

JOURNAL OF THE HOUSE.

Tuesday, July 20, 2004.

Met according to adjournment, at one o'clock P.M.

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

Prayer.

God, Our Creator, we pause for moment of prayer and reflection as we focus our thoughts and attention on You, spiritual values, our personal goals, priorities and responsibilities. By following Your guidelines for successful living, we enjoy peace of mind and spirit. Inspire us as legislators to make thoughtful proposals which utilize and maximize our opportunities for serving people and our communities now and in the years ahead. In these uneasy but exciting times, teach us to be open to new informations, accurate data and new technological discoveries in our search for truth, objectivity, fairness and ethical standards.

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

Pledge of allegiance.

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

Message from the Acting Governor — Veto.

Revere and Boston, Sales Creek.

A message from Her Honor the Lieutenant-Governor, Acting Governor, returning with her objections thereto in writing the engrossed Bill directing the department of conservation and recreation to repair certain culverts [see House, No. 4918] (for message, see House, No. 5008) was filed in the Office of the Clerk on Monday, July 19.

The message was read; and, under House Rule 30, referred, to the committee on Ways and Means.

Statement Concerning Representative Kennedy of Brockton.

Statement concerning Representative Kennedy of Brockton.

A statement of Mr. DiMasi of Boston concerning Mr. Kennedy of Brockton 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 Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to a death in his family. Any roll calls that he may miss today or for the next few days is due entirely to the reason stated.

Statement Concerning Representative Wolf of Cambridge.

Statement concerning Representative Wolf of Cambridge.

A statement of Mr. DiMasi of Boston concerning Ms. Wolf of Cambridge 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 Wolf of Cambridge, will not be present in the House Chamber for today's sitting due to a death in her family. Any roll calls that she may miss today or for the next few days is due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Eldridge of Acton) honoring David W. Durrant;

David W. Durrant.

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Christopher Caron on receiving the Eagle Award of the Boy Scouts of America;

Christopher Caron.

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Matthew Wheble on receiving the Eagle Award of the Boy Scouts of America; and

Matthew Wheble.

Resolutions (filed by Mr. Rush of Boston) honoring Professor Robert L. Deasy;

Robert L. Deasy.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Eldridge, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Kelly of Dalton, petition (accompanied by bill, House, No. 5011) of Shaun P. Kelly and Stanley C. Rosenberg (by vote of the town) relative to validating the proceedings of the presidential primary in the town of Bernardston; and

Bernardston, presidential primary.

By Mrs. Poirier of North Attleborough, petition (accompanied by bill, House, No. 5012) of Elizabeth S. Poirier and Scott P. Brown (by vote of the town) relative to elections in the town of North Attleborough;

North Attleborough, elections.

Severally to the committee on Election Laws.

By Mr. Kulik of Worthington, petition (accompanied by bill, House, No. 5013) of Stephen Kulik and Stanley C. Rosenberg (by vote of the town) for legislation to authorize the town of Montague to issue additional licenses for the sale of alcoholic beverages to be drunk on the premises; and

Montague, liquor licenses.

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5014) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) relative to increasing the number of licenses for the sale of alcoholic beverages for certain restaurants in the town of Arlington;

Arlington, liquor licenses.

Severally to the committee on Government Regulations.

By Mr. Webster of Hanson, petition (accompanied by bill, House, No. 5015) of Daniel K. Webster, Thomas J. O'Brien and Robert L. Hedlund (by vote of the town) that the town of Duxbury be authorized to establish an affordable housing trust fund. To the committee on Housing and Urban Development.

Duxbury, housing trust fund.

By Mr. Kafka of Sharon, petition (accompanied by bill, House, No. 5016) of Louis L. Kafka, Jo Ann Sprague and Brian A. Joyce (by vote of the town) that the town of Sharon be authorized to convey certain conservation land to Sharon Plaza Associates. To the committee on Local Affairs and Regional Government.

Sharon, land.

Arlington,
Timothy
Pacheco.

By Mr. Marzilli of Arlington, petition (accompanied by bill, House, No. 5017) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) that Timothy Pacheco of the town of Arlington be authorized to apply for the position of fire fighter in said town, notwithstanding the maximum age requirements. To the committee on Public Service.

Severally sent to the Senate for concurrence.

Papers from the Senate.

Kuzeja
Real Estate
Trust.

The House Bill directing the commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust (House, No. 3985) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in line 9, by inserting after the word "parcel" the following: ", being a portion of the n/f 'Bassett Road' a 1798 county layout between the City of Holyoke City Line to a point in Bassett Road opposite the northwesterly corner of a parcel of land belonging now or formerly of Evadin C. O'Connor & Evadine K. Lennon, as"; and by adding at the end of said section the following sentence: "The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey."

Under suspension of Rule 35, on motion of Mr. Scibak of South Hadley, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Wareham,
sewer
construction.

The House Bill authorizing the town of Wareham to construct a sewer in certain park land (House, No. 4150) came from the Senate passed to be engrossed, in concurrence, with an amendment in line 3, inserting after the word "town", the first time it appears, the following: ", if the town provides appropriate mitigation for this sewer easement for the purposes of Article XLIX, as appearing in Article XCVII, of the Amendments to the Constitution".

Under suspension of Rule 35, on motion of Ms. Gifford of Wareham, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Middleton,
easements.

The House Bill authorizing the town of Middleton to grant certain easements (House, No. 4196) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 3 by adding at the end thereof the following sentence: "The \$60,507.44 received in exchange for the easements shall be appropriated by the town of Middleton consistent with section 63 of chapter 44 of the General Laws."

Under suspension of Rule 35, on motion of Mr. Jones of North Reading, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Newborns
and
infants.

The House Bill relative to the safe placement of newborn infants (House, No. 4325, amended) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in the second paragraph, striking out the second sentence (inserted by amendment by the House) as follows: "Such voluntary abandonment shall be considered an affirmative defense to an agency decision under section 51B in that the child is safe from physical injury and cared for in an appropriate manner.", in line 21, inserting after the word "hospital" the words "police department or manned fire station", and in lines 34 to 37, inclusive, striking out the following: "(3) name and address of person placing child if not parent, (4) location of child's birthplace, (5) information of child's medical history, if available, (6)" and inserting in place thereof the following: "(3) the location of the newborn infant's birthplace, (4) information relative to the newborn infant's medical history and his or her biological family's medical history, if available, and (5)"; and in section 2, in lines 25 and 26, striking out the words "or lawful agent of a parent".

Under suspension of Rule 35, on motion of Mr. Finegold of Andover, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Bills

Authorizing the town of Weston to regulate certain property tax exemption eligibility requirements for the elderly (Senate, No. 2053) (on a petition) [Local Approval Received];

Weston,
property
tax.

Relative to impact fees in a business development overlay district in the town of Wareham (Senate, No. 2454) (on Senate bill, No. 2348);

Wareham,
mitigation
fees.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2450) of Pamela P. Resor and James B. Eldridge (by vote of the town) for legislation to designate Shirley an economic target area. To the committee on Commerce and Labor.

Shirley,
economic
target
area.

Petition (accompanied by bill, Senate, No. 2448) of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation to authorize the town of Wareham to grant 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises; and

Wareham,
liquor
licenses.

Petition (accompanied by bill, Senate, No. 2451) of Guy W. Glodis and Paul K. Frost (by vote of the town) for legislation to authorize the town of Millbury to grant an additional license for the sale of alcoholic beverages to be drunk on the premises;

Millbury,
liquor
license.

Severally to the committee on Government Regulations.

Petition (accompanied by bill, Senate, No. 2453) of Susan C. Fargo and Susan W. Pope (by vote of the town) for legislation relative to certain housing in the town of Lincoln. To the committee on Housing and Urban Development.

Lincoln,
housing.

Wareham,
newborns.

Petition (accompanied by bill, Senate, No. 2449) of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation relative to the safe placement of newborns in the town of Wareham. To the committee on Human Services and Elderly Affairs.

Falmouth,
golf
course.

Petition (accompanied by bill, Senate, No. 2447) of Therese Murray, Eric Turkington and Matthew C. Patrick (by vote of the town) for legislation to authorize certain terms for borrowing by the town of Falmouth for the acquisition and operation of a golf course. To the committee on Local Affairs and Regional Government.

Melrose,
police
officers.

Petition (accompanied by bill, Senate, No. 2452) of Richard R. Tisei, Thomas M. McGee and Michael E. Festa (with approval of the mayor and city council) for legislation relative to the city of Melrose, special police officers. To the committee on Public Service.

Reports of Committees.

Somerville,
public
safety.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill relative to public safety in the city of Somerville (House, No. 4989) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Toomey of Cambridge, the bill was read a second time forthwith; and it was ordered to a third reading.

UMass
Amherst,
mutual aid
agreements.

Report of the committee on Public Safety, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4832) of Ellen Story, Stephen Kulik, John W. Scibak, Peter V. Kocot, Christopher J. Donelan and Stanley C. Rosenberg for legislation to authorize the University of Massachusetts at Amherst to enter into mutual aid agreements with municipal police departments.

Under suspension of the rules, on motion of Ms. Story of Amherst, the report was considered forthwith.

Pending the question on acceptance of the report, the same member moved that it be amended by substitution of the Bill relative to the police powers of towns in western Massachusetts (House, No. 4832), which was read.

The amendment was adopted; and, under suspension of the rules, on further motion of Ms. Story, the substituted bill was read a second time forthwith; and it was ordered to a third reading.

Elevator
regulations.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on House, No. 1728, a Bill relative to the Board of Elevator Regulations (House, No. 5009). Read; and referred, under Rule 33, to the committee on Ways and Means.

Traffic
safety.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on House, No. 3377, a Bill permitting the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the cities of Boston and Cambridge (House, No. 5010). Read; and referred, under Rule 33D, to the committee on Homeland Security and Federal Affairs.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the following bills ought to pass:

The Senate Bill promoting ski safety (Senate, No. 1376, amended); and Ski helmets.

The House Bill to further prevent insurance fraud (House, No. 4713); Insurance fraud.

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measures.

The engrossed Bill relative to the Uncompensated Care Trust Fund (see House, No. 4919, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Uncompensated Care Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 31 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate. Bill re-enacted.

The engrossed Bill relative to the ability of essential community providers to furnish human services (see House, No. 4920, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Essential Community Provider Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 34 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate. Bill re-enacted.

The engrossed Bill providing for expenditure for the Uncompensated Care Trust Fund (see House, No. 4921, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Uncompensated Care Trust Fund.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 41 to 0. Sent to the Senate for concurrence.

Bill
re-enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the Speaker and sent to the Senate.

Engrossed Bills.

Bill
enacted.

The engrossed Bill authorizing certain borrowing by the town of Tewksbury (see House, No. 4965) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Bills
enacted.

Engrossed bills
Relative to compensation for certain erroneous felony convictions (see House, No. 4255); and
Relative to the safe placement of newborn infants (see House, No. 4325, amended);
(Which severally originated in the House);
Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the Speaker and sent to the Senate.

Motions to Discharge Certain Matters in the Orders of the Day.

Nantucket,
conservation
restriction.

Mr. Turkington of Falmouth moved that the Senate Bill authorizing the Nantucket Islands Land Bank to grant a conservation restriction to the Nantucket Conservation Commission (Senate, No. 1167), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Plumbers
and gas
fitters.

Mr. Travis of Rehoboth moved that the House Bill requiring continuing education for licensed plumbers and gas fitters (House, No. 4750), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Wayland,
town
administrator.

Mrs. Pope of Wayland moved that the House Bill relative to the position of town administrator in the town of Wayland (House, No. 4784), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Bradley of Hingham moved that the House Bill authorizing the town of Hingham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4896), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Hingham,
liquor
license.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Spellane of Worcester moved that the Senate Bill protecting the Nashua River Basin (Senate, No. 2347), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Nashua
River
Basin.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill establishing an affordable housing trust fund in the town of Wellfleet (House, No. 4776), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Wellfleet,
housing
fund.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill relative to the historic district commission of the town of Provincetown (House, No. 4780), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Provincetown,
historic
commission.

The bill then was read a second time; and it was ordered to a third reading.

Mrs. Gomes of Harwich moved that the House Bill relative to the board of assessors of the town of Provincetown (House, No. 4781), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Provincetown,
assessors.

The bill then was read a second time; and it was ordered to a third reading.

Mr. deMacedo of Plymouth moved that the House Bill authorizing the town of Plymouth Airport Commission to lease certain parcels of land (House, No. 4820), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Plymouth
Airport
Commission.

The bill then was read a second time; and it was ordered to a third reading.

Mr. Wagner of Chicopee moved that the House Bill authorizing the city of Chicopee to convey certain park land in the city of Chicopee (House, No. 4992), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Chicopee,
park land.

The bill then was read a second time; and it was ordered to a third reading.

Consumer
transactions.

Mr. Torrisi of North Andover moved that the Senate Bill relative to certain consumer transactions and the satisfaction of security interests (Senate, No. 2238), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, the same member moved that it be amended by striking out section 1 and inserting in place thereof the following section:

“SECTION 1. Section 24 of Chapter 90D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:—

If the payment in satisfaction of the security interest is in cash or by certified check, cashier’s check, teller’s check, intra-bank or inter-bank transfer of funds, or an electronic transfer of funds, the payment shall be deemed to be cleared immediately upon receipt by a lienholder.”

The amendment was adopted.

