on a basis of not less than half-time service as a teacher, school psychologist, school psychiatrist, school adjustment counselor or school social worker appointed under section 46G of chapter 71, director of occupational guidance and placement appointed under section 38A or 38D of chapter 71, principal, supervisor or superintendent in any public school as defined in this section, or as a supervisor or teacher of adult civic education, but excluding any person serving as an exchange teacher in any such public school unless he is a member of the teachers’ retirement system at the time of entry into such service; provided, however, that ‘teacher’ shall not be deemed to include, nor shall sections 1 to

Edward Albert Roos.

Bill enacted (Land taking), ye and nay No. 603.

Bill enacted.

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28, inclusive, apply to, any person who is a teacher in the public schools of the city of Boston, except to such a teacher who, on September 1, 1923, was employed by the city of Boston and was then a member of the teachers' retirement system or who began service as a teacher in the public schools of the city of Boston on or after July 1, 2001.

SECTION 220. Section 20 of chapter 32 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 24 and 25, the words:— or under the State-Boston retirement system.”.

Pending the question on adoption of the amendment, the same member moved that it be amended in section 219 and also in section 220, by striking out the year “1998” and inserting in place thereof the year “2002”, and in section 219, by striking out the year “2001” and inserting in place thereof the year “2004”.

The further amendments were adopted.

The amendment, as amended, then also was adopted.

Mrs. Walrath of Stow being in the Chair,— Mr. Linsky of Natick then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 221. Paragraph (g) of subdivision (2) of section 3 of Chapter 32 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word ‘more’, in line 337, the words:— , assistant attorney general for criminal matters which shall include individuals whose primary responsibility is the prosecution of criminal matters on behalf of the attorney general, as so certified by the attorney general.”.

After remarks the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 222. There is hereby established a special commission to study issues related to the payment of retirement benefits to members of the state retirement system. Said commission shall study, in particular (1) the establishment of an annual maximum retirement allowance ceiling for members of the state retirement system who retire after the date upon which such a proposal would take effect; (2) the elimination of certain benefits paid under paragraph 2(a) of section 10 of chapter 32 of the general laws; and, (3) increasing the number of hours a retired employee can work for the commonwealth under subsection (b) of section 91 of chapter 32 of the general laws, from 960 hours to 1440 hours.

The commission shall consist of 3 members of the senate, 2 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the senate minority leader; 3 members of the house, 2 of whom shall be appointed by the speaker and 1 of whom shall be appointed by the house minority leader; the house chair of the joint committee on public service, who shall be the chairman; the senate chair of the joint committee on public service; the secretary of administration and finance or his designee; the president of the state retirement board; the chairman of the Massachusetts teachers retirement board; the chairman of the public employees

retirement administration commission; the president of the retired state, county and municipal employees association of Massachusetts; and 4 members of the public, appointed by the Governor, each of whom shall represent 1 of the 4 retirement groups set forth in paragraph (g) of section 3 of chapter 32 of the general laws. Said commission shall present a report of its findings to the clerks of the house and senate and to the house and senate chairs of the joint committee on ways and means not later than December 31, 2004.”.

The amendment was adopted.

At twenty minutes before twelve o'clock noon (Wednesday, April 28), the Chair (Mrs. Walrath of Stow) declared a recess until the hour of twelve o'clock noon; and at twenty-four minutes before two o'clock the House was called to order with Mrs. Walrath in the Chair.

Recess.

Mr. Rogers of Norwood then moved that the bill be amended in section 2, in item 9110-1455, in line 16, by inserting after the word “herein;” the following: “provided further, that said executive office shall hold an open enrollment period of one month during fiscal year 2005; provided further, that said open enrollment period for said program may be preceded by at least 45 days of advance notice and publicity by said executive office;”;

In item 9110-1630, in line 18, by inserting after the word “services;” the following: “provided further, that not less than \$100,000 be made available for a pilot program for home health care, to be administered by Community Parish Nursing in the town of Reading;”;

By striking out item 9110-1636 and inserting in place thereof the following item:

“9110-1636	For the elder protective services program, including protective services case management, guardianship services, the statewide elder abuse hotline, and the elder-at-risk program; provided, that not less than \$495,000 shall be expended for money management services.....	10,504,137”;
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In item 9110-1660, in line 1, by inserting after the word “elderly;” the following: “provided further, that not less than \$50,000 shall be expended for the congregate housing services at the Tuttle House facility in Dorchester;”;

By inserting after item 9110-1660 the following item:

“9110-1700	For residential assessment and placement programs for homeless elders.....	50,000”;
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In section 76, in lines 15 to 23, inclusive, by striking clauses (i) and (ii) contained therein; and

By adding at the end thereof the following three sections:

“SECTION 223. Section 14 of Chapter 19A of the General Laws, as so appearing, is hereby amended by striking the definition ‘abuse’, and replacing it with the following new definition:—

‘Abuse’, an act or omission which results in serious physical or emotional injury to an elderly person or financial exploitation of an elderly person; or the failure, inability or resistance of an elderly person to provide for him or herself one or more of the necessities essential for physical and emotional well-being without which the elderly person would be unable to safely remain in the community;

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provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

SECTION 224. Notwithstanding the provisions of any general or special law to the contrary, there shall be established a special commission to analyze the regulation of assisted living facilities in the commonwealth. Said commission shall consist of 15 members including: 3 members of the house of representatives, 2 appointed by the Speaker and 1 of whom shall be appointed by the minority leader; 3 members of the senate, 2 appointed by the Senate President and 1 of whom shall be appointed by the minority leader; the secretary of elder affairs or her designee; the commissioner of public health or her designee; one individual nominated by the Massachusetts Assisted Living Facilities Association; one individual nominated by Local 209 of the Service Employees Industrial Union; one individual nominated by MassAging; one individual nominated by the Massachusetts Extended Care Federation; and 3 residents of a facility licensed under M.G.L. c. 19D. Said nominations shall be submitted to the office of the Speaker and the Senate President no later than 60 days from the effective date of this act and shall first meet in a location to be chosen by the secretary of elder affairs no later than 60 days thereafter. The commission shall issue a report containing its recommendations, including any proposed legislation or regulations it deems advisable, no later than January 31, 2005 and shall submit said report and draft legislation or regulations to the Joint Committee on Human Services and Elderly Affairs.

SECTION 225. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission on residential care facilities, also known as rest homes, in the commonwealth. Said commission shall study the role that residential care facilities play in the continuum of long-term care, identify the availability of residential care facilities relative to the need for such services, and the adequacy of public reimbursement for residential care facilities. The commission shall also study the roles of state agencies relative to residential care and recommend policies and procedures to coordinate effective communication and oversight among the various agencies with responsibility for residential care. The commission shall make recommendations relative to the funding of and methodology used in determining rates paid to residential care facilities. Said commission shall consist of the following members: 4 members of the senate, 1 of whom shall be appointed by the minority leader; 4 members of the house, 1 of whom shall be appointed by the minority leader; the commissioner of the department of public health, or her designee; the commissioner of the division of health care finance and policy, or his designee; the commissioner of the department of transitional assistance, or his designee; the secretary of the executive office of elder affairs, or her designee; and two representatives from each of the following organizations: Massachusetts Aging Services Association and the Massachusetts Association of Residential Care Homes. The

commission shall report its findings and recommendations to the House and Senate Committees on Ways and Means by April 1, 2005.”.

After debate on the question on adoption of the amendments, Mr. Rogers moved that they be amended in the first paragraph by striking out the word “may” and inserting in place thereof the word “shall”.

The further amendment was adopted; and the pending amendments, as amended then also were adopted.

Miss Reinstein of Revere then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 226. Notwithstanding any special or general law to the contrary residents north of Boston shall be exempt from paying tolls on the Tobin Memorial Bridge, the Callahan Tunnel and the Ted Williams Tunnel during the time period beginning on Sunday July 18th, 2004 through Saturday July 31st, 2004 inclusively.”.

After remarks the amendment was rejected.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 226. Notwithstanding any special or general law to the contrary residents north of Boston shall be exempt from paying tolls on the Tobin Memorial Bridge, the Callahan Tunnel and the Ted Williams Tunnel during the time period beginning on May 1st, 2004 through February 28th, 2005 inclusively.”.

The amendment was rejected.

Miss Reinstein then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 226. Notwithstanding any special or general law to the contrary residents north of Boston shall be eligible to participate in the resident discount program offered on the Ted Williams tunnel and the Sumner/Callahan tunnel through the Massachusetts Turnpike Authority; and provided further, that the residents north of Boston be eligible to participate in the Tobin Bridge Resident Permit Discount Program under the Massachusetts Port Authority.”.

After remarks the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following ten sections:

“SECTION 226. Chapter 29 of the General Laws, as amended, is hereby further amended by inserting the following new section:—

Section 2NNN. There shall be set up on the books of the commonwealth a separate fund to be known as the Turnpike Efficiency Fund, which shall not contribute to the calculation of the consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws. There shall be credited to this fund all amounts paid to the commonwealth by the Massachusetts turnpike authority pursuant to sections 27 and 28 of chapter 81A, and any income derived from the investing of all amounts credited to the fund. Amounts credited to the fund shall be available for expenditure, subject to appropriation, by any executive office, department, agency, board, commission or other authority that enters into an agreement with the Massachusetts turnpike authority pursuant to section 27 of chapter 81A for the purpose of fulfilling its obligations under such agreement. Any remaining

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amounts credited to the fund shall be applied by the secretary of administration and finance, subject to appropriation, to make or reimburse (i) payments made by the commonwealth during any fiscal year pursuant to any contract for financial assistance between the commonwealth and the Massachusetts turnpike authority, which have not yet been fully reimbursed by said authority pursuant to section 28 of chapter 81A, (ii) payments made by the commonwealth during any fiscal year with respect to debt service on bonds or notes of the commonwealth issued to finance any costs of any portion of the metropolitan highway system, as defined in said chapter 81A, (iii) any other payments made by the commonwealth during any fiscal year with respect to any other costs of any portion of the metropolitan highway system, including without limitation, payments made under the contract between the authority and the commonwealth authorized under subsection (c) of section 12 of said chapter 81A, and (iv) any other payment made by the commonwealth during any fiscal year for a purpose permitted under Article LXXVIII of the Amendments to the Constitution.

SECTION 227. Subsection (b) of section 5 of said chapter 81A, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:—

(ii) to refund or otherwise pay any or all other debt or obligations of the authority relating to the turnpike, provided that any refunding notes or bonds shall not have a final maturity date later than the final maturity date of the debt or obligations being refunded;

SECTION 228. Section 18 of said chapter 81A, as amended by section 223 of chapter 26 of the acts of 2003, is hereby repealed.

SECTION 229. Said chapter 81A, as so appearing, is hereby amended by striking sections 27, 28, 29, 30 and 31 and inserting in place thereof the following sections:—

Section 27. Notwithstanding the provisions of any other general or special law to the contrary, the highway department is hereby authorized to enter into any agreement with the authority deemed necessary or desirable by the authority and the highway department (i) in order for the highway department to exercise or fulfill, on behalf of the authority, any of the powers, obligations or responsibilities of the authority under this chapter, and (ii) in connection with entering into the contract described in section 28 and in exchange for the payments to be made by the commonwealth thereunder, to permit the highway department to use any property of the authority in order to fulfill such powers, obligations and responsibilities and, to the extent not inconsistent with the provisions of any agreements pertaining to notes or bonds of the authority, for any other purposes of the highway department, provided that with respect to any period during which any agreement authorized by this section between the authority and the highway department is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of such agreement shall be no greater than that of the commonwealth under the provisions of section 18 of chapter 81 and chapter 258.

Notwithstanding the provisions of any other general or special law to the contrary, other commonwealth executive offices, departments, agencies, boards, commissions and authorities are each hereby authorized to enter into any agreement with the authority deemed necessary or desirable by the authority and such executive office, department, agency, board, commission or other authority in order for such executive office, department, agency, board, commission or other authority to exercise or fulfill, on behalf of the authority, any of the powers, obligations or responsibilities of the authority under this chapter. All payments made by the authority under the agreements authorized by this section shall be credited upon receipt to the fund established pursuant to section 2NNN of chapter 29 and applied in accordance with said section. With respect to any period during which any such agreement authorized by this section between the authority and such executive office, department, agency, board, commission or other authority is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of any such agreement, shall be no greater than that of the commonwealth under the provisions of section 18 of chapter 81 and chapter 258.

Section 28. The secretary of administration and finance, on behalf of the commonwealth, shall enter into a contract with the authority prior to December 31, 2004, providing for payments from the commonwealth to the authority during each fiscal year equal to the aggregate amount of the debt service accruing or payable by the authority during such fiscal year on all notes and bonds of the authority, whenever issued, and amounts, if any, accruing or payable during each fiscal year under all interest rate hedge or option or similar agreements in effect as of June 30, 2004, and related to or entered into by the authority with respect to notes and bonds of the authority outstanding as of such date, minus any amounts paid by the commonwealth to the authority during such fiscal year pursuant to the contract entered into by the authority and the commonwealth pursuant to subsection (c) of section 12 and minus other amounts available to pay such debt service in accordance with the terms of such bonds and notes and interest rate hedge or option or similar agreements, all as certified by the authority. The term of such contract shall extend until the end of the fiscal year in which all such notes and bonds and interest rate hedge or option or similar agreements are fully paid or payment provided for in accordance with their terms. The contract shall specify when payments shall be made by the commonwealth and shall further provide that, as of the last day of each month in which the commonwealth makes a payment to the authority pursuant to said contract, the authority shall reimburse the commonwealth for the amount of such payment from any available metropolitan highway system revenues, turnpike revenues or any other funds of the authority. The contract shall further provide that the authority shall pay to the commonwealth all remaining available metropolitan highway system revenues, turnpike revenues and other available funds of the authority at the times and in the

amounts agreed to from time to time by the authority and the secretary for administration and finance or otherwise as specified in the contract. All amounts paid by the authority to the commonwealth pursuant to said contract shall be credited upon receipt to the fund established pursuant to section 2NNN of chapter 29 and applied in accordance with said section. The contract shall contain such other provisions as the secretary for administration and finance and the authority shall agree, including, without limitation, provisions limiting any action by the authority that would materially adversely affect the financial interest of the commonwealth or actions that would constitute a default under the terms of any notes and bonds of the authority or interest rate hedge or option or similar agreement in effect as of June 30, 2004. Amounts paid by the commonwealth may be treated as revenues by the authority within the meaning of section 6 and the authority may pledge such contract and the rights of the authority to receive amounts thereunder as security for the payment of notes and bonds issued under the provisions of this chapter and any related interest rate hedge or option or similar agreements. Such contract shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the authority and of the holders of any notes or bonds of the authority and parties to any interest rate hedge or option or similar agreements which may be secured by a pledge of such contract or of amounts to be received by the authority under such contract.

Section 29. This chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 230. Section 1 of chapter 258 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the words 'public employee', in line 49, the following:— and including the Massachusetts Turnpike Authority.

SECTION 231. Said section 1 of said chapter 258, as so appearing, is hereby further amended by striking the words 'the Massachusetts Turnpike Authority, or any other independent body politic and corporate,' in lines 51-53 and replacing them with the following:— or any other independent body politic and corporate except as set forth herein.

SECTION 232. Notwithstanding the provisions of subsection (b) of section 12 of chapter 81A of the General Laws, no further transfer of any facility or portion thereof to the authority pursuant to subsection (b) of section 12 of chapter 81A shall be required on or after the effective date of this act.

SECTION 233. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer \$190,000,000 from the Turnpike Efficiency Fund to the General Fund no later than June 30, 2005.

SECTION 234. Notwithstanding the provision of any general or special law to the contrary, the state comptroller shall transfer \$113,272,423 from the Turnpike Efficiency Fund to the General Fund no later than June 30, 2005.

SECTION 235. Section 2 of chapter 81A of the General Laws, as so appearing, is hereby amended by striking out the first 4 paragraphs and inserting in place thereof the following paragraphs:—

The authority shall consist of nine members, one of whom shall be the secretary of the executive office for administration and finance, ex officio, one of whom shall be the secretary of the executive office of transportation and construction, ex officio, and one of whom shall be the chair of the commonwealth development coordinating council, ex officio, and six members to be appointed by the governor who shall be residents of the commonwealth, and at least one member at all times shall be a resident of a town which abuts the Massachusetts turnpike and is wholly or partially located between the Weston toll plaza and the interstate route 495 interchange. No more than three of the six members, other than the three ex officio members, shall be members of the same political party. The governor shall designate one of the members as chairperson, who shall serve as chairperson at the pleasure of the Governor during his term in office. The members of the authority in office on July 1, 2004 shall continue for the remainder of their respective terms. The one new member appointed after July 1, 2004, and the successor of each member in office as of July 1, 2004, shall be appointed for a term of four years; provided, however, that any person appointed to fill a vacancy shall serve only for the unexpired term; and provided, further, that all members shall have senior management level experience in one or more of the following areas: engineering, construction, business, public or private finance, and transportation. A member of the authority shall be eligible for reappointment. Any member of the authority appointed or reappointed on or after July 1, 2004, except the three ex officio members, may be removed by the governor at any time with or without cause. Prior to entering upon the duties of his office, each member of the authority shall take an oath before the governor to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the state secretary.

The authority shall elect one of the members as vice chairperson thereof. Five members of the authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The members shall meet monthly. Each meeting shall provide a sufficient opportunity for public comment.

For the purposes of this chapter, the chairperson of the authority as of December 31, 2003, shall receive an annual salary from said authority that is equal to the annual salary payable to said chairperson as of December 31, 2003. All successor chairpersons shall receive an annual salary from the authority in the amount determined from time to time in the discretion of the board. The remaining members as of December 31, 2003, shall each receive an annual salary of \$25,852, shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties and shall be

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eligible to participate in any benefit plan approved by the authority. Notwithstanding the foregoing, the one new member appointed after July 1, 2004, the successor of each member in office as of July 1, 2004 and the three ex officio members of the authority shall not be compensated for their service as members of the authority nor shall they be eligible to participate in any benefit plan approved by the authority, except that each such member shall be reimbursed for such member's actual expenses necessarily incurred in the performance of the member's duties."

Quorum.

Pending the question on adoption of the amendment, Mr. Jones asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Walrath of Stow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 604.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mrs. Harkins of Needham being in the Chair) 153 members were recorded as being in attendance.

[See Yea and Nay No. 604 in Supplement.]

Therefore a quorum was present.

After debate on the question on adoption of the amendment, Mr. Loscocco of Holliston and other members of the House moved that it be amended by adding at the end thereof the following two sections:

"SECTION 236. Section 10(a) of chapter 81A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding at the end thereof the following:

Notwithstanding any general or special law or any regulation promulgated thereunder to the contrary, no tolls respecting the turnpike and the different parts or sections thereof and shall be increased from and after the effective date hereof unless such toll increase is directly related to actual increased costs to the authority of maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling or operating the turnpike.

SECTION 237. Section 10(b) of chapter 81A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding at the end thereof the following:

Notwithstanding any general or special law or any regulation promulgated thereunder to the contrary, no tolls respecting the metropolitan highway system or any part thereof shall be increased from and after the effective date hereof unless such toll increase is directly related to actual increased costs to the authority of maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling or operating the metropolitan highway system."

After debate the further amendment was rejected.

On the question on adoption of the amendment offered by Mr. Jones, et als, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 44 members voted in the affirmative and 112 in the negative.

[See Yea and Nay No. 605 in Supplement.]

Therefore the amendment was rejected.

Amendment
rejected,
yea and nay
No. 605.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended in section 2, in item 1599-1971, in line 28, by inserting after the word "ice;" the following: "and provided further that the study indicates how many salt storage facilities in the Commonwealth are in conformance with M.G.L. c. 85, sec. 7A and how many are not;";

In item 6010-0001, by adding at the end thereof the following: "provided further, funds shall be expended to study the flow of traffic along Commonwealth Avenue in Allston-Brighton to determine the impact of regional traffic accessing downtown Boston; provided further, that funds shall be expended to mill and pave Route 20A in the city of Springfield and that said milling and paving shall be completed by June 30, 2005; provided further, that the Secretary is hereby authorized and directed to expend an amount necessary to complete the final phase, within the fiscal year, of the reconstruction and enhancement of that portion of the state road known as 'Somerville Avenue' in Somerville; provided further, that funds shall be expended for the design and construction of traffic lights at the intersection of South Street and Salem Street in the Town of Tewksbury and said project shall be completed by June 30, 2005; provided further, that said department shall work in conjunction with the Division of Capital Asset Management to study the closure of the rest stop area on Route 2 west in the town of Harvard and shall submit the findings of said study to the joint committee on transportation by December 15, 2004; provided further, that funds shall be expended for Berkshire Hills Regional School District for the construction of a traffic signal and necessary road improvements at the intersection of Monument Valley Road and Route 7 in the Town of Great Barrington; provided further, that funds shall be expended for traffic signalization on Route 12 in the city of Worcester; provided further, that funds shall be expended to fund the construction of improvements to route 126 in the town of Medway; provided further, that said department shall conduct a noise reduction study along Route 3 South in Kingston no later than December 31, 2004 and shall submit its finding to the joint committee on transportation and the house and senate committees on ways and means no later than June 30, 2005; provided, further, that the department shall maintain the motorist emergency call system installed on interstate highway route 91, interstate highway route 93, interstate highway route 195, and interstate highway route 495, in an operational condition for use in emergencies by the public; provided further that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, so-called, in the city of Medford to commercial traffic between the hours of 12 P.M. and 6 A.M effective September 1, 2004, unless the said department declares it a public necessity that said roadway should be open to commercial traffic; provided that funds shall be expended to conduct a noise study along Route 290 in the Town of Northborough; provided further, that said department shall expend funds for the purpose of repair and maintenance of the Mount Vernon Street Bridge on Washington Street in Winchester; provided further, that said department shall construct sound barriers in the

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towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the northerly side of Route 3; provided, further, that said barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided, further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford, designated Area 1, Ledgewood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document [B];”;

In item 6006-0003, by striking out the figures “250,000” and inserting in place thereof the figures “533,256”;

By striking out item 6006-1000;

In item 6005-0015, by striking out the figures “47,782,640” and by inserting in place thereof the figures “48,782,640”; and in said item, by striking out the following: “provided further that all regional transit authorities shall achieve a fare recovery ratio of 40 percent within 36 months from the affective date of this act”; and inserting in place thereof the following: “provided further that all regional transit authorities shall achieve a fare and/or revenue recovery ratio of 40 percent within 36 months from the affective date of this act”;

In section 33, in line 11, by striking out the figures “19” and inserting in place thereof the figures “24”; and in said section, by striking the figure “9” and inserting in place thereof the figures “11”; and in said section, in line 16, by adding after the word “representatives” the following: “and a representative of the regional transit authorities, as chosen by a majority of member authorities; and the Inspector General”; and in said section, by striking out, in line 19, the words “a representative of the Regional Transportation Authorities, as chosen by a majority of member authorities” and inserting in place thereof the following words: “the executive director of the Massachusetts Motor Transportation Association or her designee, the commissioner of the department of housing and community development or his designee, the secretary of environmental affairs or his designee, and a representative of the Massachusetts Association of Regional Planning Agency”; and in said section, in line 28, by striking out the figure “5” and inserting in place thereof the figure “7”;

In section 84, line 2, by inserting after the words “working in conjunction with” the following words: “the Massachusetts Motor Transportation Association and”; and

By adding at the end thereof the following nine sections:

“SECTION 226. Notwithstanding any general or special law to the contrary the Secretary of Transportation and Construction and the Massachusetts Highway Department shall conduct a study on the effects of a permanent commercial truck ban on Elm Street, Hayward Street and Howard Street, in the town of Braintree; provided further, that said study shall be submitted to the Joint Committee on Transportation and the House and Senate Committees on Ways and Means by January 1, 2005.