Mr. Torrisi then moved that the bill be amended in section 2, in line 22, by inserting after the word “error.” the following sentence: “A lienholder shall not be found liable for such noncompliance if such noncompliance occurred as a result of an action or inaction of the registry or the registrar.”

The amendment was adopted; and the bill (Senate, No. 2238, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

Disability
insurance.

Mr. Mariano of Quincy moved that the House Bill relative to disability insurance (House, No. 4657), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill to be engrossed, the same member moved that it be amended by adding at the end thereof the following section:

“SECTION 2. Said section 108 of said chapter 175, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

The above policy provision (6) may be included only in a policy which provides a loss-of-time benefits which may be payable for at least 52 weeks, which is issue on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured’s earned income or to determine that such ratio does not exceed the percentage of earnings not less than 60 per cent, selected

by the insurer and inserted in lieu of the blank factor specified in this section. The insurer may require, as part of the proof of claim, the information necessary to administer this provision. If the application indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage shall be excluded in computing the alternative percentage in the first sentence of the overinsurance provision. The policy shall include a definition of ‘valid loss-of-time coverage,’ approved as to form by the commissioner, which definition may include coverage provided by governmental agencies and by organizations subject to regulation by insurance law and by insurance authority of this or any other state of the United States or of any other country or subdivision thereof, coverage provided for such insured pursuant to any disability benefits statute or any workmen’s compensation or employer’s liability statute, benefits provided by labor-management trustee plans or union welfare plans or by employer or employee benefit organizations, or by salary continuance or pension programs, and any other coverage the inclusion of which may be approved by the commissioner.”

The amendment was adopted; and the bill (House, No. 4657, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Engrossed Bill — State Loan.

The engrossed Bill relative to School Building Assistance (see House, No. 4977) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

School
Building
Assistance.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a “loan” bill as defined by Section 3 of Article LXII of the Amendments to the Constitution); and on the roll call 156 members voted in the affirmative and 0 in the negative.

Bill enacted
(state loan),
yea and nay
No. 731.

[See Yea and Nay No. 731 in Supplement.]

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

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and section 320 stand (as passed by the General Court).

General
Appropriation
Bill,
reductions
and
disapprovals.

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and

General
Appropriation
Bill,
reductions
and
disapprovals.

the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 320, which had been vetoed by the Governor, was considered, as follows:

“SECTION 320. Notwithstanding any general or special law to the contrary, a solid waste facility shall not be sited within nor shall a permit be granted for the establishment, construction, expansion, maintenance, or operation of a solid waste facility within the Zone II area of contribution, as said term is defined by section 22.02 of title 310 of the code of Massachusetts regulations, of an existing public water supply well; provided, however that such a prohibition shall only apply to any proposed solid waste facility located at any place in the city of Brockton, which had not received a site assignment on or before January 1, 2004.”

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 732 in Supplement.]

Therefore section 320 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-6901 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2005, the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average per centage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll

Solid waste
facility
location
section 320
stands,
yea and nay
No. 732.

expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that the annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein; and provided further, that the raises provided through this item shall be in addition to any already agreed to or collectively bargained for pay increases 20,000,000”.

After debate the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call (Mr. Quinn of Dartmouth being in the Chair) 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 733 in Supplement.]

Therefore item 1599-6901 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7061-0011 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

Human
service
providers
item
1599-6901
stands,
yea and nay
No. 733.

Education reform funding reserve item 7061-0011.

“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 3 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 per cent 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 per centage basis for such municipalities; provided, that preference shall be given to districts with enrollment growth of greater than 10 per cent 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 per cent 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) assist 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 3 of this act; (5) assist 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 per cent of their foundation budgets; (6) assist 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 per cent of the municipal district's foundation budget; (7) assist municipalities negatively impacted by shortfalls in federal impact aid for the education of children of families employed by the federal government on military reservations located within the town limits; (8) assist densely populated urban districts with high fixed costs and enrollment declines of greater than 3 per cent resulting in

no increase in Chapter 70 aid; 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 not less than 80 per cent of awards from this item not 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 6,870,000”.

After remarks the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 734 in Supplement.]

Therefore item 7061-0011 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Education reform funding reserve item 7061-0011 stands, yea and nay No. 734.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mr. Flynn of Bridgewater moved that the engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Bridgewater to Patrick Driscoll (see Senate, No. 1691, amended), which had been returned by the Governor with his objections thereto in writing (for message, see Senate, No. 2205), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Bridgewater, land.

The question on passing the bill, in concurrence, notwithstanding the said objections, was determined by yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution; and on the roll call 130 members voted in the affirmative and 23 in the negative.

Bill passed over veto, yea and nay No. 735.

[See Yea and Nay No. 735 in Supplement.]

Therefore the bill was passed, in concurrence, notwithstanding the objections of His Excellency the Governor (more than two thirds of the members having agreed to pass the same).

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and section 312 stand (as passed by the General Court).

General Appropriation Bill, reductions and disapprovals.

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Item 1231-1000 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“1231-1000 For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the General Laws 10,000,000”.

Sewer Rate Relief Fund item 1231-1000 stands, ye and nay No. 736.

After debate the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 144 members voted in the affirmative and 12 in the negative.

[See Ye and Nay No. 736 in Supplement.]

Therefore item 1231-1000 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0330-0300 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“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, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, and insurance and chargeback costs; provided, that funds may be expended for the judicial training institute; provided further, that the amount of increased compensation to certified private counsel appointed by the committee for public counsel services ordered by any court under Supreme Judicial Court Rule 3.10, section 5, shall be paid from this item; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding 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 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 the office or position for not less than 1 year and (2) has 30

years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$100,000 shall be expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that the chief justice for administration and management of the trial court shall make a report to the general court relative to the annual cost of maintaining the court system’s electronic equipment and systems and identify means to reduce the costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further that in preparing said report the chief justice for administration and management may utilize the services of appropriate third parties knowledgeable in equipment service contracts; provided further, that the chief justice for administration and management shall file said report with the house and senate committees on ways and means on or before October 1, 2004; provided further, that notwithstanding any general or special law or regulation to the contrary, the chief justice of administration and management of the trial court, in consultation with the state secretary, shall, not later than October 31, 2004, issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, 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. The chief justice shall, in consultation with the state secretary, report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means; 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 103,671,838”.

[The Governor reduced the item to \$99,671,838 and disapproved the following wording: “; 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”.]

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 26 in the negative.

[See Yeas and Nays No. 737 in Supplement.]

Therefore item 0330-0300 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0330-3200 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“0330-3200 For the court security program, including personnel and expenses; provided, that the chief justice for administration and management shall

Trial Court
administration
item
0330-0300
stands,
yea and nay
No. 737.

submit a report to the house and senate committees on ways and means not later than January 31, 2005, detailing the number of court officers and security personnel located in each trial court of the commonwealth 49,967,224”.

[The Governor reduced the item to \$48,367,224.]

After remarks the question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 137 members voted in the affirmative and 19 in the negative.

[See Yeas and Nays No. 738 in Supplement.]

Therefore item 0330-3200 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Trial Court
court officers
item
0330-3200
stands,
yea and nay
No. 738.

Item 0331-3404 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0331-3404 For an education and community outreach pilot program to be administered in the Suffolk superior criminal court 178,902”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 119 members voted in the affirmative and 36 in the negative.

[See Yeas and Nays No. 739 in Supplement.]

Therefore item 0331-3404 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Suffolk
Superior
Criminal
Court
item
0331-3404
stands,
yea and nay
No. 739.

Section 312, which had been vetoed by the Governor, was considered, as follows:

“SECTION 312. Notwithstanding any general or special law to the contrary, the authority of the board of education to grant commonwealth charters to an applicant pursuant to section 89 of chapter 71 of the General Laws shall be 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 become law, whichever is sooner. During the period of suspension, the board shall not authorize additional enrollment, beyond that approved by the board before January 1, 2004, in any existing or previously authorized commonwealth charter school. Further, the approval of the commonwealth charters by the name of the Advanced Math and Science Academy Charter School, Community Charter School of Cambridge, KIPP Academy Lynn Charter School, Berkshire Arts and Technology Charter School and the Salem Academy Charter School made before the effective date of this section shall be 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 the board of education.

There shall be 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 after the effective date of this section. 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 committee 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 school funding and state education funding under 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 said 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 shall compare 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 it deems 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 clerk of the house of representatives who shall forward the same to the joint committee on education, arts and humanities on or before December 1, 2004.”

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call (the Speaker having returned to the Chair) 77 members voted in the affirmative and 78 in the negative.

[See Yea and Nay No. 740 in Supplement.]

Charter school moratorium section 312 veto sustained, yea and nay No. 740.

[Mr. Walsh of Boston answered “Present” in response to his name.]

Therefore the veto of section 312 was sustained (less than two-thirds of the members present and voting having voted in the affirmative).

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the town of Middleton to grant certain easements (see House, No. 4196, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 741 in Supplement.]

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

Recess.

At nine minutes before six o'clock P.M., without proceeding to the matters in the Orders of the Day, on motion of Mr. Falzone of Saugus (the Speaker being in the Chair), the House recessed until the hour of one o'clock P.M. on Wednesday, July 21, and at that time, the House was called to order with Mr. DiMasi of Boston in the Chair.

Wednesday, July 21, 2004 (at 1:00 o'clock P.M.).

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

Gracious God, we take a moment to recognize Your presence and to thank You for your countless material and spiritual gifts and blessings. We are grateful, too, for this vast and mysterious universe which You have created for our benefit and pleasure. In addition teach us to recognize and value our great material and human struggle to utilize these gifts responsibly. Guide our efforts to unite all people in appreciating the beauty of nature and the personal dignity of all people. Inspire us to work together as we build a society in which the talents of all are recognized and used in a productive and positive manner for the common good.

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

At the request of the Chair (Mr. DiMasi), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Middleton, easements.

Bill enacted (land taking), yea and nay No. 741.

Recess.

Prayer.

Pledge of allegiance.

Guests of the House.

Medford
Wellington-
Glenwood
Pirates.

During the session, the Chair (Mr. DiMasi of Boston) declared a brief recess and introduced the Medford Wellington-Glenwood Little League Champion Pirates. Sponsored by the Medford Elks and John Ranigi, team members Evan Austin, Sean Callahan, Cory Devlin, Adam DiPersio, Erik Feeley, J.J. Lavoie, Kevin Mahoney, Chris Mangan, Katie Napier, Sean Napier, Matthew O'Leary and Chris Philpot were accompanied by head coach Ian Austin and coaches Gene DiPersio, Rich Lavoie, Kevin Mahoney, Brian Mangan and Mike Philpot. The team, having compiled a season record of 19 wins and 3 losses, were the guests of Representatives Donato of Medford and Ciampa of Somerville.

Everett Girls
Softball Team.

During the session, Mr. Connolly of Everett took the Chair, declared a brief recess and introduced multi-sport award-winning members of the Everett Girls Softball Team. After brief remarks, Representative Connolly introduced each member of the team and offered them praise upon their many accomplishments. They were the guests of Representative Connolly.

Resolutions.

Voters rights.

Resolutions (filed with the Clerk by Mr. Straus of Mattapoisett and other members of the House) recognizing the Massachusetts Voters' Bill of Rights, 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 Mr. Petrolati of Ludlow, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Mortgage
lending
practices.

The House Bill prohibiting certain practices in home mortgage lending (House, No. 4880) came from the Senate with the endorsement that said branch had concurred with the House in its further amendments with a still further amendment, in section 6, in lines 173 and 174, striking out the following: "greater than 5 per cent of the total loan amount or \$800" (inserting by further amendment by the House) and inserting in place thereof the following: "in excess of 2 per cent of the total loan amount or \$200".

Under suspension of the rules on motion of Mr. Quinn of Dartmouth, the still further amendment was considered forthwith. The House then non-concurred with the Senate in its still further amendment. Sent to the Senate for its action.

Medical
examiners.

The engrossed Bill relative to the reporting and liability of the chief and district medical examiners (see House, No. 4923), came from the Senate with the endorsement that said branch had non-concurred with the House in its amendment striking out all after the enacting clause and inserting in place thereof the following:

"SECTION 1. Notwithstanding the provision of any general or special law to the contrary, a health care provider of any patient who expires in said provider's care shall be legally entitled to receive a copy of such autopsy reports for the purposes of quality assurance and improvement. The chief medical examiner, or his designee, shall not be subject to civil or criminal liability for disclosing, upon written request, an autopsy report, any part thereof, or information relating to an autopsy, to any medical peer review committee as defined by section 1 of chapter 111 of the General Laws for the purpose of completing a review or requesting health care provider. The chief medical examiner shall not be required to provide said reports to said health care provider if there is a law enforcement investigation of the death.

SECTION 2. This act shall take effect as of July 1, 2004."

On motion of Mr. Larkin of Pittsfield, the House then receded from its amendment.

Bills

Relative to the state retirement system (Senate, No. 2458) (on Senate, No. 1572);

Pittsfield,
retirement.

To provide pediatric palliative care to children with life-limiting illnesses in the Commonwealth (Senate, No. 2460) (on Senate bill printed as House, No. 2802, and on House, No. 1290); and

Children,
care.

Relative to training for law enforcement in dealing with individuals suffering from mental illness and mental retardation (Senate, No. 2461) (on Senate bill No. 1303);

Mental health,
public safety.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

A Bill relative to the classification of land in the town of Wendell (Senate, No. 2171) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Wendell,
land
classification.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Brian Paul Golden and Steven A. Tolman for legislation to designate John Silber as a founder of Boston University. To the committee on Education, Arts and Humanities.

Boston
University,
founders.

Petition (accompanied by bill) of John H. Rogers (by vote of the town) relative to authorizing the town of Norwood to grant a retirement pension to Joseph Fernandes, a police officer of said town. To the committee on Public Service.

Norwood,
Joseph
Fernandes.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Lincoln,
elderly property
taxes.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill authorizing the town of Lincoln to regulate certain property tax exemption eligibility requirements for the elderly (Senate, No. 2018) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Ms. Pope of Wayland, the bill was read a second time forthwith; and it was ordered to a third reading.

Meningococcal
disease.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill requiring college students immunization against meningococcal disease (Senate, No. 2159, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Wagner of Chicopee, the bill was read a second time forthwith; and it was ordered to a third reading.

Foxborough
Housing
Authority.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the Foxborough Housing Authority (House, No. 4976) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Coppola of Foxborough, the bill was read a second time forthwith; and it was ordered to a third reading.

Holden,
land
conveyance.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Holden (House, No. 4987) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Evangelidis of Holden, the bill was read a second time forthwith; and it was ordered to a third reading.

Residential
tenancies,
water
sub-metering.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing water sub-metering in residential tenancies (House, No. 5001) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Rogers of Norwood, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, Messrs. Honan of Boston and Demakis of Boston moved that it be amended in section 1, paragraph (c), clause 2, by inserting before the word "were" the words "that all water closets".

The amendment was adopted; and the bill, as amended, was ordered to a third reading.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on a petition, a Bill extending the filing of a certain report by the joint committee on Natural Resources and Agriculture (House, No. 4979, changed by striking out, in line 6, the following: "June 18, 2004" and inserting in place thereof the following: "July 31, 2004"). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Natural
Resources
Committee.

By Mr. Straus of Mattapoisett, for the committee on Election Laws, on a message from His Excellency the Governor, a Bill validating the actions taken at an annual town election held in the town of Dudley (printed in House, No. 4968). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Dudley,
elections.

Motion to Reconsider.

Mr. Mariano of Quincy moved that the vote be reconsidered by which the House, at the previous session, passed to be engrossed the House Bill relative to disability insurance (House, No. 4657, amended); and the motion to reconsider prevailed.

Disability
insurance.

Pending the recurring question on passing the bill to be engrossed, the same member moved that it be amended by substitution of a bill with the same title (House, No. 5018), which was read.

The amendment was adopted; and the substituted was passed to be engrossed. Sent to the Senate for concurrence.

Motions to Discharge Certain Matters in the Orders of the Day.

Mr. Eldridge of Acton moved that the Senate Bill authorizing the town of Lunenburg to convey a certain parcel of land (Senate, No. 1952), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Lunenburg,
convey land.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Mr. Koutoujian of Waltham moved that the Senate Bill relative to meningitis immunization awareness (Senate, No. 2155), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Meningitis
awareness.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Nashua River
Basin.

Mr. Spellane of Worcester moved that the Senate Bill protecting the Nashua River Basin (Senate, No. 2347), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Helmets,
skateboards,
etc.

Mr. Toomey of Cambridge moved that the House Bill to require the use of safety helmets for persons under the age of sixteen while operating bicycles, in-line skates, scooters, and skateboards (House, No. 1920, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

MassPort,
employees.

Mr. Petrucci of Boston moved that the House Bill establishing a retirement benefit for employees of the Massachusetts Port Authority (House, No. 2149), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Waltham,
park land.

Mr. Stanley of Waltham moved that the House Bill authorizing the city of Waltham to continue the use of certain park land for water purposes (House, No. 3849), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Somerville,
Patrick
Sullivan.

Mr. Toomey of Cambridge moved that the House Bill designating a certain portion of land at Draw 7 Park in the city of Somerville as the Patrick Sullivan Fishing Hole (House, No. 4948), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Health care
trust.

Mr. Koutoujian of Waltham moved that the House Bill to determine the financial feasibility of establishing the Massachusetts

Health Care Trust (House, No. 4953, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Wagner of Chicopee moved that the House Bill authorizing the city of Chicopee to convey certain park land in the city of Chicopee (House, No. 4992), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Chicopee,
park land.

Under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Torrisi of North Andover moved that the House Bill authorizing the town of North Andover to grant certain utility easements (House, No. 4788), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

North Andover,
easements.

The bill was read a second time and it was ordered to a third reading.

Mr. Torrisi of North Andover moved that the House Bill authorizing the town of North Andover to grant a certain utility easement (House, No. 4789), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

ii

The bill was read a second time and it was ordered to a third reading.

Emergency Measure.

The engrossed Bill relative to the reporting and liability of the chief and district medical examiners (see House, No. 4923), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Medical
examiners,
autopsy
reports.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 43 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Engrossed bills

Authorizing the town of Lunenburg to convey a certain parcel of land (see Senate, No. 1952) (which originated in the Senate);

Bills
enacted.

Directing the commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust (see House, No. 3985); and

Placing certain members of the fire department of the town of Hanover under the civil service law (see House, No. 4817);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Engrossed Bills — Land Takings.

Nantucket.

The engrossed Bill authorizing the Nantucket Islands Land Bank to grant a conservation restriction to the Nantucket Conservation Commission (see Senate, No. 1167) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 742 in Supplement.]

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

Bill enacted
(Land taking),
yea and nay
No. 742.

Wareham,
land.

The engrossed Bill authorizing the town of Wareham to construct a sewer in certain park land (see House, No. 4150, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 743 in Supplement.]

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

Yarmouth,
wellfield
land.

The engrossed Bill authorizing the town of Yarmouth to lay out a public way over certain wellfield land (see House, No. 4707) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 744 in Supplement.]

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

Bill enacted
(Land taking),
yea and nay
No. 744.

Report of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with His disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, that section 401 stand (as passed by the General Court).

General
Appropriation
Bill,
disapproval.

Under suspension of the rules, on motion of the same member, section 401, which had been vetoed by the Governor, was considered, as follows:

“SECTION 401. The position of town treasurer and town collector in the town of Pembroke shall be combined and the combined position shall be appointed by the board of selectmen of the town for a term not to exceed 3 years and the person so appointed shall have all of the powers and duties by law vested in the office of the town treasurer and town collector. Any vacancy in such office shall be filled in like manner. The board of selectmen may remove any person so appointed for cause after a hearing.

Notwithstanding the foregoing, the incumbent holding the offices of town treasurer and town collector on the effective date of this act shall continue to hold such offices and to perform the duties thereof until the expiration of the terms for which she was elected, unless she sooner vacates such offices. After the term of the incumbent town treasurer and town collector holding such offices on the effective date of this act have both expired, or both offices are sooner vacated, the board of selectmen shall appoint a treasurer/collector in the manner set forth above. Should the incumbent town treasurer remain in office, upon the expiration of her term in 2005, the board of selectmen will appoint her interim town treasurer until her term as collector expires in 2006. The board of selectmen may appoint a treasurer/collector as described above.

Notwithstanding chapter 32 of the General Laws, section 116 of chapter 46 of the acts of 2003 or any other general or special law to the contrary, the incumbent treasurer and collector on the effective date of this section shall be eligible for retirement under section 116 of chapter 46 of the acts of 2003, provided however, that said incumbent must file an application for retirement by a date to be determined by the board of selectmen, such date to be not later than September 6, 2004, and provided further that notwithstanding section 5 of chapter 32, requiring a retirement date within 4 months of filing of an application for superannuation retirement, the board of selectmen may determine a retirement date on or before September 6, 2004 and not later than her term ending on April 30, 2005.”.

Pembroke
treasurer and
collector
section 401
stands,
yea and nay
No. 745.

On the question on passing said section 401, notwithstanding the said objections, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 136 members voted in the affirmative and 20 in the negative.

[See Yea and Nay No. 745 in Supplement.]

Therefore section 401 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Motion to Discharge a Certain Matter in the Orders of the Day.

Marion,
low income
housing.

Mr. Straus of Mattapoisett moved that the engrossed Bill authorizing the town of Marion to develop and maintain a subsidized housing plan for low and moderate income housing (see House, No. 4631), which had been returned by the Governor with his objections thereto in writing (for message, see House, No. 4994), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Bill passed
over veto,
yea and nay
No. 746.

The question on passing the bill, notwithstanding the said objections, was determined by yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 746 in Supplement.]

Therefore the bill was passed, notwithstanding the objections of His Excellency the Governor (more than two-thirds of the members having agreed to pass the same). Sent to the Senate for its action.

Reports of a Committee.

General
Appropriation
Bill,
deductions and
disapprovals.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and sections stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 371, which had been vetoed by the Governor, was considered, as follows:

“SECTION 371. The department of environmental protection, solid waste management section shall study the closure of the BFI landfill located in the city of Fall River at the completion of Phase II, Cell D. Said study shall include, but not be limited to the

following; (1) the possibility of no longer accepting any waste matter, ash, or any other material with the completion of Phase II, Cell D, (2) using only materials to complete the closing will be accepted at the facility, (3) the prohibition of any expansion into any other portion of the landfill site, including Phase III, (4) the direction and flow of the subsurface groundwater surrounding the Browning Ferris Landfill in Fall River, (5) the testing of the groundwater contaminants leaching from the landfill and mapping of the travel direction and distances traveled by the contaminated groundwater, (6) and any other matters involving the closure of said landfill and the possible contamination of groundwater in areas around said landfill. The department shall report its findings together with recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on natural resources and agriculture and house and senate committees on ways and means on or before May 1, 2005.”

After remarks the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 747 in Supplement.]

Therefore section 371 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Fall River
landfill study
section 371
stands,
yea and nay
No. 747.

Section 255, which had been vetoed by the Governor, was considered, as follows:

“SECTION 255. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall, by September 24, 2004, apply to the federal Centers for Medicare and Medicaid Services for a waiver from the provisions of 42 U.S.C. Sec. 1396b(w)(3)(B) for the nursing facility user fee created by section 25 of chapter 118 of the General Laws, to mitigate the impact of the user fee on nursing facilities that: (1) have 100 or fewer licensed beds; (2) were established and licensed in Massachusetts prior to the enactment of the Health Insurance for the Aged Act, Pub. L. 89-97, Title I, 79 Stat. 290, and the Medicaid Act, Pub. L. 89-97, Title I, Sec. 121(a), 79 Stat. 343, on July 30, 1965; and (3) are not participating in either of the Medicare or Medicaid programs.

The form of such a waiver application shall meet the requirements for automatic approval by the federal Centers for Medicare and Medicaid Services pursuant to 42 U.S.C. Sec. 1396b(w)(3)(E), including (1) that the net impact of the nursing facility user fee with the waiver remains generally redistributive in nature, as provided in 42 C.F.R. Sec. 433.68(e)(1)(ii), and (2) that the amount of the nursing facility user fee with the waiver remains not directly correlated to payments for items or services, and therefore meets the hold harmless requirements provided in 42 C.F.R. Sec. 433.68(f).

In the waiver application, patient days from nursing facilities not described in the first paragraph above that must be exempted from the nursing facility user fee in order for the waiver application to meet the requirements for automatic approval by the Centers for

Medicare and Medicaid Services shall be apportioned equally between nursing facilities in Essex, Middlesex, Norfolk, Plymouth, and Suffolk counties.”.

MassHealth federal waivers section 255 stands, yea and nay No. 748.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 146 members voted in the affirmative and 8 in the negative.

[See Yea and Nay No. 748 in Supplement.]

Therefore section 255 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 256, which had been vetoed by the Governor, was considered, as follows:

“SECTION 256. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall amend its April, 2004 application to the federal Centers for Medicare and Medicaid Services (CMS) for a waiver from the uniformity provisions of 42 U.S.C. Sec. 1396(w)(b) to mitigate the impact of the user fee on nonprofit continuing care retirement communities and nonprofit residential care facilities. The amended waiver application shall be submitted to CMS within 45 days of the effective date of this section in a manner that is automatically approvable by the federal Centers for Medicare and Medicaid Services pursuant to 42 CFR 433.68(2)(ii). In addition to nonprofit continuing care retirement communities and nonprofit residential care facilities, the division shall include in its amended waiver application, as facilities with non-uniform rates, non-profit facilities with the highest number of Medicaid days in order for the application to meet the generally redistributive test in 42 CFR 433.68(2)(ii).”.

MassHealth Medicare and Medicaid section 256 stands, yea and nay No. 749.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 149 members voted in the affirmative and 4 in the negative.

[See Yea and Nay No. 749 in Supplement.]

Therefore section 256 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0333-1313 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0333-1313 For the Suffolk probate community access program of community outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county \$189,041”.

After debate the question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 112 members voted in the affirmative and 44 in the negative.

[See Yea and Nay No. 750 in Supplement.]

Therefore item 0333-1313 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Community Access Program item 0333-1313 stands, yea and nay No. 750.

Item 0610-0050 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0610-0050 For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission is authorized and directed to work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; provided further, that not less than \$60,000 be provided for an additional investigator for Western Massachusetts region; and provided further, that said commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the traffic of alcoholic beverages..... \$1,826,478”.

[The Governor reduced the item to \$500,000.]

The question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 751 in Supplement.]

[Mr. Binienda of Worcester answered “Present” in response to his name.]

Therefore item 0610-0050 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Alcoholic Beverages Control Commission item 0610-0050 stands, yea and nay No. 751.