SECTION 227. Notwithstanding any general or special law to the contrary and in order to achieve operational efficiencies and cost savings, the Massachusetts Turnpike Authority shall develop a travel demand management plan. In preparing said plan, the authority shall study the impacts and benefits of differential pricing and other value pricing strategies. The authority shall recommend for implementation the strategy that best achieves the following objectives: (1) reduced traffic congestion; (2) further participation in the authority’s electronic toll collection system; and (3) reduced operating costs. The authority shall submit said plan to the joint committee on transportation and the house and senate committees on ways and means on or before December 1, 2004.

SECTION 228. Notwithstanding any general or special law to the contrary, the Massachusetts Highway Department is directed to create a public outreach effort regarding the effects of spraying herbicides and its environmental impact on drinking water sources and wetlands. Said department shall report to the joint committee on transportation and the house and senate committees on ways and means on the implementation and results of said program no later than January 1, 2005.

SECTION 229. Notwithstanding the provision of any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall not charge any fare between Lechmere and North Station for shuttle bus service that will be running in conjunction with the Green Line construction project between those two stations.

SECTION 230. Massachusetts Highway Department shall expend no funds for repairs for any new projects in District 5 until such time as the so called Fisher Street Bridge project in the City of Taunton is complete and open to the public for its use.

SECTION 231. Notwithstanding any special law to the contrary the Massachusetts Turnpike Authority is hereby authorized to establish toll discount programs, cash back toll refunds, electronic transponder discount programs, and other discount or toll payer savings programs; provided further, that said programs may include programs for toll discounts for residents north of Boston who commute using the Tobin Memorial Bridge, Callahan, Sumner and Ted Williams Tunnels; provided, that any such programs shall be funded through current Turnpike Authority or Port Authority revenue sources.

SECTION 232. Notwithstanding any general or special law to the contrary and in order to permit the Massachusetts Turnpike Authority to lower its debt service costs related to the turnpike, as defined in chapter 81A of the General Laws, as so appearing, without extending the maturity of debt related to the turnpike or keeping tolls on the turnpike longer than the current maturity of such debt, the authority is hereby authorized to provide for the issuance of refunding notes or bonds of the authority for the sole purpose of providing funds to refund or otherwise repay any or all debt outstanding as of the effective date of this section issued pursuant to section 5(b)(ii) of chapter 81A, as in effect prior to the effective date of this section, of the authority relating to the turnpike. The final maturity of such bonds or notes shall not exceed the

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final maturity of the debt being refunded. The issuance of such bonds or notes, the maturities, and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the authority with respect thereto shall continue to be governed by the provisions of chapter 81A which relate to the issuance of bonds or notes, insofar as they may be appropriate therefor.

SECTION 233. Notwithstanding any general or special law to the contrary, the Massachusetts Transportation Coordination Council shall study the implementation of forward funding of the Regional Transit Authorities. Said study shall include, but not be limited to the following: (1) an examination and identification of a dedicated funding stream to complete the process of forward funding, and (2) any legislation necessary to effectuate said forward funding no later than July 1, 2006. Said study shall be filed with the Joint Committee on Transportation and the House and Senate Ways and Means Committees by July 1, 2005.

SECTION 234. Notwithstanding any general or special law or regulation to the contrary, the Massachusetts Highway Department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005.

Pending the question on adoption of the amendments, Mr. Jones of North Reading and other members of the House moved that it be amended by striking out the following: "In section 33, by striking out in line 11 the number '19' and inserting in place thereof the number '22'; and in said section, by striking the number '9' and inserting in place thereof the number '11'; and in said section, in line 16, by adding after the words 'representatives' the following: 'and a representative of the regional transit authorities, as chosen by a majority of member authorities; and the Inspector General', and in said section, by striking out, in line 19, the words 'a representative of the Regional Transportation Authorities, as chosen by a majority of member authorities' and inserting in place thereof the following words; 'the executive director of the Massachusetts Motor Transportation Association, or her designee, and a representative of the Massachusetts Association of Regional Planning Agency'; and in said section, by striking out the figure '5' in line 28 and inserting in place thereof the figure '7';" and inserting in place thereof the following:

By striking out section 33;"

Pending the question on adoption of the further amendment, at three minutes after six o'clock P.M. (Wednesday, April 28), the Chair (Mrs. Harkins of Needham) declared a recess until half past seven o'clock; and at that time the House was called to order with the Speaker in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance.

[See Ye and Nay No. 606 in Supplement.]

Therefore a quorum was present.

After debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 22 members voted in the affirmative and 134 in the negative.

[See Ye and Nay No. 607 in Supplement.]

Therefore the further amendments were rejected.

Mr. Marzilli of Arlington then moved that the amendment offered by Mr. Rogers of Norwood, et als, be amended in item 6010-0001, by adding at the end thereof [at "B"], after the word "document" the following: "provided further that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond".

The further amendment was adopted.

On the question on adoption of the amendments offered by Mr. Rogers of Norwood, et als, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 608 in Supplement.]

Therefore the amendments, as amended, were adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by inserting after item 7051-0015 the following item:

"7052-0005 For grants and reimbursements to cities, towns, regional school districts and counties under chapter 645 of the acts of 1948 and chapter 70B of the General Laws, for annual payments on the accounts of school projects for which first annual payments have been made; provided, that the department of education shall reduce all payments proportionately as needed such that expenditures are not greater than the amount appropriated herein, prior appropriation continued"; and

By adding at the end thereof the following section:

"SECTION 235. Item 7052-0005 of section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after the word 'herein' the words 'prior appropriation continued' and by striking the figures '379,358,606', and inserting in place thereof the figures: 778,857,471."

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 24 members voted in the affirmative and 133 in the negative.

[See Ye and Nay No. 609 in Supplement.]

Therefore the amendments were rejected.

Quorum,
yea and nay
No. 606.

Further
amendment
rejected,
yea and nay
No. 607.

Amendments
adopted,
yea and nay
No. 608.

Amendments
rejected,
yea and nay
No. 609.

Recess.

Quorum.

Suspension of Rule 1A.

Rule 1A suspended, yea and nay No. 610.

The Speaker interrupted the pending business and placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said rule; and on the roll call 127 members voted in the affirmative and 30 in the negative.

[See Yea and Nay No. 610 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Smizik of Brookline then moved that the bill be amended by adding at the end thereof the following new section:

“SECTION 235. Section 119 of Chapter 140 of the Acts of 2003 is hereby amended in the second sentence of the first paragraph by striking after the word ‘child’ the words ‘with a disability’. Said section is hereby further amended in the first sentence of the second paragraph by striking after the word ‘child’, the words ‘with a disability’. Said section is hereby further amended in the second sentence of the second paragraph by striking after the word ‘child’, the words ‘with a disability’. Said section is hereby further amended in the first sentence of paragraph five by striking after the word ‘child’ the words ‘with a disability’.”

After remarks the amendment was rejected.

Messrs. Rogers of Norwood, and Ruane of Salem and other members of the House then moved that the bill be amended by inserting in section 2, after item 7000-9501 the following item:

“7000-6503 For a handicap accessibility project in Holbrook to enhance educational opportunities for disabled citizens..... 150,000”;

In item 7000-9506, by striking out the figures “341,811” and inserting in place thereof the figures: “541,811”;

In item 7010-0017, in line 5, by inserting after the word “education” the following : “provided further, that not less than \$200,000 shall be made available to the AppleTree Institute of Boston for the purpose of establishing a program to provide technical assistance to communities and organizations seeking to create Horace Mann Charter Schools;”

By inserting after item 7010-0017 the following item:

“7027-0016 For matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for such programs in consultation with the department of labor and workforce development; provided further, that any funds distributed from this item to cities, towns or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding any general or special laws to the contrary; provided further, that each grant awarded herein shall be matched by the recipient from local, federal, or private funds; provided further, that the board of education may

determine the percentage match required on an individual grant basis; provided further, that the department of education shall make available a payment of \$596,883 for the state’s matching grant for the CS-squared program at the Corporation for Business, Work and Learning; provided further, that the department of education shall make available a payment of \$942,191 to Jobs for Bay State Graduates, Inc., for the purpose of school-to-work activities; and provided further, that the department of education shall make available a payment of \$42,975 to the Blue Hills regional vocation school for the School to Careers Partnership to fund a teacher externship program and a student internship program 1,582,049”;

In item 7030-1003, in line 25, by inserting after the year “2006;” the following: “provided further, that not more than \$50,000 shall be made available to Advocacy of Concord, MA, to fund a school based pilot program designed to enhance the detection, evaluation and tracking of Dyslexia in students grades K through 3; provided further, that the results of said pilot shall be reported to the Commissioner of Education by no later than December 31st, 2005;” and in said item, by striking out the figures “3,892,994” and inserting in place thereof the figures: “3,942,999”;

By inserting after item 7030-1500 the following item:

“7032-0650 For School Link Services provider, the Pettengill House to provide advocacy counseling, referrals, emergency assistance and prevention education programs to the children and families of both Triton Regional and Amesbury Public Schools 25,000”;

In item 7051-0015, by striking the figures “650,000” and inserting in place thereof the figures: “747,000”;

By inserting after item 7061-0008 the following item:

“7061-0011 For a reserve to (1) meet extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of section three of this act; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to the provisions of section 3 of this act; provided, further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of such application; provided, further, that preference shall be given to municipalities with an increase of greater than 25% in required contribution to any of the districts to which the municipality belongs as a result of the new regional allocation methodology; (2) meet expenses associated with extraordinary increases in enrollment calculated on a percentage basis

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for such municipalities; provided, that preference shall be given to districts with enrollment growth of greater than 10% from fiscal year 2000 through fiscal year 2005; (3) address the effects of reductions in per pupil chapter 70 aid between fiscal year 2003 and fiscal year 2005; provided, that preference in the awarding of such funds shall be given to districts which receive less than 20% of their foundation budgets as chapter 70 aid, and which received reductions in chapter 70 aid of greater than 10% between fiscal year 2003 and fiscal year 2004; (4) for transitional assistance to regional school districts which, prior to fiscal year 2005, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2005, will assess member towns using the required contributions calculated pursuant to chapter 70 of the general laws and section three of this act; (5) for assistance to municipalities with median income below the state average and equalized valuation per capita above the state average; provided, further, that preference in the awarding of funds shall be given to municipalities with required local contributions greater than 80% of their foundation budgets; (6) for assistance to municipalities which pay a separate and additional tax to multiple fire districts within the municipality's borders, and which have required minimum contributions in excess of 80% of the municipal district's foundation budget; provided, further, that grant amounts shall be made for up to 10 % of the district's foundation budget, but in no case shall said grant exceed \$500,000; provided, further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one time non-recurring basis; provided, further, that the department shall make all awards from this line item no later than October 15, 2004; and provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2006 5,000,000";

In item 7061-0012, in line 29, by inserting after the word "transfer;" the following: "provided further, that not less than \$95,000 shall be allocated to item 7061-0029 for the purpose of continuing a study on effective means of serving special education students through the Donahue Institute at the University of Massachusetts;";

In item 7061-0029, in line 2, by striking out the word "less" and inserting in place thereof the word "more";

By striking out item 7061-9404 and inserting in place thereof the following item:

"7061-9404 For targeted intervention to schools and districts at risk of or determined to be underperforming in accordance with section 1J and 1K of chapter 69 of the general laws and for assistance and grants to cities, towns and regional school districts to provide targeted remediation programs in English and math to high school students in the classes of 2004, 2005 and 2006 scoring in level one on the Massachusetts Comprehensive Assessment System (MCAS) exam established by the board of education pursuant to the provisions of sections 1D and 1I of chapter 69 of the General Laws; provided, that the department and districts shall ensure that services are available to students with disabilities; provided further, that, in awarding targeted remediation funds, preference may be given to schools and districts at risk of or determined to be underperforming in accordance with section 1J and 1K of chapter 69 of the General Laws; provided further, that the purpose of this program shall be to improve students' performance on the MCAS exam through replication of services and educational strategies with proven results as determined by the department of education that may include but shall not be limited to: integrated tutoring and mentoring programs, supplemental web-based tutorial programs that are diagnostic and prescriptive, weekend and school vacation programs focused on English and math remediation, the English and math components of comprehensive after school programs, and the remediation component of summer programs; provided further, that such programs shall supplement currently funded local, state, and federal programs at the school or district; provided further, that such grants and assistance shall be used solely for the academic portions of such programs, and shall focus on the acquisition of skills in English and math needed to pass the MCAS; provided further, that funds shall be expended for a competitive grant program to fund academic support and college transition services to be implemented in fiscal year 2005, and operated by public institutions of higher learning or by public-private partnerships in the commonwealth, for students in the graduating class of 2004 who have completed high school but have not yet obtained a competency determination as defined in section 1D of chapter 69 of the General Laws as measured by the MCAS assessment instrument authorized by section 1I of said chapter 69, but who are working to pass the English and math MCAS tests, obtain a competency determination, and earn a high school diploma; provided further, that for the purpose of said programs, appropriated funds may be expended through August 31, 2005 to allow for summer remedia-

tion programs; provided further, that funds shall be expended for a competitive grant program to fund so-called Pathways programs targeting eleventh and twelfth graders, instituted by One Stop Career Centers, including but not limited to school-to-work connecting activities creating worksite learning experiences for students as an extension of the classroom, outreach programs for students who will need post-twelfth grade remediation to attain the skills necessary to pass MCAS, and counseling programs to educate parents and high school students on post-twelfth grade remediation options; provided further, that funds shall be expended for a competitive grant program, guidelines for which shall be developed by the department of education, for intensive remediation programs, in communities with students in the graduating classes of 2004, 2005 and 2006 who have not obtained a competency determination on either the tenth grade English or math MCAS exams; provided further, that the department of education may give preference for such assistance to those districts with a high percentage of high school students scoring in level one on the MCAS exam in English and math; provided further, that eligible applicants shall include individual high schools, and those institutions which shall have partnered with a high school or group of high schools, including but not limited to, institutions of public and private higher education, providers of adult basic education services, career centers, other public and private educational services organizations, including, but not limited to, JFY. Net, and after-school programs with a structured academic component and focused on MCAS remediation operated by public and non-public entities including, but not limited to, members of the national alliance of boys and girls clubs; provided further, that no district shall receive a grant from this appropriation until said district submits to the department of education a comprehensive district plan pursuant to the provisions of section II of chapter 69 of the General Laws, to improve performance of all student populations including, but not limited to, students with disabilities; provided further, that no less than \$4,000,000 shall be expended for targeted intervention in districts at risk of or determined to be under-performing in accordance with section 1J and 1K of chapter 69 of the General Laws; provided, further, that targeted intervention funds shall not be expended in any school or district that fails to file a comprehensive district plan pursuant to the provisions of section II of chapter 69 of the General Laws; provided, further, that targeted intervention

funds in said districts may be expended on preventive remediation in grades eight through ten, on any student who failed the English or math MCAS in the eighth grade; provided, further, that targeted intervention funds may be expended on grants which allow for the implementation of whole school reform in said schools and districts; provided, that the department shall only approve reform plans with proven, replicable results in improving student performance; provided, further, that no funds shall be expended on targeted intervention unless the department shall have approved, as part of the comprehensive district improvement plan, a professional development plan which provides for professional development among teachers of the same grade levels and teachers of the same subject matter across grade levels, and which focuses on improving skills in the teacher's subject areas, and on providing teachers with research based strategies for increasing student success; provided, further, that funds from any targeted intervention grant may be used to partially offset the cost of said professional development; provided, that preference in the awarding of said funds shall be given to professional development in math and English content skills, with a proven record of success, and to intervention strategies which are research based and replicable; provided further, that any grant funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary; provided further, that not less than \$20,000 shall be expended for a Brown Eyes Blue Eyes Pilot Project, linking performance to perception to improve MCAS scores by teaching children how to recognize faulty stereotypes inherent in racism for schools in Falmouth, Mashpee, Bourne, Barnstable and Springfield; provided further, that not less than \$60,000 be expended to Casa Dominican in Lawrence; provided further that not less than \$60,000 be expended for the Lawrence Learning Center and Community Development in the City of Lawrence; provided further, that not less than \$60,000 shall be expended for Centro Latino de Chelsea to provide adult basic education services in the city of Chelsea; provided further, that the department shall issue a report, no later than February 1, 2005 and annually thereafter as a condition of continued funding under this account, in collaboration

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with the board of higher education, describing MCAS support programs for the graduating classes of 2003, 2004, 2005 and 2006 funded by items 7061-9404 and 7027-0019, school to work accounts, institutions of public higher education, and other sources, including federal sources; provided further, that such report shall include but not be limited to, the number of students eligible to participate in such programs, the number of students participating in such programs, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs, but not met local graduation requirements, and the number of students who have passed the MCAS assessment and obtained a competency determination through these programs and met local graduation requirements; provided further, that said report shall be provided to the chairmen of the house and senate ways and means committees and the house and senate chairs of the joint committee on education, arts, and humanities; provided further, that the department shall also submit by July 15, 2004 an updated version of the report filed pursuant to this line item in the fiscal year 2004 state budget and filed on January 24, 2004, relative to the academic support programs provided to students in the class of 2003 which shall include the above listed information; provided further that this report shall serve as the informational basis for a joint hearing on the progress and efficacy of these programs to be conducted by the house and senate committees on ways and means and the joint committee on education, arts, and humanities by September 1, 2004; and provided further, that the department may expend up to \$350,000 to administer programs funded herein

15,000,000”;

By inserting after item 7061-9612 the following item:

“7061-9614 For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws, as established in this act; provided that the commissioner shall allocate funds for both subsection A and B of said section 1N of chapter 69

1,000,000”;

By inserting after item 7061-9619 the following item:

“7061-9621 For the administration of a grant program for gifted and talented school children; provided, that the funds appropriated in this item shall be in addition to any federal funds available for such program; provided further, that priority shall be given to those grant applications that address the needs of students who are identified by any of the following criteria: (1) the result of a standardized aptitude examination which is 3 or

more standard deviations above the mean; (2) an evaluation by the child’s teachers that the child does perform, or is capable of performing, satisfactorily at 2 or more grade levels above the child’s chronological age; or, (3) a score on the math or verbal Scholastic Aptitude Test by a child of no more than 13 years of age which is equal to, or greater than, the average on either test obtained by college-bound high school juniors; and provided further, that such programs may be made available by a city, town, or regional school district

99,999”;

By inserting after item 7061-9626 the following item:

“7061-9634 For matching grants to be administered by the department of education through the Massachusetts Service Alliance for public and private agencies with mentoring programs for the recruitment and training of mentors and for other supporting services including, but not limited to, academic support services; provided, that the department of education shall transfer the amount appropriated in this item to the Massachusetts Service Alliance for this purpose of such grants; provided further, that in order to be eligible to receive funds from this item, such public or private agency shall provide a matching amount equal to 1 dollar for every dollar disbursed from this item; provided further, that funds may be expended to support the mentoring activities of the planned learned achievement for youth program; provided further, that said Massachusetts Service Alliance shall submit a report detailing the expenditure of such funds and the amount and source of matching funds raised to the secretary of administration and finance and the house and senate committees on ways and means not later than December 29, 2004

287,000”;

By striking out section 91 and inserting in place thereof the following section:

“SECTION 91. Notwithstanding subsection (i) of section 89 of chapter 71 of the general laws or any other general or special law to the contrary, the commissioner of education may assess additional charter school tuition charges to the Hull, Nauset, and Up Island school districts’ net school spending not to exceed 13% of the Hull school district’s net school spending, 12% of the Up Island school district’s net school spending, and 11% of the Nauset regional school district’s net school spending in order to provide for the continuing education of students from said districts enrolled in charter schools as of October 1, 2004.”;

In section 92 by inserting at the end thereof the following two paragraphs:

“In requests for tuition increases, except for those pursuant to extraordinary relief, the applicant shall notify relevant public schools and

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other public purchasers of the request prior to October first of the fiscal year in which the application is filed.

Upon the request of a program, the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers. Said price shall be determined in the following manner: Said division shall identify the most recent price calculated for the program and apply the estimated rate and of inflation which are established by December first of each year pursuant to section 274 of chapter 110 of the acts of 1993 in a compounded manner for each fiscal year following the most recent calculated price.”; and

By adding the following thirteen sections:

“SECTION 235. Chapter 40 of the General Laws is hereby amended by striking out section 4E, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 4E. Pursuant to the provisions hereof, two or more school committees of cities, towns and regional school districts may enter into a written agreement to conduct education programs and services which shall complement and strengthen the school programs of member school committees and increase educational opportunities for children. The school committees shall collaborate to offer such programs and services, and the association of school committees which is formed pursuant hereof to deliver such programs and services shall be known as an education collaborative. The purpose of the education collaborative shall be to enable school districts to operate more efficiently and economically; assist school districts in improving student performance; and implement initiatives assigned by the general court or the commissioner of education. The education collaborative shall have a board of directors which shall have the power to select and terminate the executive director of the collaborative, to review and approve budgets for the collaborative and to establish policies for the collaborative which are consistent with the requirements of the law. The board of directors shall be comprised of one person appointed by each member school committee. Such person shall be either a school committee member or designee or the superintendent of schools. Each board member shall be entitled to one vote. The written agreement which shall form the basis of the education collaborative shall set forth the purposes of the program or service, the financial terms and conditions of membership of the education collaborative, the method of termination of the education collaborative and of the withdrawal of member school committees, the procedure for admitting new members and for amending the collaborative agreement, the powers and duties of the board of directors of the education collaborative to operate and manage the education collaborative and any other matter not incompatible with law which the member committees deem advisable. The agreement shall be subject to the approval of the member school committees and the commissioner of education. The commissioner of education shall develop in conjunction with collaborative directors and the Massachusetts Organization of Educational Collaboratives and promulgate a board of education approved policy on education collaboratives. Such policy shall be reviewed every five years by the board. Each board of directors of an education collaborative shall establish

and manage a trust fund, to be known as an Education Collaborative Trust Fund, and each such fund shall be designated by an appropriate name. All monies contributed by the member municipalities, and all grants or gifts from the federal government, state government, charitable foundations, private corporations, or any other source, shall be paid to the board of directors of the education collaborative and deposited in the aforesaid Fund. The board of directors of the education collaborative shall appoint a treasurer who may be a treasurer of a city, town or regional school district belonging to such collaborative. Such treasurer shall be authorized, subject to the direction of the board of directors of the education collaborative, to receive and disburse all monies of the trust fund without further appropriation. The treasurer shall give bond annually for the faithful performance of his duties as collaborative treasurer in a form approved by the department of revenue and in such sum, not less than the amount established by said department, as shall be fixed by the board of directors of the education collaborative. The board of directors of the education collaborative in its discretion may pay compensation to the treasurer for his services. No member of the board of directors of the education collaborative shall be eligible to serve as treasurer of said collaborative. The treasurer of the education collaborative board of directors shall have the authority to make appropriate investments of the monies of the Education Collaborative Trust Fund consistent with the provisions of section 54 of chapter 44. The board of directors of the education collaborative shall have the authority to borrow money, enter into long-term or short-term loan agreements and mortgages, apply for and be eligible to receive state, federal or corporate grants or contracts subject to the approval of the collaborative board members. For the purpose of applying for and receiving state, federal, or corporate grants or contracts only, education collaboratives shall be considered education service agencies. The board of directors of the education collaborative shall employ, and fix the compensation of an executive director. The executive director shall manage the education collaborative in a fashion consistent with state and federal law, board of education regulations, and policy determinations of the board of directors. The executive director, consistent with the collaborative’s policies and budgetary restrictions, shall be responsible for hiring, supervising, overseeing, and terminating all personnel employed by the collaborative. The education collaborative shall be deemed to be a public employer, the representative of which is the board of directors. No person shall be eligible for employment by said collaborative as a teacher of children with intense special needs, teacher of children with special needs, teacher, guidance counselor, school psychologist, school adjustment counselor, school social worker, school nurse, supervisor or director unless he has been granted by the commissioner a provisional or standard certification pursuant to section 38G of chapter 71 or an approval under regulations promulgated by the board of education under chapter 71B or chapter 74 with respect to the type of position for which he seeks employment. The executive director of the collaborative shall implement the regulations and guidelines issued pursuant to section 38G of chapter 71. The provi-

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sions of sections 41, 42, 42D and 43 of Chapter 71 shall apply to each category of employees named in those sections who serve in education; provided however, that these provisions shall only apply to employees of collaboratives hired on or after July 1, 2006. A board of directors of an education collaborative may, upon its request, be exempted by the board of education for any one school year from the requirements of this section to employ certified or approved personnel when compliance therewith would in the opinion of the board constitute a great hardship. Pursuant to Section 2 of Chapter 132 of the Acts of 1981, this paragraph shall not apply to any person employed by an education collaborative on the effective date of that act. An employee or volunteer of an education collaborative shall be immune from liability to the same extent as an employee or volunteer of a school district. The education collaborative shall be deemed to be a public entity, subject to or exempt from taxation in the same manner as a city, town or regional school district, and shall have standing to sue and be sued to the same extent as a city, town, or regional school district. An education collaborative, acting through its board of directors, may enter into contracts for the purchase of supplies, materials, services, and for the purchase, sale or leasing of land, buildings and equipment as deemed necessary by such board of directors. A school committee of any city, town or regional school district may authorize the prepayment of monies for any educational program, or service of the educational collaborative, to the treasurer of an education collaborative, and the city, town or regional school district treasurer shall be required to approve and pay such monies in accordance with the authorization of the school committee.