Item 0335-0001 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0335-0001 For the central division of the Boston municipal court department including the administrative costs of said court department \$3,185,464”.

[The Governor reduced the item to \$2,185,464.]

Boston
Municipal Court
item 0335-0001
stands,
yea and nay
No. 752.

After debate the question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 111 members voted in the affirmative and 45 in the negative.

[See Yea and Nay No. 752 in Supplement.]

Therefore item 0335-0001 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0610-0140 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“0610-0140 For the purpose of funding administrative, transactional and research expenses associated with maintaining and increasing the interest earnings on the Commonwealth’s General and Stabilization Fund investments \$150,000”.

Financial
institution fees
item 0610-0140
stands,
yea and nay
No. 753.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 753 in Supplement.]

Therefore item 0610-0140 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7113-0105 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“7113-0105 For the Massachusetts College of Liberal Arts; provided that not less than \$250,000 shall be expended for capacity building at the Massachusetts College of Liberal Arts in conjunction with a pilot wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; and provided further, that not less than \$250,000 shall be expended for the assessment and evaluation of the higher education resources available to residents of Berkshire County \$500,000”.

College of
Liberal Arts
item 7113-0105
stands,
yea and nay
No. 754.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 754 in Supplement.]

Therefore item 7113-0105 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4000-0500 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“4000-0500 For health care services provided to medical assistance recipients under the executive office’s primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the division; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap; provided further, that the secretary shall submit a report to the house and senate committees on ways and means which shall include MassHealth enrollment in managed care organization as of July 1, 2004 compared to said enrollment on December 1, 2004; provided further, that said report shall be submitted no later than December 15, 2004; provided further, that the commissioners of medical assistance and mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; provided further, that such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health; provided further, that in conjunction with the new medicaid management information system project, said division study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that said secretary shall report to the house and senate committee on ways and means not later than February 1, 2005 the results of said study, any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further,

that not less than \$10,000,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units, including pediatric chronic and rehabilitation long-term care hospitals as allowable under federal law; provided further, that \$1,100,000 shall be available for medical interpreter services to MassHealth members in emergency rooms and acute psychiatric units within acute care or psychiatric hospitals; and provided further, that not less than 20 per cent of the amount shall be expended for grants awarded through a competitive bidding process intended for innovative methods to improve interpreter services and contain costs; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals \$2,319,197,919”.

[The Governor reduced the item to \$2,307,497,919 and disapproved the following wording: “; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap” and “; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals”.]

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 148 members voted in the affirmative and 6 in the negative.

[See Yeas and Nays No. 755 in Supplement.]

Therefore item 4000-0500 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1102-3233 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“1102-3233 For a reserve to commence the environmental remediation and any necessary work related to said remediation at the property located in Norfolk, Massachusetts formerly known as the Department of Public Health Pondville Hospital as said property is identified in chapter 519 of the acts of 1980 so as to ensure that any and all contamination and hazardous waste or material is eliminated from said site as required by section 679 of chapter 26 of the acts of 2003; provided, that the commissioner of the division of capital asset management and maintenance shall submit a expenditure plan no later than September 1, 2004 to the house and senate committees on ways and means detailing how funds appropriated herein shall be expended; provided further, that all funds appropriated herein shall be expended solely on environ-

mental remediation directly related to said site; and provided further, that no funds appropriated herein shall be expended for administrative related expenditures \$1,000,000”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 112 members voted in the affirmative and 43 in the negative.

[See Yeas and Nays No. 756 in Supplement.]

Therefore item 1102-3233 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 94, which had been vetoed by the Governor, was considered, as follows:

“SECTION 94. The General Laws are hereby amended by inserting after chapter 43C the following chapter:—

CHAPTER 43D. Expedited Permitting.

Section 1. This chapter shall apply in a city or town upon its acceptance under section 4 of chapter 4. Sections 2 to 5, inclusive, shall be adopted together, but collectively may be adopted without section 6. If section 6 is adopted, then sections 2 to 5, inclusive, shall also be adopted. The adoption of any portion of this chapter shall be considered to be an amendment to any contrary laws, local charters or laws having the force of charters.

Section 1A. The secretary of administration and finance shall collaborate with the commissioner of revenue and the state treasurer to develop incentives that expedite local permitting and zoning consistent with this chapter. Said incentives may include, but shall not be limited to, use of payments pursuant to section 25A of chapter 58 to cities and towns, or other forms of fiscal incentives. Said secretary shall report to the house and senate committees on ways and means not later than November 1, 2004, on any such recommendations necessary to implement the incentives proposed to effectuate such expedited permitting, including any related legislation.

Section 2. The following words shall have the following meanings unless the context clearly requires otherwise:

‘Issuing authority’, a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development.

‘Municipality’, the locality acting through the relevant issuing authority as it pertains to actions required or allowed by this chapter.

‘Office’, the municipal office of permit coordination provided for in subsection (b) of section 3.

‘Permit’, a permit, formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land or structures required by any issuing authority including, but not limited to, those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclusive, of chapter 111, chapter

Pondville Hospital remediation item 1102-3233 stands, yeas and nays No. 756.

MassHealth managed care item 4000-0500 stands, yeas and nays No. 755.

40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance adopted under home rule authority, and all associated regulations, bylaws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. "Permit" shall not include the licensing of an individual to engage in a profession or the decision of an agency to dispose of property under its management or control. "Permit" shall also not include predevelopment reviews conducted by the municipal office of permit coordination or a technical review team. Permits and approvals shall not include permits and approvals granted by the Massachusetts Water Resources Authority under its authority or under authority delegated from an agency otherwise covered by this chapter. Permits and approval actions taken pursuant to a federal delegation shall be excepted only to the extent that the terms of such delegation are inconsistent with this chapter.

'Technical review team', an informal working group consisting of representatives of the various issuing authorities designated by the head of their issuing authority, to review requests submitted under the procedures established pursuant to sections 3 to 6, inclusive. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) The municipality shall, within 180 days of acceptance of any of the provisions of sections 2 to 6, inclusive, amend where necessary, rules and regulations on permit issuance to conform with those sections and may adopt guidelines consistent with this chapter. The municipality shall collect and ensure the availability of, and the issuing authorities shall memorialize and ensure the availability of, all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit. The municipality is encouraged to compile a comprehensive permitting process guidebook and to provide other informational assistance relative to permitting through a single point of contact established pursuant to subsection (b).

(b) A city or town shall establish or designate an existing office or staff member to serve as a single point of contact for the purposes of coordinating and facilitating the land use permitting process. The office or staff member so designated shall be the municipal office of permit coordination, hereinafter referred to as the office. In fulfilling the functions established in this chapter, the office shall consult with the authorities having substantive jurisdiction over the issuance of permits. To the greatest extent possible, the office shall fulfill the procedural responsibilities of the municipality.

(c) The municipality, to the greatest extent possible, shall establish a procedure for coordinated and concurrent review of all permit reviews required for a single project and, where feasible, shall coordinate municipal review with state review. Nothing in sections 2 to 6, inclusive, shall be construed to alter the substantive jurisdictional authority of issuing authorities.

(d) The municipality, through the office, shall establish a procedure whereby the municipality shall identify, based upon submission by the applicant of a form provided by the municipality all permits,

reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities. The municipality shall notify the applicant of such requirements in writing within 20 business days from receipt of the completed form. The municipality may provide for pre-application conferences to facilitate this process.

The office and the applicant may publish an early notice in a local paper, and a statewide paper or the Environmental Monitor, with a description of the project and scope of review preliminarily suggested by the office. The early notice shall be in addition to any required notice for required public hearings and may, at the municipality's option, direct inquiries to either the office or the applicant.

The failure of a municipality to notify an applicant of a requirement of a public hearing or comment period shall not waive the legal requirement for any such requirement. If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall, where public notice and comment or hearing are not required, complete action on the application filed for the previously unidentified permit within 35 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 35 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

(e) The municipality shall establish a procedure, following the notification of the required submissions for review as set forth in subsection (d), for determining the completeness of the submission by the applicant of all materials required for the review of the project, which shall be not later than 10 business days after receipt of the application materials. If the municipality fails to send notification that an application is not complete within that time period, the application shall be considered complete. If the municipality determines the application is not complete, the written notice shall include a concise statement regarding the reasons why the application is incomplete. The resubmission of the application or the submission of such additional information required by the municipality shall commence a new period for review of the additional information for purposes of determining completeness. A finding that the application is complete shall not prevent the municipality from requesting additional information during the course of project review.

(f) The municipality shall, within 180 days after acceptance of any provision of sections 2 to 6, inclusive, establish time periods within which all permit reviews shall be conducted and completed. The timelines shall begin to run upon issuance of the notice that the

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Bill,
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application materials are complete pursuant to subsection (e). The timeline shall not exceed 90 days for reviews which do not require public hearings and 120 days for reviews which require a public hearing. The procedure shall provide for the consolidation of public hearings and public notices. Public notices shall appear in a local newspaper and the Environmental Monitor at least twice before the hearing date. At the written request of 10 citizens, an additional public hearing shall be held, if the 120-day time period for review, established under this section, has not been exceeded. Where appropriate, the municipality may establish general permits and permits by rule which shall consist of standards of performance specified by the issuing authority and shall be authorized after a written filing by the applicant.

(g)(1) If the issuing authority fails to act within the time period established by the municipality pursuant to subsection (f), the relief requested shall be considered granted by operation of law. In that event, within 14 days from the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the automatic approval and stating that notice of the automatic grant has been mailed, by certified mail, to all parties to the proceedings and all person entitled to such notice of hearing in connection with the application. Appeals from the automatic grant, if any, shall be filed by an aggrieved person within 20 days after the date the city or town clerk received the affidavit in accordance with section 17 of chapter 40A. A plaintiff shall provide written notice of the action with a copy of the complaint to all parties on the administrative record within 10 business days after filing the complaint and an affidavit of the notice shall be filed with the court. If the affidavit is not filed within that time, the complaint shall be dismissed. The court shall advance any action so that it may be heard and determined as soon as possible. The court shall hear all evidence and determine the facts, and upon the facts determined, shall issue a decree as justice and equity may require.

(2) An automatic grant of approval shall not occur where: (i) the city or town has made a timely determination that the application is not complete in accordance with its regulations; (ii) the final application contained false or misleading information; or (iii) substantial changes to the project which affect the information required to process the permit application have occurred since the filing of the application.

(3) A time period specified in this section may be waived or extended for good cause by written request of the applicant with the consent of the municipality or by the written request of the head of the issuing authority with the consent of the applicant. A time period specified by this section shall be extended when the issuing authority determines in writing either: (i) that action by another federal, state or municipal government agency is required before the issuing authority may act; (ii) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (iii) that enforcement proceedings which could result in revocation of an existing permit for that facility or activity and

denial of the application have been commenced. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time periods specified in this section, beginning the day after the notice is issued. Any time period specified in this section may be extended by the head of the issuing authority where significant public comment has been received which would, on its face, appear to constitute grounds for the issuing authority to deny the permit or significantly modify the permit. An extension of a time period shall be filed by the issuing authority with the city or town clerk before the end of the otherwise applicable time period.

(4) An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application in accordance with sections 2 to 5, inclusive and section 6, where applicable.

(h) The municipality shall establish an informal procedure to allow permit applicants to obtain advisory review by a technical review team of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing authority which has affected or will affect the ability of the applicant to obtain timely review of the permit application. Procedures shall provide for filing by the applicant of a request for review, representation by the permit issuing authority on the technical review team, and a period not to exceed 30 days for issuance of a decision. Invocation of this procedure shall toll the review time periods. An advisory determination or ruling made pursuant to a procedure established in this section shall not constitute a decision or final action and shall not be subject to any right of administrative or judicial review.

In addition to any fees that may be assessed by an issuing authority pursuant to sections 53 and 53G of said chapter 44, the office may establish an additional and separate fee for the carrying out of its duties under any provision of sections 2 to 7, inclusive, and may deposit the fees in a special account. The account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the office or another office designated to serve as that office, without further appropriation; provided, however, that the funds shall be expended by it only in connection with carrying out its responsibilities under any provision of sections 2 to 7, inclusive. At the sole discretion of the office, an annual surplus in fees may be used for the development of the regional plans, subject to matching funds by the municipal legislative body.

Section 4. An administrative appeal from a permitting decision shall be filed within 21 days after the issuing authority renders a decision. Nothing in this section shall be construed to create rights of appeal where a statutory form of administrative review or appeal is not otherwise provided.

Section 5. (a) Permits shall transfer automatically to successors in title, except for permits where financial ability to meet permit

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requirements, posting of a bond or the qualifications of an applicant are a condition or requirement for obtaining the permit, and the permit expressly requires approval of the issuing authority before transfer. Within 180 days of the acceptance of sections 2 to 6, inclusive, the municipality shall publish in a local newspaper and in a statewide newspaper or the Environmental Monitor a list of all permits which require the approval of the authority before transfer.

(b) Issuing authorities having substantive jurisdiction over permit issuance, in consultation with the office, may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in sections 2 to 5, inclusive, and section 6, where applicable.

(c) Permit modification requests shall be reviewed by an issuing authority within time frames set forth in this paragraph. An issuing authority shall inform an applicant within 15 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 15 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original time frames for permit categories as set forth in subsection (f) of section 3 shall apply.