SECTION 236. Section 72 of chapter 44 of the General Laws, as most recently amended by section 50 of chapter 127 of the acts of 1999, is hereby amended by striking the fifth sentence and inserting in place thereof the following sentence:— Notwithstanding the provisions of any general or special law to the contrary, any funds received by a city, town or regional school district pursuant to the provisions of this section shall be considered unrestricted revenue of the city, town or regional school district; provided, that a city or town shall deposit in a separate account for expenditure by the school committee no less than 50 percent of any such amount; provided further, that no school committee shall receive a smaller percentage of such amount than it received during fiscal year 2003; provided further, that a school committee may make expenditures from said separate account for any lawful educational purpose without further appropriation; provided further, that any expenditure from said account on items qualifying as net school spending shall supplement, and not substitute for, the net school spending requirement of the district; and provided further, that the receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70.

SECTION 237. Chapter 69 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 1M, the following section:—

Section 1N. (a) The department of education, hereinafter referred to as the department, shall establish a grant program, subject to appropriation, to be known as the alternative education grant program for the purpose of providing grants to assist school districts, and Horace Mann and commonwealth charter schools with the development and establishment of alternative education programs and services to students suspended or expelled from school. The grants shall support the development of alternative education programs which would: (1) allow school districts to coordinate efforts to establish interdistrict regional alternative education collaboratives to provide educational services to suspended or expelled students; or (2) establish a district based alternative education program for such students. The grants may also be used to encourage the use of technology in alternative education programs. Such grants shall also encourage voluntary expansion of existing alternative education programs throughout the commonwealth, and shall be used to provide alternative education programs for students who are at risk of educational failure due to truancy, or dropping out of school. Grants may also be used to assist in developing programs that provide a continuum of approaches to address behavior issues such as behavior specialists, in-school suspension rooms and crisis centers, in addition to out-of-school alternative settings.

Programs designed under such grants shall be developed at the middle and high school levels and shall afford students the opportunity to earn a high school diploma in accordance with the provisions of section one D, and to be taught to the same academic standards and curriculum frameworks established for all students in accordance with the provisions of sections one D and one E. Such programs shall make use of existing resources in school districts, educational collaboratives, community colleges, and other agencies, service providers, and organizations. Programs shall be designed as placements that, at a minimum, educate students to the same academic standards and curriculum frameworks as taught to all students, address behavioral problems, utilize small class size, address individual needs and learning styles, provide engaging instruction and a supportive environment, and, where appropriate, utilize flexible scheduling. The programs shall also provide a comprehensive array of social services to support a student's remediation of issues that cause school failure, excessive absenteeism, truancy and school dropout. Grant recipients shall develop remediation plans for students that address both academic and behavioral issues. Grants may also be made available for in-school regular education programs that include self-improvement, behavior management and life skills training to help provide students with tools to better manage their lives and attitudes, to support programs that use family-based approaches, and to assist students and teachers during the transition of students back into regular education classrooms.

Any grants awarded pursuant to this subsection, shall require that recipients undertake ongoing program evaluations that document the effectiveness of the program in helping students to achieve academically to the same academic standards and curriculum frameworks required for all students, to develop self-management skills, and to

reintegrate and remain in regular education classrooms. In awarding grants, priority shall be given to programs that employ interventions that have been empirically validated.

The department shall establish guidelines governing the alternative education grant program. Such guidelines shall include, but not be limited to, a provision that when a student is transferred to an alternative education program a representative of the school district shall meet with the student and the student's parents or legal guardian to develop an agreement that specifies the responsibilities of the school, the student and the student's parents or legal guardian. The agreement shall, at a minimum, include:

- a remediation plan to address both academic and behavioral issues;

- a plan for frequent evaluations and assessments of the student's adjustment, and academic achievement and progress;

- a requirement that the parents or legal guardian of the student attend specified meetings or conferences with teachers, or utilize such other means of communication as determined necessary to facilitate communication, to review and assist in the student's progress;

- any timetable for reintegrating the student into a regular education classroom;

- the student's and the parents' or legal guardian's acknowledgment that they understand and accept the responsibilities imposed by the agreement.

(b) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields of trauma and family, community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms of trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and where necessary be referred quickly and confidentially to appropriate services.

Grants may also be awarded to assist school districts in developing comprehensive programs to help prevent violence in schools, from whatever causes, and to promote school safety. Such programs shall be designed to meet the following objectives: creating a school environment where students feel safe and that prevents problems from starting; helping students to take the lead in keeping the school

safe; ensuring that school personnel have the skills and resources to identify and intervene with at-risk students; equipping students and teachers with the skills needed to avoid conflict and violence; and helping schools and individuals to reconnect with the community and share resources.

The department shall develop guidelines governing the implementation of the grant program authorized by this subsection. Any grants awarded pursuant to this subsection, shall require that recipients undertake ongoing evaluations of the effectiveness of the program. In awarding grants, priority shall be given to programs that are based on empirically validated interventions.

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms and/or classroom behavior that interferes with learning. Members of said advisory committee shall include but not be limited to: three educators, one of whom shall serve as the chair, appointed by the commissioner of the department of education; two leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health, two leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health; one leader in battered women's services appointed by the commissioner of public health; one leader in the area of homelessness and its impact on children appointed by commissioner of mental health, three parents one each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

(c) The commissioner shall evaluate annually the effectiveness of programs established under this section including the potential for replicating such programs throughout the commonwealth. Such evaluations shall also examine whether students in alternative education programs funded under this section are being taught to the same academic standards required for all students, how much time students are spending in such programs, the racial profile of expelled or suspended students, and the percentages of such students who are in special education or bilingual education. The commissioner shall also provide technical assistance to school districts seeking to replicate programs funded under this section, and shall provide training for teachers in the development of effective remediation plans for students in alternative education, and in the development of skills, techniques, and innovative strategies to assist such students. In evaluating programs funded under subsection (b), the commissioner shall consult with the department of public health, the department of mental health, and the advisory committee established pursuant to said subsection.

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SECTION 238. Subsection (c) of section 5A of chapter 71B, as amended by chapter 26 of the acts of 2003, is hereby amended by striking out, in the fourth sentence, the word 'current' and inserting in place thereof the following word:— previous.

SECTION 239. Chapter 28 of the Acts of 2002 is hereby amended in section 2 by striking out the words '2 Years' and inserting in place thereof the following words:— 4 Years.

SECTION 240. Notwithstanding any general or special law or regulation to the contrary, the Department of Education shall conduct a feasibility study on restrictions on advertisements on public school modes of transportation, specifically the prohibition of advertisements for beverages with added artificial or refined sweeteners; candy; processed foods containing more than 35 percent of calories from fat, more than 10 percent of calories from saturated fat, or more than 35 percent sugar by weight; and products from fast foods restaurants. The report shall include but not be limited to: the current restrictions on such advertisement, if any, the effects on school districts ability to raise revenue through advertisements of soda, artificial sweeteners, candy, and fast foods were disallowed, and recommendations on further products and forms of entertainment that would be inappropriate to advertise to school age students. This report shall be filed with the Joint Committee on Education, Arts and Humanities, the Joint Committee on Health Care, and the Joint Committee on Ways and Means by January 15th, 2005. The commission shall review all federal highway safety bureau regulations as they apply to school bus safety standards pertaining to lettering which is appropriate to be placed on Class I and Class II school buses.

SECTION 241. Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to investigate and study middle education in the Commonwealth of Massachusetts, including, but not limited to, the following: a study of progress on implementation of the recommendations included in the 1993 Department of Education 'Magic in the Middle' report; a review of the pertinent research and effective best practice; and recommendations to improve standards based middle level teaching and learning, including review and analysis, and recommendations of middle level education as related to curriculum frameworks, teacher licensure, high standards and achievement articulation between elementary and high school levels, and department of education middle level support services. The commission shall consist of the House and Senate chairs of the Joint Committee on Education, Arts and Humanities, who shall serve as co-chairs of the commission, three members of the Senate appointed by the Senate President, five members of the House of Representatives appointed by the Speaker, the Commissioner of Education or his designee, and ten persons to be appointed by the Governor. The Governor shall choose from recommendations made by the appropriate organizations representing members of each of the following categories: not less than one superintendent, not less than one middle school principal recommended by the Massachusetts Secondary School Administrators Association (MSSAA), not less than

one member of a school committee, not less than one member of the New England League of Middle Schools (NELMS), not less than one parent of a middle school child and not less than three middle school teachers, two to be recommended by the Massachusetts Teacher Association (MTA) and one by the Massachusetts Federation of Teachers (MFT). The commission may accept and expend any appropriations, grants of money, professional, consultant, clerical and other services and supplies for the Commonwealth in the course of its investigation and study. The commission shall submit a report and its recommendations, if any, together with any drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the Senate and House of Representatives, and the Joint Committee on Education, Arts and Humanities, not later than November 24, 2004.

SECTION 242. Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to study and report on methods to reduce the cost of transportation for students with disabilities to out-of-district special education placements. Said commission shall consist of 3 members of the House of Representatives, 3 members of the Senate, one representative each from the Operational Services Division of the Division of Purchased Services, the Department of Education, the Massachusetts Association of School Superintendents, the Massachusetts Association for Special Education Administrators, the Massachusetts Organization for Educational Collaboratives, the Massachusetts Association of C766 Approved Private Schools and the School Transportation Association of Massachusetts. The scope of the commission's inquiry shall include, but shall not be limited to: the regulation of reasonable and allowable transportation costs by the Operational Services Division, the use of educational collaboratives to coordinate and/or provide transportation services to students with disabilities to out-of-district programs and the establishment of regulations by the Department of Education to permit the exchange of student information necessary to coordinate transportation routes to out-of-district programs. The commission shall submit its report to the House and Senate Committees on Ways and Means and the Joint Committee on Education, Arts, and Humanities not later than January 30, 2005, along with drafts of any legislation.

SECTION 243. Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to study and report on the revision of the Massachusetts Municipal Medicaid program to maximize federal Medicaid reimbursements for special education costs and the availability of private health insurance for medically necessary services to students with disabilities. Said commission shall consist of 3 members of the House of Representatives, 3 members of the Senate, one representative each from the Department of Education, the Executive Office of Health and Human Services, the Group Insurance Commission, the Massachusetts Association of School Superintendents, the Massachusetts Association for Special Education Administrators, the Massachusetts Organization of Educational Collaboratives and the Massachusetts Association of C766 Approved Private Schools, and

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the Massachusetts Association of Health Plans and Blue Cross Blue Shield of Massachusetts. The scope of the commission's inquiry will include, but not be limited to: revising the Massachusetts Municipal Medicaid program to maximize federal Medicaid reimbursements for the cost of special education services to Medicaid eligible students with disabilities and amending insurance law to provide that insurers cannot exclude medically necessary services solely because such services are included in a child's special education plan. The commission shall submit its report to the House and Senate Committees on Ways and Means and the Joint Committee on Education, Arts and Humanities not later than January 30, 2005 along with drafts of any legislation.