(d) Permits issued pursuant to sections 2 to 5, inclusive, shall expire 2 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of 1 building shall preserve the permit validity. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 6. (a) A municipality which also accepts this section shall adopt procedures in this section for the designation and development of priority development sites.

(b) For the purposes of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

‘Priority development site’, a privately or publicly-owned, municipally-designated property which, at the request of the owner, is entitled to proceed with state and local permitting processes based upon a master plan of building sizes, categories of use and other relevant land use issues, including brownfields. There may be several different parcels or projects within a single priority development site.

‘Priority master plan’, a master plan for a priority development site which contains all information necessary to conduct a review of a priority development site for the purposes of state and municipal land use permits and reviews.

‘Priority proposal’, a document containing all information related to an actual proposed development project within a priority development site.

(c) To be eligible for designation as a priority development site, the property shall: (1) be commercially or industrially zoned; and (2) be eligible under applicable zoning provisions, including special permits or other discretionary permits, for the construction of a building of 90,000 square feet of gross floor area or more. Municipalities, with advice and consent of the Massachusetts office of business development, may designate a property which does not meet these criteria if they determine that a proposed property presents an important opportunity for a commercial or industrial use.

(d) To have a property designated as a priority development site, the owner of the property shall file a request with the office. The request shall include a description of the property and buildings and evidence of compliance with the eligibility criteria in this section. The municipality shall issue a decision within 20 days. Each municipality shall establish a procedure for reviewing requests and making designations and shall weight favorably plans which are consistent with existing or proposed area growth management and planning documents.

(e) If designated, the owner shall consult with the Massachusetts office of business development and the executive office of environmental affairs, which shall designate a high-level representative to coordinate this process, to develop the scope of information required for a priority profile.

(f) Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall be conducted concurrently and shall conclude within 120 days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this subsection. In the event an applicant fails to comply with all relevant timeframes, the time shall be tolled until the applicant files the required documents.

(g) Notwithstanding any law to the contrary, a public notice or hearing necessitated by a proposed project on a priority development site shall be consolidated into a single hearing by the office and the commonwealth.

(h) A developer of a project within a priority development site shall file a priority proposal.

(i) The municipality and the executive office of environmental affairs shall prepare a form for priority proposals for priority development sites and shall designate 1 representative to review priority proposals. Municipal and state agencies shall render permit decisions within 60 days of issuance of receipt of a completed priority proposal which falls within the priority profile or which falls within 10 per cent differential of the priority profile, and within 90 days for all other priority proposals.

(j) Permits and approvals issued relative to a priority development site shall expire 5 years from the date of issuance unless exercised sooner. A project or parcel for which a priority proposal has been filed within the 5-year period shall be eligible for this process.

Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates.

(k) A priority development site shall also be eligible for the following benefits:

(1) priority consideration for Community Development Action Grants and Public Works Economic Development Grants;

(2) accelerated consideration for other state resources such as quasi-public financing and training programs;

(3) brownfields remediation assistance; and

(4) enhanced marketing of the site by the Massachusetts office of business development.

(l) This section shall not apply where the municipality and commonwealth determine that the priority master plan or any required submissions have omitted requested or relevant information or contained false or misleading information.

Section 7. If any part of sections 1 to 6, inclusive, shall be found by a court of law to be unconstitutional, invalid or in conflict with federal or state requirements which are a condition precedent to the allocation of federal or state funds to a municipality or with the delegation of a federal or state permitting program, the remainder of these sections shall not be affected thereby.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 143 members voted in the affirmative and 6 in the negative.

[See Yeas and Nays No. 757 in Supplement.]

Therefore section 94 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 305, which had been vetoed by the Governor, was considered, as follows:

“SECTION 305. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall submit on or before February 1, 2005 to the house and senate committees on ways and means a report detailing the cost-effectiveness of the drug prior authorization program, including an analysis of: (a) the direct cost of the prior authorization program; (b) the estimated amount, if any, of cost shifting to physicians in terms of additional time spent in obtaining authorization for a selected course of therapy; (c) internal program costs shifting, if any, including but not limited to additional prescriptions, laboratory tests, physician visits, hospitalization, and skilled nursing care that are associated with implementation of the prior authorization program, (d) whether the prior authorization program is adequately meeting the needs of patients to obtain needed medications in a timely manner, which will include an analysis of the length of time it takes for the prior authorization program to approve or deny requests for prescriptions, and an examination of the grievance mechanism for interested parties to appeal any decision made by the executive office of health and human services, including the number of appeals, and the outcome

of such appeals. The report shall include all therapeutic classes that are currently subject to prior authorization. Any contractor retained to develop and prepare the report shall not be related to any contractor retained by the state to develop and implement the prior authorization program.”

After remarks the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 137 members voted in the affirmative and 18 in the negative.

[See Yeas and Nays No. 758 in Supplement.]

Therefore section 305 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 299, which had been vetoed by the Governor, was considered, as follows:

“SECTION 299. There shall be a commission to study, make recommendations and propose any legislation related to the use, reuse, lease, sale, conveyance, or any disposition of any interest in the Hynes Memorial Auditorium and the Boston Common Parking Garage. The commission shall consist of 3 persons to be appointed by the governor, 1 of whom shall be the chairperson of the Massachusetts Convention Center Authority or his designee, and 1 of whom shall be a representative of the Back Bay Association; 3 persons to be appointed by the mayor of the city of Boston, 1 of whom shall be the director of the Boston Redevelopment Authority, and 1 of whom shall be a representative of the Greater Boston Chamber of Commerce; 3 persons to be appointed by the president of the senate, 1 of whom shall be the senate minority leader, 1 of whom shall be the senate chairperson of the joint committee on state administration, and 1 of whom shall be a representative of the Greater Boston Convention and Visitors Bureau; and 3 persons to be appointed by the speaker of the house of representatives, 1 of whom shall be the house minority leader, 1 of whom shall be the house chairperson of the joint committee on state administration and 1 of whom shall be a representative of the Massachusetts lodging association. The house and senate chairpersons of the joint committee on state administration shall jointly chair the commission.

As part of its study and in making its recommendations the commission shall consider the following: (i) a comprehensive and coordinated strategy and plan for the use, reuse, lease, sale, conveyance or disposition of the auditorium, including the development of air rights above the existing facility and the garage; (ii) the continued use of the Hynes as a convention center venue owned, operated and maintained by the Massachusetts Convention Center Authority after the opening of the Boston Convention and Exhibition Center; (iii) the use of the Hynes Convention Center for any other purpose, other than as a convention center venue or as a convention center with other mixed uses, by any public or private entity or a combination thereof; (iv) the state, city, community, and local business interests, including but not limited to hotel, retail, and restaurant interests involved and impacted by (a) the continued use of the Hynes Con-

Drug prior
authorization
report section
305 stands,
yea and nay
No. 758.

Permitting
and zoning
requirements
section 94
stands,
yea and nay
No. 757.

vention Center as a convention center by the Massachusetts Convention Center Authority, a private entity, or a combination thereof, or (b) by the reuse of the Hynes Convention Center property for a use other than as a convention center venue or a mixed use thereof; (v) the feasibility of continued use of the Hynes Auditorium as a convention center with secondary development of the property, as a joint public/private partnership with the Massachusetts Convention Center Authority, including the development of air rights above the existing facility, subject to applicable state and local laws; (vi) the ownership and operation of the Boston Common Parking Garage; (vii) the feasibility of the proceeds or a portion thereof of any sale, conveyance, or disposition of the Hynes Auditorium or the parking garage to be allocated to the Authority; and (viii) any other issues, studies, proposals or impacts that may be relevant, pertinent, or material to the study, analysis, and review of the commission. The commission shall solicit and consider advice and comments from elected state and city officials and representatives from neighborhood, professional, trade and business groups affected by the potential use, reuse, lease, sale, conveyance or disposition of any interest in the Hynes Convention Center.

The commission shall prepare a final report of its findings resulting from its study, including legislative recommendations. The commission shall file the report with both the clerks of the house of representatives and the senate and shall also submit a copy of the report to the governor, the president of the senate, the speaker of the house, and the chairpersons of the committee on ways and means and the joint committee on state administration on or before December 30, 2005. No reuse, lease, or conveyance, as recommended by the commission, shall occur without prior approval of the general court.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 152 members voted in the affirmative and 2 in the negative.

[See Yeas and Nays No. 759 in Supplement.]

Therefore section 299 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 229, which had been vetoed by the Governor, was considered, as follows:

“SECTION 229. Item 2840-2016 of section 2 of said chapter 236 is hereby amended by inserting at the end thereof the following words:— and provided further, that not less than \$5,000,000 shall be expended for the repair, renovation and reconstruction of Vietnam Veterans Memorial Pool in the city of Chelsea.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Yeas and Nays No. 760 in Supplement.]

Therefore section 229 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7007-1200 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“7007-1200 For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that such clusters may be characterized by technological or market focus, geographic proximity or other shared interests; provided further, that cluster activities shall be deemed to be the exercise of an essential governmental function intended to: (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the commonwealth through 1 or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, operation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; provided further, that the executive director shall file a report with the house and senate committees on science and technology and the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 15, 2005; provided further, that not less than \$525,000 shall be expended by the Massachusetts technology collaborative to assist the Massachusetts department of business and technology to support

Hynes and
Boston Common
Garage section
299 stands,
yea and nay
No. 759.

Chelsea
Veterans
Memorial Pool
section 229
stands,
yea and nay
No. 760.

each of the 7 regional competitive councils through a matching grant program or other equivalent support; provided further, that of said \$525,000 each of the 7 regional competitiveness councils shall receive or benefit from not less than \$75,000; provided that each dollar awarded to each regional competitiveness council shall be matched by one dollar in matching investment; and provided further, that the Massachusetts department of business and technology shall submit quarterly reports to the house and senate committees on ways and means and the joint committee on commerce and labor detailing the amounts awarded and the purposes for said grants \$3,025,000”.

[The Governor reduced the item to \$1,025,000 and disapproved the following wording: “; provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, operation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item”.]

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 25 in the negative.

[See Yea and Nay No. 761 in Supplement.]

Therefore item 7007-1200 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mr. Kane of Holyoke moved that the engrossed Bill relative to certain retirement benefits in the city of Holyoke (see House, No. 4391), which had been returned by the Lieutenant Governor, Acting Governor with her objections thereto in writing (for message, see House, No. 4865), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The question on passing the bill, notwithstanding the said objections, was determined by yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution; and on the roll call 134 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 762 in Supplement.]

Therefore the bill was passed, notwithstanding the objections of Her Honor the Lieutenant Governor, Acting Governor (more than two-thirds of the members having agreed to pass the same). Sent to the Senate for its action.

Report of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with His disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, that section 228 stand (as passed by the General Court).

General
Appropriation
Bill,
disapproval.

Under suspension of the rules, on motion of the same member, section 228, which had been vetoed by the Governor, was considered, as follows:

“SECTION 228. Item 2840-2016 of section 2 of said chapter 236 is hereby amended by striking out the words ‘; provided further, that \$200,000 shall be expended for renovation of the Connors pool in the city of Waltham’ and inserting in place thereof the following:— provided further, that \$1,200,000 shall be expended for renovation of the Connors pool in the city of Waltham.”.

On the question on passing said section 228, notwithstanding the said objections, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 134 members voted in the affirmative and 21 in the negative.

Waltham
Connors Pool
section 228,
yea and nay
No. 763.

[See Yea and Nay No. 763 in Supplement.]

Therefore section 228 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Recess.

At twenty minutes before six o’clock P.M. (Wednesday, July 21), without proceeding to the matters in the Orders of the Day, on motion of Mr. Rogers of Norwood (Mr. DiMasi of Boston being in the Chair), the House recessed until the hour of eleven o’clock A.M. on Thursday, July 22, and at that time, the House was called to order with the Speaker in the Chair.

Recess.

Thursday, July 22, 2004 (at 11:00 o’clock A.M.).

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

Holy Spirit, we depend upon You, Our Guiding Light and Your assistance in our daily pursuits of finding the most effective ways of serving You and the people who depend upon our reasoned legisla-

Prayer.

Technology
Collaborative
item 7007-1200
stands,
yea and nay
No. 761.

Holyoke,
retirement
benefits.

Bill passed
over veto,
yea and nay
No. 762.

tive decisions. As legislators, we recognize our limited options for resolving many current legislative issues and policies to the satisfaction of all constituents. In Your goodness, help us to be fair, generous, creative and ethical in arriving at our decisions. Teach us in our diverse society to be open to the views of others, to learn from the legislative experiences of our predecessors and to plan thoughtfully for the current and future needs of people and our communities. We believe that Your guidelines for successful living give purpose and meaning to our own lives.

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.

Statement of Representative Kaprielian of Watertown.

A statement of Ms. Kaprielian of Watertown 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 I will be unable to be present in the House Chamber for a portion of today's sitting due to medical reasons. Any rolls that I may miss will be due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Jones of North Reading) on the occasion of the retirement of Robert W. Noseworthy;

Resolutions (filed by Mr. Connolly of Everett) congratulating Kerry Ann Cafazzo on being selected as the 2004 Boston Globe Division One softball Player of the Year;

Resolutions (filed by Mr. Frost of Auburn) honoring Paul Noack; Resolutions (filed by Messrs. Koczera of New Bedford, Quinn of Dartmouth, Cabral of New Bedford and Howland of Freetown) congratulating Clube Madiereense S.S. Sacramento, Inc.; and

Resolutions (filed by Mrs. Simmons of Leominster) congratulating Jonathan Corey on receiving the Eagle Award of the Boy Scouts of America;

Mr. DiMasi of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Jones, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

The House Bill establishing a one trial system for civil cases (House, No. 732) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 15, in lines 5 to 51,

inclusive, striking out the paragraph contained therein and inserting in place thereof the following paragraph:

"Section 108. shall be an appellate division of each district court for the rehearing of matters of law arising in civil cases, in claims of compensation of victims of violent crimes, and in civil motor vehicle infractions. The division of the Boston municipal court shall consist of 3 justices to be designated from time to time by the chief justice therefor. The appellate division of each other municipal court shall be holden by justices for the other divisions of the Boston municipal court department, included in the jurisdiction of the central division, East Boston court, Charlestown court, Brighton court, Dorchester court, Roxbury court, South Boston court, West Roxbury court, which shall be known as the appellate division of the Boston municipal court department. The appellate division of each other district court shall be holden by justices for those other district courts, not exceeding 3 in number out of 5 justices assigned to the performance of appellate duty by the chief justice for the district courts, subject to the approval of the chief justice of the supreme judicial court, as follows; The chief justice of the district courts shall assign 5 justices of districts within the counties of Essex and Middlesex and that part of Suffolk included in the jurisdiction of the district court of Chelsea to act in the appellate divisions of the district courts within those counties and that part of Suffolk county, which shall be known as the northern appellate division district; shall assign 5 justices of the district courts within the counties of Norfolk, Plymouth, Barnstable, Bristol, Dukes and Nantucket to act in the appellate divisions of the district courts within those counties, which shall be known as the southern appellate division district; and shall assign 5 justices of district courts within the counties of Worcester, Franklin, Hampshire, Hampden and Berkshire to act in the appellate divisions of district courts within those counties, which shall be known as the western appellate division district. The assignment may be made for the period of time as the chief justice considers advisable. In each of the foregoing 3 districts, 1 of the justices so assigned shall be designated by the chief justice for the district courts, subject to the approval of the chief justice of the supreme court, as presiding justice, who shall from time to time designate those of the appellate justices who shall act on appeals in each district court in that district and direct the times and places of sittings. The presiding justice of any appellate division may call upon a justice of any other appellate division to serve in his division, and when so requested that justice shall serve therein. Two justices shall constitute a quorum to decide all matters in an appellate division; but each appellate division justice may sit as a single justice of the appellate division for the purpose of hearing and deciding appeals of interlocutory orders, as provided in section 118A of chapter 231."

Under suspension of Rule 35, on motion of Mr. Finegold of Andover, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Statement of
Representative
Kaprielian of
Watertown.

Robert W.
Noseworthy.
Kerry Ann
Cafazzo.

Paul Noack.
Clube
Madiereense.

Jonathan
Corey.

Civil cases,
one trial
system.

Hinsdale,
land.

The House Bill relative to a certain parcel of land in the town of Hinsdale (House, No. 4199) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 2, in lines 3 to 8, inclusive, by striking out the words "bid greater than the full and fair market value of the property. The full and fair market value shall be based upon one or more professional appraisals commissioned by the central Berkshire regional school committee. The grantee" (as changed by the Senate committee on Bills in the Third Reading) and inserting in place thereof the words "bid. The district may decide to require that the grantee".

Under suspension of Rule 35, on motion of Mr. Kelly of Dalton, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Yarmouth,
land.

The House Bill authorizing the town of Yarmouth to make certain conveyances of wellfield land (House, No. 4706) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out, in section 3 (as changed by the committee on Local Affairs and Regional Government), the word "Bloodstone", each time it appears, and inserting in place thereof the following word, "Gladstone"; and by adding at the end of said section, the following sentence: "The town of Yarmouth shall appropriate the \$94,000 for wellfield protection purposes."

Under suspension of Rule 35, on motion of Mr. George of Yarmouth, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Buzzards Bay,
oil spill.

The House Bill relative to oil spill prevention and response in Buzzards Bay and other harbors and bays in the Commonwealth (House, No. 4831, amended) came from the Senate passed to be engrossed, in concurrence, with the following amendments:

In section 11 by striking out section 8 of the proposed chapter 21M and inserting in place thereof the following section:

"Section 8. (a) There shall be an Oil Spill Prevention and Response Trust Fund to provide emergency loans and to support the development, training and equipping of safety committees, response teams and other discreet units whose activities will directly benefit the commonwealth in the event of oil spill events. administered by the commissioner of environmental protection. Expenditures from the fund shall be only for the purposes set forth in subsection (f).

(b) Revenues credited to the fund shall be from the following sources:

- (1) funds appropriated by the general court;
- (2) funds received from federal, state or other sources for the purpose of response, containment, abatement and rehabilitation costs from oil spills in marine or estuarine waters not already credited to an existing fund;
- (3) funds received from private donors for the fund;
- (4) costs recovered or otherwise received from parties responsible for the containment and cleanup of oil at specific sites;

- (5) fines, penalties and damages recovered under this chapter;
- (6) fees imposed pursuant to subsection (c);
- (7) the VTS system fee collected pursuant to section 2; and
- (8) interest earned on any moneys in the fund.

(c) (1) A uniform oil spill response and prevention fee in an amount not exceeding 2 cents for each barrel of petroleum product, as set by the commissioner pursuant to clause (4) of subsection (d) shall be imposed upon a person owning petroleum products at the time the petroleum products are received at a marine terminal within the commonwealth by means of a vessel from a point of origin outside the commonwealth. The fee shall be remitted to the department of revenue on the thirtieth day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) An owner of petroleum products shall be liable for the fee until it has been paid to the commonwealth, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(3) Whenever the commissioner, in consultation with the department of environmental protection and the department of revenue, estimates that the amount in the fund will reach the amount specified in clause (5) and the money in the fund is not required for the purposes specified in subsection (e), the commissioner shall instruct the department of revenue to cease collecting the fee.

(4) The commissioner shall set the amount of the oil spill prevention and response fees which shall be not less than 2 cents for each barrel of petroleum products or crude oil, unless the commissioner finds that the assessment of a lesser fee will cause the fund to reach the designated amount within 6 months. The fees shall be imposed on all fee payers in the same amount.

(5) For the purposes of this chapter, 'designated amount' shall mean an amount equal to \$10,000,000, adjusted for inflation after January 1, 2005, according to an index which the commissioner may reasonably choose.

(6) All fees collected pursuant to this section shall be deposited in the fund and shall be disbursed for the purposes set forth in subsection (f). The state treasurer shall not deposit or transfer revenues generated pursuant to subsection (a) to the General Fund or any other fund other than the Oil Spill Prevention and Response Trust Fund.

(d) The commissioner may use money from the fund:

(1) to provide funds to cover promptly the costs of response, containment and cleanup of oil spills into marine or estuarine waters, including, but not limited to, natural resource damage assessment costs and wildlife rehabilitation.

(2) For site evaluation activities, including, but not limited to, site mapping, installation of wells and equipment, collection, monitoring and analysis of samples of air, soil and water and evaluation of the impacts of contamination of marine and terrestrial environments, production of reports and implementation and maintenance of necessary technology and equipment for complete remedial action;

Buzzards Bay,
oil spill.

(3) to provide interest-free emergency loans and to cover response and cleanup costs and other damages suffered by the commonwealth or other persons or entities from oil spills or threatened oil spills, which cannot otherwise be compensated by responsible parties or the federal government;

(4) to pay for claims for damages pursuant to clause 8;

(5) to provide interest-free emergency loans to workers including, but not limited to, commercial fishermen who are unable to work as a direct result of an oil spill and are ineligible for unemployment insurance;

(6) to pay for natural resources restoration, where necessary and appropriate;

(7) to pay for response training and equipment for municipal oil spill response agencies and training and safety equipment for Massachusetts state pilots commissioned pursuant to chapter 103;

(8) to pay for large-scale personnel drills and exercises; and

(9) to pay for vessel navigational safety improvements including, but not limited to, systems for supplying real-time navigation condition information using the Physical Oceanographic Real-Time Systems (PORTS) operated by the National Oceanic and Atmospheric Administration.

(e)(1) The commissioner shall administer the fund in accordance with this chapter.

(2) The department of environmental protection shall develop procedures governing the expenditure of, and accounting for, money expended from the fund.

(3) The commissioner shall ensure that there are adequate moneys available in the fund to carry out this chapter.

(4) The department shall maintain accounting records showing the income and expenses the fund.

(f)(1) The commissioner may expend money from the fund for the purposes of oil spill prevention and response equipment or training, commonwealth response to a discharge or threat of a discharge of oil and assessment of natural resource damages if the following determinations have been made:

(i) a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and pay for the damages resulting from the spill; provided, however, that the commissioner shall make a reasonable effort to have the responsible party timely remove the oil or agree to pay for any actions resulting from the spill that may be required by law, including attempting to access funds from the responsible party's insurer; provided further, that the efforts shall not be detrimental to fish, plant, animal or bird life in the affected waters; and

(ii) federal oil spill funds are not available or will not be available in an adequate period of time; provided, however, that notwithstanding this paragraph, the commissioner may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements from federal oil spill funds

(2) Disbursements may also be made for related purposes, including:

(i) administrative expenses, personnel expenses and equipment costs of the commonwealth related to the administration of the fund and enforcement of this chapter;

(ii) all costs including, without limitation, personnel undertaking oil spill response activities and equipment expenses involved in the removal of oil, the abatement of oil pollution and the implementation of remedial measures, including restoration of water supplies, related to the release of oil, petroleum products and their byproducts;

(iii) sums allocated to research and development in accordance with this section, including the costs of assessing and evaluating the injury, destruction or loss of natural resources;

(iv) payment of damage claims and loans awarded in accordance with this section;

(v) The VTS system fee collected pursuant to section 2; and

(vi) payment of costs for the collection of overdue reimbursements.

(g)(1) Any person may apply to the fund for reasonable compensation for damages and losses suffered as a result of an oil spill under any of the following conditions, to the extent monies are available in the fund for such claims:

(i) the responsible parties cannot be ascertained

(ii) federal oil spill funds are not available or will not be available in an adequate period of time; provided, however, that notwithstanding this clause, the commissioner may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements from federal oil spill funds.

(iii) emergency loans; provided, however, that in the event of an oil spill where more than 5,000 gallons of oil have been discharged in the marine or estuarine waters in any 1 day from a single event, the commissioner, after a properly noticed public hearing, may make an emergency secured interest-free loan to a private individual or entity who demonstrates that the individual or entity may suffer substantial financial hardship as a result of the oil spill without such loans; provided further, that loans under this section may be made only if the commissioner determines that a sufficient amount is available in the fund to cover costs incurred by the fund and local governments and entities in responding to and cleaning up the spill; and provided further, that the commissioner shall adopt any regulations and guidelines necessary regarding repayment terms, security and any other items the administrator deems appropriate.

(2) Awards from the fund on damage claims shall not include any amount the claimant has recovered on account of the same damage by way of settlement with the responsible party or his representatives or by the judgement of a court of competent jurisdiction against the responsible party, to the extent these amounts are duplicative.

(3) The commissioner shall pay only those claims that are approved pursuant to this section.

Buzzards Bay,
oil spill.

(4) A responsible party shall not be eligible for compensation under this section.

(5) Damage claims shall not include expenditures for the preparation and prosecution of the damage claim, such as legal fees or real estate appraisal fees.

(6) Nothing in this section shall be constructed to confer a right on an eligible claimant to receive compensation from the fund.

(h) The attorney general, in consultation with the commissioner, shall initiate actions to recover all costs to the fund from any responsible party for an oil spill into marine or estuarine waters for which expenditures are made from the fund. The recovery of costs pursuant to this section shall not foreclose the attorney general from any other actions allowed by law

(i) Recognizing the importance of the development of readiness and response programs, the general court may allocate up to \$150,000 per year of the amount then currently in the fund to be devoted to research and development regarding the causes, effects and removal of pollution caused by oil, petroleum products and their by-products on the marine environment. Such funds may be disbursed, in whole or in part, to regional committees including, but not limited to, the Buzzards bay geographic response plan committee, for expenses consistent with these purposes. The remaining moneys in the fund which the general court may allocate to research and development shall be used for purposes approved by the commissioner. Such purposes may include, but shall not be limited to:

(i) sensitive area data management and mapping;

(ii) scientific research which is directly relevant to state legislation;

(iii) development of more effective removal and containment technologies appropriate for the cleanup and containment of oil and petroleum products; and

(iv) oil spill prevention or response equipment and funding to train personnel for coastal municipalities and Massachusetts state pilots commissioned pursuant to chapter 103.”

Under suspension of Rule 35, on motion of Mr. Greene of Billerica, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Lowell,
disposition
of land.

A Bill relative to the disposition of certain land in the city of Lowell (Senate, No. 2421, changed by striking out Section 10 and by inserting before the enacting clause the following emergency preamble:—

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote the health and safety of the citizens of the City of Lowell and the surrounding municipalities and to encourage and enhance the mission of the University of Massachusetts Lowell in promoting a sound, stable, regional economy by providing a highly trained and educated workforce, supporting and improving the health care delivery system of the region, and for spurring the creation of jobs necessary to allow for the maintenance and growth of technology and manufacturing sectors of the Com-

monwealth now and in the future, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”; and amended in section 2, in the first sentence, by striking out the words “by deed approved as to form by the attorney general”, and by adding at the end of said section the following sentence: “The exact boundaries of the parcels shall be determined by the commissioner in consultation with the University”; and in section 7 by striking out the words “by deed approved as to form by the attorney general”) (on a petition), passed to be engrossed by the Senate, was read.