SECTION 244. Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to study the establishment of regional grief counselors for city, town and regional school districts. Said commission shall be comprised of three members appointed by the speaker of the house including the house chair of the joint committee on education, three members appointed by the senate president including the senate chair of the joint committee on education, the secretary of the department of education or his designee, a designee from the Massachusetts Teachers Association, a designee from the Massachusetts Federation of Teachers, along with members of the medical profession. Said commission shall submit a report, including legislative recommendations, if any, to the joint committee on education and the house and senate committees on ways and means by June 15, 2005.

SECTION 245. Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to investigate, study and report on fiscal impacts, at the state, municipal and local level of the federal Elementary and Secondary Education Act. Said commission shall consist of the Speaker of the House of Representatives or a designee thereof, the President of the Massachusetts Senate or a designee thereof, the Chair of the House Committee on Ways and Means or a designee thereof, the Chair of the Senate Committee on Ways and Means or a designee thereof, the House and Senate Joint Chairs of The Committee of Education, Arts and Humanities, the House and Senate Chairs of the Joint Committee on Taxation, the Minority Leader of the House or a designee thereof, the Minority Leader of the Senate or a designee thereof, the Secretary of Administration and Finance, and one member appointed by the commissioner or head following organizations; the Department of Revenue, the Massachusetts Taxpayers Foundation, the Department of Education, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Association of School Committees, MassINC., the Massachusetts Federation of Teachers and the Massachusetts Teachers Association. Said commission shall be chaired by the Joint Chairs of the Committee on Education, Arts and Humanities. The scope of said commission's inquiry should include but not be limited to: fiscal impacts of federal unfunded mandates on the current public education funding formula, impacts of yearly data collection and reporting, impacts of top down account-

ability and impacts of testing mandates on the Commonwealth. The commission shall submit its report to the House and Senate Committees on Ways and Means, the Department of Education, the Department of Revenue and the Joint Department of Education, Arts and Humanities no later than June 30, 2005 along with any drafts of proposed legislation.

SECTION 246. Notwithstanding any general or special law to the contrary, the Department of Education shall submit recommendations to the legislature regarding amending Section 1B of chapter 69 of the General Laws to require all children under the age of 18 to attend school if they have not graduated. Recommendations shall include the estimated costs to regional, vocational and school districts and shall include possible specific exemptions to this requirement. A report shall be submitted to the Joint Committee on Education, Arts and Humanities and the Joint Committee on Ways and Means by January 15, 2005.

SECTION 247. Notwithstanding any general or special law to the contrary there is hereby established a special commission on child nutrition and physical activity that may develop and recommend to the board of education model, voluntary school district policies on nutrition and physical activity. The committee shall include the house and senate chairs of the joint committee on education, arts, and humanities, who shall serve as co-chairs of the commission, the house and senate chairs of the joint committee on health care, one member of the house of representatives to be appointed by the speaker, one member of the house of representatives to be appointed by the chair of the house committee on ways and means, one member of the house of representatives to be appointed by the house minority leader, one member of the senate to be appointed by the president, one member of the senate to be appointed by the chair of the senate committee on ways and means, and one member of the senate to be appointed by the senate minority leader. In producing its report, the committee shall take testimony from school committee members, school administrators, food service directors, food service staff, parents of students in the school district, students, physical and health education teachers, dietitians, health care professionals and interested community members. In developing the policy, the committee shall hold at least one public hearing. The policies suggested by said special commission shall address issues and goals, including, but not limited to all of the following:

- (1) Nutritional standards set forth by the United States Department of Agriculture;
- (2) Encouraging fundraisers that promote good health habits and discouraging fundraisers that promote unhealthy foods;
- (3) Ensuring that no student is hungry;
- (4) Nutritional standards;
- (5) The availability of fresh fruits and vegetables, including provisions that encourage schools to make fruits and vegetables available at all locations where food is sold;
- (6) Ensuring, to the extent possible, that the food served is fresh;
- (7) Encouraging eligible pupils to participate in the school lunch program;

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(8) Integrating nutrition and physical activity into the overall curriculum;

(9) Professional development for food services staff;

(10) Time allowed for students to eat lunch and breakfast;

(11) Healthful levels of vigorous physical activity for students;

(12) Nutrition education;

(13) Physical education curricula and increasing training of physical education teachers;

(14) Existing physical education requirements;

(15) Encourage healthy eating by students and reduce dependency on generating profits for the school from the sale of unhealthy foods;

(16) Increasing the availability of organic fruits and vegetables and school gardens;

(17) Collaborating with local farmers' markets;

(18) Examining the safe routes to schools program and making recommendations in regard thereto to the executive office on transportation and construction.”

On the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 157 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 611 in Supplement.]

Therefore the amendments were adopted.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 248. Notwithstanding the provisions of any general or special law to the contrary, the authority of the board of education to grant commonwealth charters to any applicant pursuant to section 89 of chapter 71 of the general laws is suspended until July 31, 2005, or until such time as a new tuition formula consistent with the recommendations of the house and senate working group authorized in this section has been enacted into law, whichever is sooner. During said period, the board of education shall not authorize additional enrollment, beyond that approved by the board prior to January 1, 2004, in any existing or previously authorized commonwealth charter school. Further, the approval of the commonwealth charters by the name of Advanced Math and Science Academy Charter School, Community Charter School of Cambridge, KIPP Academy Lynn Charter School, Berkshire Arts & Technology Charter School, and the Salem Academy Charter School made prior to passage of this act are hereby suspended and the charter schools so named shall not be allowed to open until the Department of Education, after this period of suspended authority, conducts a full review of the application and authorization process of the commonwealth charters named above to insure that the letter and spirit of the laws governing those processes have been followed by the Department and Board of Education.

There is hereby established a house and senate working group to study all aspects of, make recommendations on how to improve, and develop legislation to change, the current tuition financing system

for charter schools. The first meeting of the working group shall take place within 30 days of the passage of this act. The working group shall consist of the speaker of the house of representatives, or his designee, the president of the senate, or his designee, the minority leaders of the house and senate, or their designees, the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate committees on ways and means. Based on the findings of its study, the working group shall make recommendations on how the existing financing system can be improved in order to more closely align the funds sent to charter schools from state and local sources with the funds that would have been expended on the education of the charter school students if they remained in the districts from which they are drawn. The recommendations shall reflect actual costs associated with the grade level, program participation, and demographic profile of students attending charter schools, including all capital costs, transportation costs and other factors which contribute to the actual cost of educating these students. The working group shall also examine the relationship between charter funding and state education funding under the provisions of Chapter 70 of the General Laws, and shall ensure that any recommendations for changes in charter school funding are consistent with the principles, objectives, and formulas embodied in the funding formula under Chapter 70. Any legislation proposed by the working group shall require that funding be reflective of the grade level, program participation, and demographic profile of the actual students enrolled in charter schools. The working group shall compile data which compares the demographic profile and educational needs that characterize charter school students with those that characterize students in the districts from which they are sent. The working group shall solicit advice from such persons and entities as they deem necessary, including the department of education, as well as associations representing superintendents, school budget officers, municipal officials, and charter schools. The working group shall file a report containing its recommendations, including legislation necessary to carry out its recommendations, with the joint committee on education, arts, and humanities on or before December 1, 2004.”

After debate the amendment was adopted.

Mr. Hall of Westford then moved that the bill be amended in section 2, in item 0330-0300, by inserting at the end thereof the following: “; provided that, notwithstanding any general or special law or regulation to the contrary, the Chief Justice of Administration and Management of the Trial Court shall not later than October 31, 2004 issue a request for purchase through the competitive bidding process for the provision of public records storage for all state agencies within the jurisdiction of the trial court in order to achieve cost savings, including; but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. Said Chief Justice shall report not later than March 31, 2005 with a plan to improve public

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adopted,
yea and nay
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records storage and office space efficiencies to the joint committee on State Administration and to the House and Senate Committees on Ways and Means”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 2, by striking out item 0330-0105;

In item 0330-0102,

By striking out the figures “17,597,934” and inserting in place thereof the figures “20,196,527”;

By striking out items 0335-0001, 0335-0100, 0335-0200, 0335-0300, 0335-0400, 0335-0500, 0335-0600 and 0335-0700;

By inserting after item 0332-6000, the following three items:

“0332-6100	For the municipal court of Suffolk at Brighton.....	326,154
0332-6200	For the municipal court of Suffolk at Charlestown..	232,655
0332-6201	For the municipal court of Suffolk at Boston	3,185,464”;

By inserting, in section 2, after item 0332-6300 the following five items:

“0332-6400	For the municipal court of Suffolk at Dorchester	1,149,514
0332-6500	For the municipal court of Suffolk at East Boston...	582,745
0332-6600	For the municipal court of Suffolk at Roxbury	1,116,770
0332-6700	For the municipal court of Suffolk at South Boston	407,439
0332-6800	For the municipal court of Suffolk at West Roxbury	733,061”;

In section 81, by striking out the words “appropriation within the trial court department” and inserting in place thereof the words: “appropriation within any trial court department”; and

By inserting at the end thereof the following fifteen sections:

“SECTION 249. Chapter 211B of the General Laws, as so appearing, is hereby amended by striking section 1 and inserting in place thereof the following section:—

Section 1. There shall be a trial court of the commonwealth which shall consist of the following departments: the superior court department, the housing court department, the land court department, the probate and family court department, the juvenile court department, and the district court department. The trial court, as an administrative unit, shall consist of no more than 378 justices and special justices. There shall be selected as herein after provided, a chief justice for administration and management and a chief justice for each of the departments of the trial court; provided however, there shall be one chief justice who shall serve as the chief justice for the district court department, including all divisions previously within the Boston Municipal Court Department.

SECTION 250. Section 2 of said chapter 211B, as amended by section 449 of chapter 26 of the acts of 2003, is hereby further amended by striking the first sentence and inserting in place thereof the following sentence:— There shall be 82 justices appointed to the superior court department, 10 justices appointed to the housing court department, 6 justices appointed to the land court department, 51 justices appointed to the probate and family court department, 41 justices

appointed to the juvenile court department, and 188 justices appointed to the district court department.

SECTION 251. Section 9A of said chapter 211B, as appearing in the 2002 Official Edition, is hereby amended by striking, in line 28, the words ‘Boston municipal’ and inserting in place thereof the following:— district.

SECTION 252. Section 10B of said chapter 211B, as so appearing, is hereby amended by striking subparagraph (a) and inserting in place thereof the following subparagraph:—

(a) The exclusive authority to select and appoint assistant clerks in the district court, juvenile court and housing court shall be vested in the clerks of said courts and such authority shall not be subject to the review or approval of any other person, except as provided in this section.

SECTION 253. Section 13 of said chapter 211B, as so appearing, is hereby amended in the first sentence by striking the following words:— Boston municipal.

SECTION 254. Said section 13 of said chapter 211B, as so appearing, is hereby further amended in the second paragraph by striking the word ‘housing, and Boston municipal’ and inserting in place thereof the following:— and housing.

SECTION 255. Section 17 of said chapter 211B, as so appearing, is hereby amended in the fourth sentence of the second paragraph by striking the following words:— Boston municipal.

SECTION 256. Paragraph (f) of section 3 of chapter 211E of the General Laws, as so appearing, is hereby amended in the final sentence by striking the words ‘court, district court, and the Boston municipal court’ and inserting in place thereof the following:— court and district court.

SECTION 257. Chapter 218 of the General Laws, as amended by section 1 of chapter 45 of the acts of 2003, is hereby further amended by striking section 1 and inserting in place thereof the following section:—

Section 1. The district court department, established under section 1 of chapter 211B, shall consist of divisions, one for each of the judicial districts hereinafter enumerated, and whenever the words ‘district court’, ‘municipal court’, or ‘court’ are used in this chapter, or some other clearly contrary intent, such words shall refer to a division of the district court department. Unless the context refers only to a person appointed to the municipal court of the city of Boston or to a juvenile court, the words ‘justice’ and ‘special justice’ shall mean, respectively, an associate justice and a special justice of the trial court appointed to a division of the district court department; and the words ‘clerk’ or ‘clerk of court’ shall mean the clerk of such court; and the words ‘assistant clerk’, ‘deputy assistant clerk’, ‘temporary clerk’ or ‘temporary assistant clerk’ shall mean, respectively, an assistant clerk, deputy assistant clerk, temporary clerk or temporary assistant clerk of such court.