Under suspension of the rules, on motion of Mr. Hall of Westford, the bill was read a second time forthwith; and it was ordered to a third reading.

Bills

To facilitate homeowners remediating heating oil spills (Senate, No. 2456) (on Senate bill No. 1225); and

Homeowners,
oil spills.

Relative to a retirement buy back from the State Board of Retirement (Senate, No. 2457) (on Senate bill No. 1456);

Sandra Pigaga,
retirement.

Relative to interest arbitration for the State Police Association of Massachusetts (Senate, No. 2466) (on Senate bill No. 1477); and

State Police
Association.

Providing coverage for lymphedema treatments (Senate, No. 2471) (on Senate bill No. 848);

Lymphedema,
insurance.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Bills

Relative to the city of Melrose (Senate, No. 2374) (on a petition) [Local Approval Received];

Melrose.

Punishing certain surveilling, photographing, recording or videotaping (Senate, No. 2464) (on Senate bill No. 177);

Surveillance.

Relative to insurance rates (Senate, No. 2465) (on Senate bill No. 2093);

Insurance
rates.

Relative to the distribution of citation books to the office of law enforcement in the Executive Office of Environmental Affairs (Senate, No. 2467) (on Senate bill No. 1287); and

Environmental
affairs,
citations.

Authorizing the city of Quincy to establish an affordable housing trust fund (Senate, No. 2469) (on Senate bill No. 2337) [Local Approval Received];

Quincy,
housing fund.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A report of the committee on Public Service, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1591) of Jo Ann Sprague, Scott P. Brown and John H. Rogers for legislation relative to establishing creditable service and buy-back provisions for Donald Muldoon, and recommending that the same be referred to the House committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Donald
Muldoon,
retirement
buy-back.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Middlesex
Canal
Commission.

Petition (accompanied by bill) of James R. Miceli and other members of the General Court relative to the membership of the Middlesex Canal Commission; and

Lancaster
Sewer
District.

Petition (accompanied by bill) of Harold P. Naughton, Jr., and James B. Eldridge for legislation to include the Lancaster Sewer District as a member of the Advisory Board of the Water Resources Authority;

Saugus,
Thomas G.
Kennedy.

Severally to the committee on Natural Resources and Agriculture. Petition (accompanied by bill) of Mark V. Falzone relative to authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land in the town of Saugus to Thomas G. Kennedy. To the committee on State Administration.

Under suspension of the rules, on motion of Mr. Peterson of Grafton, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Norwood,
Joseph
Fernandes.

By Mr. Koczera of New Bedford, for the committee on Public Service, on a petition, a Bill relative to Joseph Fernandes (House, No. 5020) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Mr. Rogers, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

North Adams,
land
conveyance.

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the city of North Adams (House, No. 4335) [Local Approval Received]. Read; and referred, under Rule 33, to the committee on Ways and Means.

Mr. Rogers of Norwood, for said committee, then reported recommending that the bill ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Bosley of North Adams, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the

Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the Shrewsbury Housing Authority (House, No. 4988) ought to pass with amendments in section 2, in line 3, by inserting after the word "appraisal" the following: "taking into consideration the intended use of the land for affordable housing,"; and in section 3 by adding at the end thereof following sentence: "The deed or other instrument conveying the parcel to the Shrewsbury Housing Authority and any subsequent deed or deeds of all or a portion of the parcel shall, without limitation, provide that is the parcel ceases to be used for the express purposes set forth in Section 1, title to the parcel or to the portions of the parcel that are used in violation shall, at the election of the Commonwealth, revert to the Commonwealth." Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Shrewsbury
Housing
Authority,
land.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House

Under suspension of Rule 7A, on motion of Ms. Polito of Shrewsbury, the bill was read a second time forthwith.

Pending the question on adoption of the amendments recommended by the committee on Ways and Means, the same member moved that it be amended in section 2 by inserting after the word "housing" the words "for persons eligible for services of the department of mental retardation".

The further amendment was adopted.

The amendments recommended by the committee on Ways and Means, as amended, also were adopted; and the bill, as amended, was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Ms. Polito, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4988, amended) then was sent to the Senate for concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Senate Bill authorizing the University of Massachusetts to convey a certain parcel of land and buildings in the town of Nantucket to the Nantucket Conservation Foundation (Senate, No. 2442, amended) ought to pass with an amendment by striking out section 5 (inserted by amendment by the Senate) and inserting in place thereof the following section:

Nantucket,
UMass land.

"SECTION 5. The property described in section 1 shall be held in its predominantly open and natural condition for and in support of educational, research and conservation purposes and for the purposes set forth in the documents conveying the property from the University of Massachusetts to the Nantucket Conservation Foundation. In the event that the property described in section one ceases to be used for such purposes, upon notice of the commissioner of cap-

ital asset management and maintenance, in consultation with the University of Massachusetts and following ninety days notice of reversion to the owner of the property, shall revert to the University of Massachusetts if such use is not cured within the ninety day notice period.” Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the Rule 7A, on motion of Mr. Bosley of North Adams, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill (Senate, No. 2442, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Turkington of Falmouth, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence in the amendment.

Banking.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to banks and banking (Senate, No. 2045, amended) ought to pass with an amendment in section 10, in line 6, by striking out the words “chartered by any of the above” and inserting in place thereof the following: “or any other entity which by its charter is authorized to engage only in activities substantially equivalent to those authorized for a limited purpose trust company”. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Quinn of Dartmouth, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted.

Pending the question on ordering the bill, as amended, to a third reading, the same member moved that it be amended by adding at the end thereof the following section:

“SECTION 25. Section 114A of Chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘unions’ in line 4 the words:— or any subsidiary of the above.”

The amendment was adopted; and the bill (Senate, No. 2045, amended) was ordered to a third reading.

State Police spouses, benefits.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to certain benefits for the surviving spouses of certain state police officers (Senate, No. 1406, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Hillman of Sturbridge, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the Highway Department to convey sewer easements along Route 1 in Lynnfield, Saugus and Peabody (Senate, No. 2417) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Route 1, sewer easement.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Fennell of Lynn, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a petition, a Bill amending Sec. 40A.a.1 of the Charter of the city of Somerville (House, No. 4957) [Local Approval Received]. Read and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Somerville, city charter.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Ciampa of Somerville, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a petition, a Bill allowing the city of Somerville to place the city’s health inspector under the supervision of the city’s division of inspectional services (House, No. 4958) [Local Approval Received]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Somerville, health inspector.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Ciampa of Somerville, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill increasing the time in which real property owned by the Central Berkshire County Development Corporation may be exempt from taxation by the city or town in which it is located (House, No. 3749) be scheduled for consideration by the House.

Berkshire County Development Corporation.

Under suspension of Rule 7A, on motion of Mr. Larkin of Pittsfield, the bill was read a second time forthwith; and it was ordered to a third reading.

Report of the committee on Insurance, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4777) of Cory Atkins and Susan C. Fargo (by vote of the town) that the town of Concord be authorized to establish a post-retirement group insurance trust fund.

Concord, retirement fund.

Under suspension of the rules, on motion of Ms. Atkins of Concord, the report was considered forthwith.

Pending the question on acceptance of the report, the petition was recommitted, on motion of Mr. Mariano of Quincy.

Dedham,
voter
information.

Report of the committee on Local Affairs and Regional Government, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4732) of Robert K. Coughlin and Marian Walsh (by vote of the town) relative to the distribution of information to the voters of the town of Dedham.

Under suspension of the rules, on motion of Mr. Kaufman of Lexington, the report was considered forthwith.

Pending the question on acceptance of the report, the petition was recommitted, on motion of Mrs. Owens-Hicks of Boston.

Motions to Discharge Certain Matters in the Orders of the Day.

Home and
community-
based service
waiver.

Mr. Rush of Boston moved that the engrossed Bill relative to the home and community-based service waiver (see House, No. 4922), being a printed copy of Section 321 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment W of House, No. 4901), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment W of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor (as perfected) then was adopted. Sent to the Senate for its action.

Southeastern
Region,
land.

Mr. Howland of Freetown moved that the Senate Bill authorizing the Department of Conservation and Recreation and the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (Senate, No. 1229, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

College
students,
immunization.

Mr. Wagner of Chicopee moved that the Senate Bill requiring college students immunization against meningococcal disease (Senate, No. 2159, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

Mr. Finegold of North Andover moved that the Senate Bill further regulating meetings of municipal boards (Senate, No. 2247), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Municipal
boards.

Mrs. Teahan of Whitman moved that the Senate Bill providing for a strong town manager form of government in the town of Abington (Senate, No. 2345), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed, in concurrence.

Abington,
strong town
manager.

Mr. Fagan of Taunton moved that the House Bill relative to storage of personal property upon execution of a summary process judgement (House, No. 2100, amended) (its title having been changed by the committee on Bills in the Third Reading), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (reported by said committee to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Property
storage
summary
process.

Mr. Torrisi of North Andover moved that the House Bill authorizing the town of North Andover to grant certain utility easements (House, No. 4789) (its title having been changed by the committee on Bills in the Third Reading), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Under suspension of the rules, on further motion of Mr. Torrisi, the bill was read a third time.

Said committee reported recommending that the bill be consolidated with the House bill with the same title (House, No. 4788), likewise referred to said committee; and the report was accepted.

The bill (House, No. 4789) then was passed to be engrossed. Sent to the Senate for concurrence.

North Andover,
utility
easements.

Mr. Fallon of Malden moved that the House Bill relative to public safety in the city of Somerville (House, No. 4989), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Under suspension of the rules, on motion of Mrs. Paulsen of Belmont, the bill (reported by the committee on Bills in the Third

Somerville,
public safety.

Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Tenancies,
water
sub-metering.

Mr. Demakis of Boston moved that the House authorizing water sub-metering in residential tenancies (House, No. 5001, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Under suspension of the rules, on further motion of the same member, The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

School
safety.

Mr. Scaccia of Boston moved that the House Bill relative to school safety (House, No. 1851), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill then was read a second time.

School
safety.

Pending the question on ordering the bill to a third reading, Mr. Jones of North Reading and other members of the House moved that it be amended by striking out section 3 and inserting in place thereof the following section:

“SECTION 3. Said chapter 269, as so appearing, is hereby further amended by inserting after section 12B the following new section:-

Section 12B½. A) Except as otherwise provided by this section, whoever, notwithstanding any license permit obtained by him, carries on his person or has in his possession an instrument constituting or resembling a firearm, or an air rifle or a BB gun, whether loaded or unloaded, in any building on the grounds of any elementary or second school, school bus, or any property affiliate with any elementary or secondary school, college or university, shall be punished by a fine of not more than \$1,000 or by imprisonment of not more than one year, or both. A person committing a violation of this section may be arrested without a warrant by any officer authorized to make arrests. Upon a conviction of a violation of this section the air rifle or BB gun or other instrument shall, by written authority of the court, be forwarded to the colonel of the state police, who may dispose of said article in the manner as prescribed in section ten.

The registrar shall suspend, without hearing, the license or right to operate of a person who is convicted of a violation of any provision of chapter two hundred and sixty-nine sections 10(j) and 12B½ or adjudged a delinquent child by reason of having violated chapter two hundred and sixty nine sections 10(j) and 12B½; provided, however, that the period of such suspension shall not exceed three years; provided, further that if any person so convicted is under eighteen years or who is adjudged a delinquent child by reason of having violated chapter two hundred and sixty-nine section 10(j) and 12B½, and is not licensed to operate a motor vehicle, shall at the discretion of the presiding judge, not be so licensed for a period no later than when such person reaches the age of twenty-one years.

B) This section shall not apply to a law enforcement officer, or to a person in possession of an instrument otherwise prohibited by this section who is officially authorized by an elementary or secondary school, college or university to possess such an instrument for designated purposes and at designated locations on the grounds of or on property affiliated with the elementary or second school, college or university.”.

The amendment was adopted; and the bill (House, No. 1851, amended) was ordered to a third reading.

Mr. Kujawski of Webster moved that the House Bill relative to the disposition of easements or other interests in land in Uxbridge under the care and control of the Department of Conservation and Recreation (House, No. 4991), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Uxbridge,
land.

The bill then was read a second time; and it was ordered to a third reading.

Reports of a Committee.

Ms. Candaras of Wilbraham being in the Chair,— Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and certain sections stand (as passed by the General Court).

General
Appropriation
Bill,
reductions and
disapprovals.

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Item 1102-3299 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“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”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 132 members voted in the affirmative and 23 in the negative.

Taunton
Cohannet School
item 1102-3299
stands,
yea and nay
No. 764.

[See Yea and Nay No. 764 in Supplement.]

Therefore item 1102-3299 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4000-0300 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha’s Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated herein shall be expended for the administrative, contracted services and non-personnel systems costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided further, that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider

point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office of health and human services shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E of the General Laws shall be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that the no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, to providers by item of appropriation from which said payments were made; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpre-

tive services directly or indirectly related to a settlement or resolution agreement, with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed at certain hospitals or by community health centers which are funded in whole or in part by federally permissible in-kind services or provider donations from the hospitals or health centers, shall be credited to this item and may be expended without further appropriation in an amount specified in the agreement with each donating provider hospital or health center; provided further, that the federal financial participation received from claims filed based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the so-called 'covering kids initiative' and in accordance with the federal revenue criteria in 45 CFR 74.23 or any other federal regulation which provides a basis for federal financial participation, shall be credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement with the organizations participating in the initiative; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that federal reimbursements received for administrative expenditures made pursuant to this item shall be credited proportionally to the General Fund and the Children's and Seniors' Health Care Assistance Fund, established under section 2FF of chapter 29 of the General Laws, in the same percentages as expenditures are made from this item; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further,

that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and outpatient efficiency standards, so called, being applied to their rate methodology; provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members 119,763,756".