The Boston municipal court shall be a division of the district court department of the trial court. Except where separate or contrary provisions with respect to the same subject matter are made applicable to Boston municipal court in sections 50 to 56, the provi-

sions of this chapter relative to the divisions of the district court department shall apply to the Boston municipal court. Whenever used in this chapter or other general or special law, the words 'Boston municipal court department', shall mean the Boston municipal court division of the district court department of the trial court established under chapter 211B. Whenever used in this chapter, the words 'chief justice', 'chief justice of the Boston municipal court department', or 'chief justice of the department', shall mean the chief justice of the district court department, unless the context clearly refers to a chief justice of another department established under chapter 211B, the chief justice for administration and management, or the chief justice of the supreme judicial court.

The judicial districts of the Boston municipal court and of the several other divisions of the district court department shall continue to comprise the following cities, towns, wards and territory in the following counties respectively.

Barnstable

The first district court of Barnstable, held at Barnstable; Barnstable, Sandwich and Yarmouth. The second district court of Barnstable, held at Orleans; Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Harwich and Dennis. The third district court of Barnstable, held at Falmouth; Mashpee, Falmouth and Bourne. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Berkshire

The district court of northern Berkshire, held at Adams, North Adams and Williamstown; Adams, North Adams, Williamstown, Clarksburg, Florida, New Ashford, Cheshire, Savoy, Hancock, and Windsor; the district court of central Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of central Berkshire, held at Pittsfield; Pittsfield, Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, Lenox, Becket and Windsor; the district court of southern Berkshire exercising concurrent jurisdiction in Lenox and Becket and the district court of northern Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of southern Berkshire, held at Great Barrington and Lee; Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox and Becket; the district court of central Berkshire exercising concurrent jurisdiction in Lenox and Becket.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Bristol

The first district court of Bristol, held at Taunton; Taunton, Rehoboth, Berkley, Dighton, Seekonk, Easton and Raynham.

The second district court of Bristol, held at Fall River; Fall River, Somerset, Swansea, Freetown and Westport; the third district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The third district court of Bristol, held at New Bedford; New Bedford, Fairhaven, Acushnet, Dartmouth, Freetown and Westport; the second district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The fourth district court of Bristol, held at Attleboro; Attleboro, North Attleborough, Mansfield and Norton.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Dukes County

The district court of Dukes County, held at Oak Bluffs, Edgartown and Tisbury; Dukes County. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119, and petitions brought under sections 24 and 39E of said chapter 119, are excepted from the jurisdiction of the above court of this county.

Essex

The first district court of Essex, held at Salem; Salem, Beverly, Danvers, Middleton and Manchester-by-the-Sea.

The second district of Essex, held at Ipswich; Ipswich, Hamilton, Topsfield and Wenham.

The central district court of northern Essex, held at Haverhill; Haverhill, Groveland, Georgetown, Boxford and West Newbury; the district court of Newburyport exercising concurrent jurisdiction in West Newbury.

The district court of eastern Essex, held at Gloucester; Gloucester, Rockport and Essex.

The district court of southern Essex, held at Lynn; Lynn, Swampscott, Saugus, Marblehead and Nahant.

The district court of Lawrence, held at Lawrence and Methuen; Lawrence, Andover, North Andover and Methuen.

The district court of Newburyport, held at Newburyport; Amesbury, Merrimac, Newbury, Newburyport, Rowley, Salisbury and West Newbury; the central district court of northern Essex exercising concurrent jurisdiction in West Newbury.

The district court of Peabody, held at Peabody; Peabody and Lynnfield.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Franklin

The district court of Franklin, held at Greenfield, Franklin county, except Orange and Erving; Warwick, Wendell; Leverett, Shutesbury and New Salem. Sessions may also be held at Shelburne Falls in Shelburne and Buckland at such times and places as the justice of said court may determine.

The district court of eastern Franklin, held at Orange; Athol, Orange, Erving, Warwick, Wendell, Leverett, Shutesbury and New Salem. Said court shall be held in Athol at least one day each week of the year.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Hampden

The district court of eastern Hampden, held at Palmer; Palmer, Brimfield, Hampden, Monson, Holland, Wales, Wilbraham, Ludlow and East Longmeadow.

The district court of western Hampden, held at Westfield and Chester; Westfield, Chester, Granville, Southwick, Russell, Blandford, Tolland, Montgomery and Agawam.

The district court of Chicopee, held at Chicopee; Chicopee.

The district court of Holyoke, held at Holyoke; Holyoke.

The district court of Springfield, held at Springfield; Springfield, West Springfield and Longmeadow.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Hampshire

The district court of Hampshire, held at Northampton, Cumington, Huntington and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham and Ware and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land under the care and control of the department of conservation and recreation comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Middlesex

The district court of central Middlesex, held at Concord; Concord, Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, and Lexington.

The first district court of northern Middlesex, held at Ayer; Ayer, Dunstable, Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton, Boxborough and the Devens Regional Enterprise Zone.

The first district court of eastern Middlesex, held at Malden; Malden, Wakefield, Melrose and Everett.

The second district court of eastern Middlesex, held at Waltham; Waltham, Watertown and Weston.

The third district court of eastern Middlesex, held at Cambridge; Cambridge, Arlington and Belmont.

The fourth district court of eastern Middlesex, held at Woburn; Woburn, Winchester, Burlington, Wilmington, Stoneham, Reading and North Reading.

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston, Hopkinton Wayland, and Sudbury.

The district court of Lowell, held at Lowell; Lowell, Billerica, Tewksbury, Dracut, Chelmsford and Tyngsborough.

The district court of Marlborough, held at Marlborough; Marlborough and Hudson.

The district court of Natick, held at Natick; Natick and Sherborn.

The district court of Newton, held at Newton; Newton.

The district court of Somerville, held at Somerville; Somerville and Medford.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Nantucket

The district court of Nantucket, held at Nantucket; Nantucket county. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of the above court of this county.

Norfolk

The district court of northern Norfolk, held at Dedham; Dedham, Dover, Norwood, Westwood, Medfield, Wellesley and Needham.

The district court of East Norfolk, held at Quincy; Quincy, Braintree, Cohasset, Weymouth, Holbrook, Randolph and Milton; and, in criminal cases, concurrently with the second district court of Plymouth, that part of Scituate described in chapter 394 of the acts of 1912. Arrests and service of process in such cases may be made by an officer qualified to serve criminal process in Cohasset.

The district court of southern Norfolk, held at Stoughton; Stoughton, Avon, Canton and Sharon.

The district court of Western Norfolk, held at Wrentham; Franklin, Walpole, Foxborough, Medway, Millis, Norfolk, Wrentham and Plainville.

The municipal court of Brookline, held at Brookline; Brookline.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Plymouth

The second district court of Plymouth, held at Hingham; Hingham, Rockland, Hull, Hanover, Scituate and Norwell.

The third district court of Plymouth, held at Plymouth; Plymouth, Kingston, Plympton, Pembroke, Duxbury, Halifax, Hanson and Marshfield.

The fourth district court of Plymouth, held at Wareham; Middleborough, Wareham, Lakeville, Marion, Mattapoisett, Rochester and Carver.

The district court of Brockton, held at Brockton; Brockton, Bridgewater, East Bridgewater, Whitman, Abington and West Bridgewater. Said court may adjourn to the Massachusetts correction institution, Bridgewater, whenever the public convenience seems to the first justice to render such adjournment expedient.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Suffolk

The municipal court of the city of Boston, held at Boston; wards 6, 7, 8, 9, 10, 11, 12, 16, 17 and 18 of Boston as they existed on February 1, 1882; and in criminal cases, concurrently with the municipal courts of the Roxbury and Brighton districts, the second and third district courts of eastern Middlesex and the district court of Newton, respectively, so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as affected by chapter 245 of the acts of 1916 as is within the districts of said courts.

The municipal court of the Brighton district, held at Brighton in Boston; ward 25 of Boston as it existed on February 1, 1882.

The municipal court of the Charlestown district, held at Charlestown in Boston: wards 3, 4 and 5 of Boston as they existed on February 1, 1882; provided, however, that in criminal matters, said court shall have exclusive jurisdiction in that part of said wards which is in so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as affected by chapter 245 of the acts of 1916 under the care and control of the department of conservation and recreation as is within the districts of said court.

The district court of Chelsea, held at Chelsea; Chelsea, and Revere.

The municipal court of the Dorchester district, held at Dorchester in Boston; ward 24 of Boston as it existed on February 1, 1882, and the territory comprised within the limits of precinct 12 of ward 13 of Boston as it existed on November 2, 1948.

The East Boston district court, held at East Boston in Boston; Winthrop and wards 1 and 2 of Boston as they existed on March 1, 1886; provided, however, that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel and Lieutenant William F. Callahan, Jr. tunnel, including any property, toll plazas and approach roads thereto under the ownership, care, custody and control of the Massachusetts Turnpike Authority as provided in chapter 598 of the acts of 1958.

The municipal court of the Roxbury district, held at Roxbury in Boston; wards 19, 20, 21 and 22 of Boston as they existed on February 1, 1882, excepting ward 10, save as hereinafter provided, as it existed on February 1, 1976; provided, however, that, notwithstanding any other law, said court shall have jurisdiction over matters arising in precincts 1, 6 and 7 of ward 10.

The municipal court of the South Boston district, held at South Boston in Boston; wards 13, 14 and 15 of Boston as they existed on February 1, 1882.

The municipal court of the West Roxbury district, held at West Roxbury in Boston; ward 23 of Boston as it existed on February 1, 1882, the territory comprised within the limits of the former town of Hyde Park which was annexed to Boston by chapters 469 and 583 of the acts of 1911, and ward 10, except precincts 1, 6 and 7 of said ward 10, as existing on February 1, 1976.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county. The juvenile court located in the city of Boston, heretofore known as the Boston juvenile court, shall have the territorial jurisdiction provided in section 57 and, with respect to children in Suffolk county, shall have exclusive jurisdiction of petitions brought under said sections 24 and 39E of said chapter 119.

Worcester

The central district court of Worcester, held at Worcester; Worcester, Auburn and Millbury.

The first district court of northern Worcester, held at Gardner; Gardner, Petersham, Hubbardston and Westminster.

The first district court of eastern Worcester, held at Westborough and Grafton; Westborough, Grafton, Southborough, Northborough and Shrewsbury.

The second district court of eastern Worcester, held at Clinton; Clinton, Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling and West Boylston.

The first district court of southern Worcester, held at Southbridge and Webster; Southbridge, Webster, Sturbridge, Charlton, Dudley and Oxford.

The second district court of southern Worcester, held at Uxbridge; Uxbridge, Blackstone, Douglas, Northbridge, Millville and Sutton.

The third district court of Southern Worcester, held at Milford; Milford, Mendon, Upton, Bellingham and Hopedale.

The district court of western Worcester, held at North Brookfield; East Brookfield, Brookfield, Spencer, North Brookfield, West Brookfield, Warren, Hardwick, Leicester, New Braintree, Barre, Oakham, Paxton and Rutland. Said court may adjourn to any town within its district other than North Brookfield whenever the public convenience seems to the presiding justice to render such adjournment expedient.

The district court of Fitchburg, held at Fitchburg; Fitchburg and Lunenburg.

The district court of Leominster, held at Leominster; Leominster, Holden and Princeton.

The district court at Winchendon, held at Winchendon; Winchendon, Ashburham, Phillipston, Royalston and Templeton.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Each division of the district court department may be referred to by the name of the principal place for the holding of that court.

SECTION 258. Section 43 of said chapter 218, as appearing in the 2002 Official Edition, is hereby amended by striking the last sentence.

SECTION 259. Said chapter 218, as amended by section 478 of chapter 26 of the acts of 2003, is hereby further amended by striking section 50 and inserting in place thereof the following section:—

Section 50. The Boston municipal court division of the district court department shall consist of 11 associate justices of the trial court appointed to said division.

The chief justice of the district court department, subject to the approval of the supreme judicial court and the chief justice for administration and management, may make, from time to time, rules for regulating the practice and conducting the business therein in all cases not expressly provided for by law.

The chief justice of the district court department shall have the power to appoint the first justice of the Boston municipal court in accordance with section 6.

SECTION 260. Section 51A of said chapter 218, as amended by section 479 of chapter 26 of the acts of 2003, is hereby repealed.

SECTION 261. Said chapter 218, as appearing in the 2002 Official Edition, is hereby amended by striking section 52 and inserting in place thereof the following section:—

Section 52. In addition to the powers conferred in section 10 of chapter 211B, the chief justice of the district court department may from time to time make assignments for the attendance of a justice at the several times and places appointed for holding court. Said chief justice, or, in case of his death, illness or incapacity, the first justice of the Boston municipal court, if in his opinion the public business so requires, may provide for additional sessions in the division, and for the appointment of special justices to hold such additional sessions.

SECTION 262. Chapter 218 of the General Laws, as amended by section 488 of chapter 26 of the acts of 2003, is hereby further amended by striking section 70 and inserting in place thereof the following section:—

Section 70. Notwithstanding the provisions of any special or general law to the contrary, there shall be one administrative office which shall provide administrative support to both the district court department and the Boston municipal court located within the city of Boston. Such administrative office may employ no more than one tape librarian and two legal counsels, and such other personnel as deemed necessary or appropriate by the chief justice of the district court department.

SECTION 263. Section 80A of said chapter 218, as amended by section 490 of chapter 26 of the acts of 2003, is hereby repealed.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call (the Speaker being in the Chair) 40 members voted in the affirmative and 117 in the negative.

[See Yea and Nay No. 612 in Supplement.]

Therefore the amendments were rejected.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended in section 2, in item 0321-1500, by adding the following: “; provided that the committee shall submit a report to the clerks of the house of representatives and senate, not later than January 31, 2005 that shall include, but not be limited to the following: (a) the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; (c) the total number of persons who received legal services by said committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and geographic location; (e) the amount paid, if any, to the committee by clients for services rendered by type of case and geographic location; (f) the average cost for services rendered by said committee by type of case; (g) the average number of hours spent per attorney or staff per type of case; (h) the feasibility of the implementation of a flat rate compensation system based on the type of case.”;

By striking out item 0330-0300 (previously amended by the House) and inserting in place thereof the following item:

“0330-0300 For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, rental of county court facilities, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, the court interpreter program, and insurance and chargeback costs; provided, that not less than \$95,000 shall be expended for the implementation of a changing lives through literature program; provided further, that funds may be expended for the judicial training institute; provided further, that not less than \$99,000 shall be expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that notwithstanding the provisions of section 9A of chapter 30, or any general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any veteran, as so defined, who holds a trial court office or position in the service of the commonwealth not

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classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who (1) has held such office or position for not less than one year and (2) has 30 years of total creditable service to the commonwealth, as such service is defined in chapter 32; provided further, that the trial court shall submit a report to the house and senate committees on ways and means not later than September 1, 2004 on the implementation of a program to accept credit card payments for fines, costs, assessments and other monies collected by any department of the trial court and payable to the commonwealth; provided further, that said report shall include, but not limited to, cost-estimates for the implementation of credit card payment program in the trial courts, a survey of similar actions taken by trial courts in other states and a projection of increase revenue collection as a result of this program; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magistrate within said courts; provided further, that said report shall be submitted to the victim and witness assistance board on or before January 14, 2005; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure..... 110,740,710”;

By striking out item 0330-0410 and inserting in place thereof the following item:

“0330-0410 For alternative dispute resolution services for the trial court; provided, that such services shall be made available to the extent possible in connection with child care, protection and custody pro-

ceedings in juvenile and probate courts; provided further that not less than \$44,337 shall be expended for North Central Court Services, Inc.; provided further, that not less than \$40,000 shall be expended for the North Shore Community Mediation Program in Salem; provided further, that not less than \$48,032 shall be expended for Metropolitan Mediation Services; provided further, that not less than \$36,947 shall be expended for Community Mediation of Worcester; provided further, that not less than \$36,947 shall be expended for Quabbin Mediation in Athol; provided further, that not less than \$36,947 shall be expended for Framingham Court Mediation Services; provided further, that not less than \$42,737 shall be expended for Dispute Resolution Services, Inc., in Springfield district court; provided further, that not less than \$25,863 shall be expended for the Housing Services and Mediation Program operated by the Berkshire County Regional Housing Authority in Pittsfield; provided further, that not less than \$36,947 shall be expended for the Cape Cod Resolution Center; provided further, that not less than \$36,947 shall be expended for the Community Dispute Settlement Center, Inc., of Cambridge; provided further, that not less than \$36,947 shall be expended for the Mererville Mediation Program; provided further, that not less than \$29,558 shall be expended for Berkshire Mediation Services Inc.; provided further, that not less than \$30,000 shall be expended for Martha’s Vineyard Mediation Program, Inc; and provided further, that all remaining funds from this item shall be expended for approved mediation programs in fiscal year 2005 600,000”;

By inserting after item 1102-3231 the following item:

“1102-3299 For additional renovations to the third floor of the Cohannet School building in the City of Taunton to ensure that the temporary court facility to be housed in said building will be adequate for the court’s business and to ensure said facility will be in full compliance with public health and safety standards 1,500,000”;

By inserting at the end thereof the following nine sections:

“SECTION 249. Chapter 211 of the General Laws is hereby amended by adding the following section:—

Section 29. The Board of Bar Overseers shall assess a \$50.00 annual registration fee for attorneys who retire from the practice of law, sitting judges, clerk-magistrates, as defined in Canon 1 of Supreme Judicial Court Rule 3:12, Federal clerks of court, chief deputy clerks and deputy clerks, District Attorneys and their assistants, the Attorney General and his assistants, and attorneys employed by the Committee for Public Counsel Services.”;

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SECTION 250. Section 8 of chapter 218 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Each district court shall have a clerk and the central division of the Boston municipal court department shall have one clerk as provided in section 52A.

SECTION 251. Chapter 218 of the General Laws is hereby amended by inserting the following new section:—Section 52A. The central division of the Boston municipal court department shall have one clerk for both criminal and civil business. The position of clerk for civil business shall be abolished when said position next becomes vacant and the duties of such clerk shall be assumed by the clerk for criminal business who shall be hereinafter the one clerk for the said central division of the Boston municipal court department. Any reference in any general or special law to a clerk of the Boston municipal court for civil business shall be construed to refer to the one clerk of the central division of the Boston municipal court department as proscribed herein.

SECTION 252. Said chapter 218 of the General Laws is hereby further amended by striking out section 53 and inserting in place thereof the following new section:—

Section 53. In the central division of the Boston municipal court department, there shall be one clerk, one first deputy clerk, and the same number of assistant clerks of said court as were authorized in statute on January first, two thousand and three. The clerk of said court shall be the individual who is currently serving as clerk in said court and who has served in said position for the longer period of time. The first deputy clerk shall be any other individual who is currently serving as a clerk in said court. The first deputy clerk shall receive the same compensation that he is currently paid. The assistant clerks shall be appointed by the clerk, subject to the approval of the chief justice for administration and management with respect to compliance with the personnel standards promulgated under section eight of chapter two hundred and eleven B, and the clerk shall be responsible for the doings of his assistants, and may remove them at his pleasure. The salary of the clerk shall be seventy-five and forty-seven hundredths percent of the salary of the chief justice of the department, and shall be paid, subject to appropriation, by the commonwealth. The salaries of the assistant clerks shall be seventy-seven percent of the salary of the clerk, and shall be paid, subject to appropriation, by the commonwealth. The clerk and assistant clerks shall devote their entire time during ordinary business hours to their respective duties and shall not, directly or indirectly, engage in the practice of law. Each assistant clerk of said court appointed to such position prior to January first, nineteen hundred and eighty-seven and serving continuously thereafter, shall be entitled to thirty days vacation and thirty days sick leave in each calendar year. Each such assistant clerk may accumulate vacation leave and sick leave not used in any such year; provided, however, that the number of vacation days so accumulated shall not exceed sixty and the total amount of sick leave so accumulated shall not exceed one hundred and eighty days; and provided, further, that no additional such days shall be accumulated on or after said January first except in accordance

with the policies and procedures established by the chief justice for administration and management pursuant to section eight of chapter two hundred and eleven B. All other clerks and assistant clerks of said court shall be entitled to vacation leave and sick leave in accordance with the policies and procedures established by the chief justice for administration and management pursuant to said section eight. Assistant clerks appointed under authority of this paragraph who have held said appointment for three consecutive years shall hold office during good behavior, but subject to applicable retirement laws, and may be removed by the clerk for cause shown, subject to the procedures authorized by section eight of chapter two hundred and eleven B. The clerk may designate such employees in his office as in his judgment may be necessary for the convenience of the public, as deputy assistant clerks of said court who shall have the same authority to administer oaths as the assistant clerks of said court.

SECTION 253. Said chapter 218 is hereby further amended by striking out section 53A and inserting in place thereof the following new section: Section 53A. In case of the absence, death or removal of a salaried assistant clerk of the central division of the Boston municipal court department, the clerk of said court may, subject to the approval of the chief justice, appoint a temporary assistant clerk, to act until such assistant clerk resumes his duties or until the vacancy is filled.

SECTION 254. Said chapter 218 is hereby further amended by striking out section 56 and inserting the following new section: Section 56. The clerk shall, on or before the tenth day of each month, account for and pay over to the collector of the city of Boston or to the state treasurer, as the case may be, the balance due and payable at the end of the preceding month of all money received by them payable by law to the city of Boston or to the commonwealth, and shall render to said officers a detail account thereof under oath. Violation of this section shall be punished by a fine of not more than one hundred dollars.

SECTION 255. Section 75B of said chapter 218 is hereby amended by striking out the words ‘for criminal business’.

SECTION 256. Section 10 of Chapter 218 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after line 24 the following:—third district court of Southern Worcester, provided, that said position shall only be designated to a trial court employee in said court currently performing the duties and functions of an assistant clerk and shall not be construed as adding any additional positions to the trial court;”

SECTION 257. Chapter 10 of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following new section:—

Section 35Z. There is hereby established a separate fund to be known as the Indigent Counsel Salary Enhancement Trust Fund. There shall be credited to said fund all revenues collected pursuant to an initial filing fee of \$15 for any private application for a criminal complaint for a misdemeanor by any party, not being a law enforcement officer or prosecutor, in any court of the Common-

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wealth, from grants, gifts, contributions from any entity public or private and any revenue derived from the investment of amounts credited to said fund. The chief counsel for the Committee for Public Counsel Services shall expend funds, without further appropriation, solely for hourly rate enhancements for private bar advocates for the indigent. No expenditures from said fund shall cause said fund to be in deficiency at the end of a fiscal year. The chief justice for administration and management, in consultation with the comptroller and the chief counsel for the Committee for Public Counsel Services, shall report monthly to the house and senate committees on ways and means on the status of the fund. In the event that the chief justice for administration and management, in consultation with the chief counsel for the Committee for Public Counsel Services determines that the receipts for that fiscal year will be insufficient to pay hourly rate enhancements previously authorized, said chief counsel shall adjust hourly rate enhancements to ensure that the trust fund will have a positive balance at the end of the fiscal year.

On October 15 of each year the chief justice for administration and management, in consultation with the comptroller, shall certify and report to the house and senate committees on ways and means and the chief counsel for the Committee for Public Counsel Services the amount of trust fund receipts for the first quarter of the fiscal year and shall estimate total receipts for the fiscal year. No funds shall be expended from the trust prior to the submission of said report. Upon receipt of the report, the chief counsel for the Committee for Public Counsel Services shall determine the hourly rate enhancement to be paid for that fiscal year, including retroactive payments for hours billed on or after July 1 of that fiscal year. Not more than \$12,000,000 shall be expended from the trust fund in any fiscal year. Hourly rate enhancements funded from this trust shall not be construed as a funding obligation in the general appropriation act or supplemental appropriation acts. Any amounts received in excess of \$12,000,000 in any fiscal year shall be credited to the General Fund.”; and

In section 24, in line 5, by adding after the word “attorney” the following: “who is a state employee”.

After remarks the amendments were adopted.

Recess.

At a quarter before eleven o’clock P.M. (Wednesday, April 28), the Speaker declared a recess until the hour of eleven o’clock A.M. on Thursday, April 29.