[The Governor reduced the item by striking out the following wording: “; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation”; and “; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and outpatient efficiency standards, so called, being applied to their rate methodology; provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments

for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members”.]

After debate the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 154 members voted in the affirmative and 1 in the negative.

[See Yea and Nay No. 765 in Supplement.]

Therefore item 4000-0300 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 171, which had been vetoed by the Governor, was considered, as follows:

“SECTION 171. Section 18 of said chapter 118G is amended by adding the following subsection:-

(p) Within the Uncompensated Care Trust Fund, there shall be established a department of mental retardation transfer account, administered by the secretary of health and human services, consisting of any receipts from the assessment collected pursuant to section 27, including transfers by the department of mental retardation of amounts sufficient to pay the assessment for public facilities, any federal financial participation received by the commonwealth as a result of expenditures funded by such assessments, and any interest thereon. The secretary may authorize expenditures of amounts from such account without further appropriation. The comptroller shall transfer no later than the first business day of each quarter, the amounts indicated by the department of mental retardation to provide the appropriate payment adjustments for operating the intermediate care facilities for the mentally retarded and the community residences serving individuals with mental retardation. The comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper transfer, accounting and expenditures of funds under this section. The comptroller may make payments in anticipation of receipts and shall establish procedures for reconciling overpayments and underpayments from said account. The secretary shall account for revenue and expenditure activity within said account.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 766 in Supplement.]

Therefore section 171 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and

voting having voted in the affirmative). Sent to the Senate for its action.

Section 172, which had been vetoed by the Governor, was considered, as follows:

“SECTION 172. Said chapter 118G is hereby further amended by adding the following section:—

Section 27. (a) For the purposes of this section, the following words shall have the following meanings:

‘Assessment,’ the user fee imposed pursuant to this section.

‘Intermediate care facility for the mentally retarded or ICF/MR,’ a privately or publicly operated intermediate care facility for the mentally retarded.

‘Community based residence,’ a privately or publicly operated community based residence serving individuals with mental retardation licensed or certified in accordance with section 15 of chapter 19B.

‘Bed day,’ a day of services provided to an individual living in an intermediate care facility for the mentally retarded or a community based residence serving individuals with mental retardation.

(b) Each intermediate care facility for the mentally retarded and each community-based residence serving individuals with mental retardation shall pay an assessment per bed day. The assessment shall be implemented as a broad-based health care related fee as defined in 42 U.S.C. Sec. 1396b(w)(3)(B). The assessment shall be imposed at a uniform rate and shall be sufficient in the aggregate to generate an amount equal to six per cent of the total gross revenues generated by all such facilities in each fiscal year. The assessment shall be paid to the division at least quarterly. The division may promulgate regulations that authorize the assessment of interest on any unpaid liability at a rate not to exceed an annual rate of 18 per cent and late fees at a rate not to exceed 5 per cent per month. The receipts from the assessment, any federal financial participation received by the commonwealth as a result of expenditures funded by these assessments and interest thereon shall be credited to an account established within the Uncompensated Care Trust Fund.

(c) The commissioner shall prepare a form on which each ICF/MR and each community based residence shall report its total bed days and shall calculate the assessment due. The commissioner shall distribute the forms to each intermediate care facility for the mentally retarded and each community based residence for individuals with mental retardation at least annually. The failure to distribute the form or the failure to receive a copy of the form shall not stay the obligation to pay the assessment by the date specified in this section. The division may require additional reports, including but not limited to monthly census data, as it deems necessary to monitor collections and compliance.

(d) The division shall have the authority to inspect and copy the records of an ICF/MR or community residence for the purposes of auditing its calculation of the assessment. In the event that the division determines that an ICF/MR or a community-based residence has either overpaid or underpaid the assessment, the division shall

Health and
Human Services
item 4000-0300
stands,
yea and nay
No. 765.

Mental
retardation
provider
assessment I
section 171
stands,
yea and nay
No. 766.

notify the ICF/MR or the community based residence of the amount due or refund the overpayment. The division may impose per diem penalties if an ICF/MR or a community-based residence fails to provide documentation as requested by the division.

(e) In the event that an ICF/MR or a community based residence is aggrieved by a decision of the division as to the amount due, the ICF/MR or the community based residence may file an appeal to the division of administrative law appeals within 60 days of the notice of underpayment or the date the notice was received, whichever is later. The division of administrative law appeals shall conduct each appeal as an adjudicatory proceeding pursuant to chapter 30A, and an ICF/MR or a community based residence aggrieved by a decision of the division of administrative law appeals shall be entitled to judicial review pursuant to section 14 of said chapter 30A.

(f) The division shall establish by regulation appropriate mechanisms for enforcing the provisions of this section. Such enforcement may include notification to the department of mental retardation to take appropriate actions, including the revocation of licensure or certification for failure to remit delinquent fees.

(g) The division, in consultation with the department of mental retardation and the division of medical assistance, shall promulgate regulations necessary to implement this section.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 767 in Supplement.]

Therefore section 172 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 303, which had been vetoed by the Governor, was considered, as follows:

“SECTION 303. Notwithstanding any general or special law to the contrary, in fiscal year 2005, the comptroller shall transfer from the Uncompensated Care Trust Fund account established pursuant to subsection (p) of section 18 of chapter 118G of the General Laws, an amount sufficient to reflect the costs of the assessment on public facilities and an amount sufficient to fund rate increases for services provided to MassHealth members by non-public intermediate care facilities and community based residences. The comptroller shall transfer the federal financial participation received as a result of expenditures funded by the assessments to an account established for the department of mental retardation to administer for the purposes described above. The assessments and federal financial participation collected pursuant to section 27 of chapter 118G of the General Laws shall be expended to fund payments for services provided to MassHealth members by intermediate care facilities for the mentally retarded and community based residences. The assessments shall not be collected, and the expenditures required by this act shall not be authorized until the department of mental retardation and

division of medical assistance certify the receipt of federal approval of any home and community based waiver amendments and related Title XIX state plan amendments, if required.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 768 in Supplement.]

Therefore section 303 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1201-0130 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“1201-0130 The department of revenue may expend an amount not to exceed \$9,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of a tax return or the payment of a tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for a prior fiscal year; provided, that the commissioner may expend funds from this item to support the operational costs of the department funded from item 1201-0100; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount

Mental
retardation
provider
assessment III
section 303
stands,
yea and nay
No. 768.

Mental
retardation
provider
assessment II
section 172
stands,
yea and nay
No. 767.

greater than \$25,000 for a period of 6 months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws 9,640,000".

[The Governor reduced the item by striking out the following wording: “; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said inves-

tigation”; and “; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of 6 months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 769 in Supplement.]

Therefore item 1201-0130 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4000-0550 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“4000-0550 For the purposes of funding in fiscal year 2005 a

Auditor's retained revenue item 1201-0130 stands, yea and nay No. 769.

one-time program of one-time incentive payments to community health centers which enroll MassHealth eligible patients in MassHealth managed care organizations dedicated to providing primary care in low cost settings; provided further, that said program shall provide a one-time rate add-on to participating community health centers which shall be passed through and paid to patients who enroll in MassHealth and simultaneously choose their primary care physician at a community health center; provided further, that said add-on shall not result in a payment to any enrollee which would exceed \$5 per enrollee; provided further, that enrollees shall be eligible for only one \$5 incentive payment and that said payments shall not apply to persons currently enrolled at a community health center; provided further, that no funds shall be expended in excess of the amount appropriated herein; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or enforceable entitlement to the services funded herein; and provided further, that said division shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein \$500,000”.

MassHealth managed care item 4000-0550 stands, yeas and nays No. 770.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 770 in Supplement.]

Therefore item 4000-0550 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 197, which had been vetoed by the Governor, was considered, as follows:

“SECTION 197. Section 10 of said chapter 218, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 24, the word ‘Worcester.’ and inserting in place thereof the following:— Worcester; 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.”.

Assistant clerk appointments section 197 stands, yeas and nays No. 771.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 21 in the negative.

[See Yeas and Nays No. 771 in Supplement.]

[Ms. Stanley of West Newbury answered “Present” in response to her name.]

Therefore section 197 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 353, which had been vetoed by the Governor, was considered, as follows:

“SECTION 353. 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.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 136 members voted in the affirmative and 20 in the negative.

Walpole intersection improvements section 353 stands, yeas and nays No. 772.

[See Yeas and Nays No. 772 in Supplement.]

Therefore section 353 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7114-0105 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“7114-0105 For the aquaculture program at Salem State College established pursuant to section 274 of chapter 38 of the acts of 1995 200,000”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 136 members voted in the affirmative and 20 in the negative.

Salem State aquaculture item 7114-0105 stands, yeas and nays No. 773.

[See Yeas and Nays No. 773 in Supplement.]

Therefore item 7114-0105 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4000-0112 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“4000-0112 For matching grants to boys’ and girls’ clubs, YMCA and YWCA organizations and nonprofit community centers; provided, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2005 by March 1, 2005; provided further, that not less than \$920,000 shall be expended for the Massa-

chusetts Alliance of Boys and Girls Clubs to provide grants to boys and girls of Massachusetts; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$10,000 shall be expended for the Scantic Valley YMCA; provided further, that not less than \$40,000 shall be expended for the public partnership program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$40,000 shall be expended for the Saugus YMCA; provided further, that not less than \$20,000 shall be expended for the youth counseling, GED/School-to-Career program, drug prevention and at-risk youth services at a regional youth center in Uxbridge; provided further, that not less than \$100,000 shall be expended for the YMCA Spartacus program in Worcester; provided further, that not less than \$69,000 shall be expended to the Franklin Community Action Commission for youth services; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA.....

2,029,000”.

[The Governor reduced the item by striking out the following wording: “; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA”; and “; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 774 in Supplement.]

Therefore item 4000-0112 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 410, which had been vetoed by the Governor, was considered, as follows:

“SECTION 410. There is hereby established a separate fund to be known as the Civil Process Technology Improvement Fund. There shall be credited to said fund all revenue from the transfer of 20 per

Youths-at-Risk
matching
grants
item 4000-0112
stands,
yea and nay
No. 774.

cent of the funds collected and transmitted to the General Fund of the commonwealth during fiscal year 2005 pursuant to section 639 of chapter 26 of the acts of 2003, from gifts, grants, contributions from any entity public or private and any revenue derived from the investment of amounts credited to said fund. Said fund shall be used solely for a program to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth. The president of the Massachusetts Sheriff’s Association, hereinafter referred to as the president shall expend, without further appropriation, all revenues credited to said fund. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year. Notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the president may incur expenses and the comptroller may certify for payment, the amounts not to exceed the lower of said 20 per cent or the most recent revenue estimate therefore as reported in the state accounting system.

The president shall develop and implement a pilot program that is designed to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth by identifying technological resources that would enable a transition from a paper based system of civil process delivery and tracking to an electronic or web based system of civil process delivery and tracking. The president shall develop and advertise a request for proposals to so develop and implement said pilot program and shall enter into a contract with the responding vendor that most closely satisfies the specifications and terms as set forth in said request. The president shall also identify civil process divisions within county or state sheriff’s offices in 4 counties that are willing to participate in said pilot program and shall enter into inter-agency service agreements with said sheriff’s offices using the funds authorized by this section so as to develop, implement and monitor new technological resources within the 4 counties that participate. Said inter-agency service agreements shall include provisions that authorize the president to require any county or state sheriff’s office participating in said pilot program to contribute a portion of the increased fees collected and retained by said offices pursuant to said section 639, not exceeding 20 per cent of said fees, to the Civil Process Technology Improvement Fund for the pilot program if he deems that such contribution is necessary to ensure the complete success of the pilot program.

On or before August 15, 2005, the president, in collaboration and consultation with the civil process divisions within the counties participating in the pilot program, shall prepare and file a report with the house and senate committees on ways & means detailing any efficiency, accessibility and accountability improvements made to said civil process operations as a result of the pilot program authorized by this section.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

Civil Process
Technology
Fund section
410 stands,
yea and nay
No. 775.

[See Yea and Nay No. 775 in Supplement.]

Therefore section 410 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 221, which had been vetoed by the Governor, was considered, as follows:

“SECTION 221. Section 6 of chapter 46 of the acts of 1997 is hereby repealed.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 776 in Supplement.]

Therefore section 221 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7116-0105 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“7116-0105 For a matching grant for improvements to rockwood field located at Worcester State College; provided, that said match shall be one dollar of private funds for every dollar of state funds raised through alumni contributions; provided, that no funds shall be expended until an equal or greater amount has been raised through alumni contribution and committed by Worcester State College foundation for said project; and provided further, that said college shall work with the city of Worcester 125,000”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 140 members voted in the affirmative and 17 in the negative.

[See Yea and Nay No. 777 in Supplement.]

Therefore item 7116-0105 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 8000-0000 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“8000-0000 For the office of the secretary, including the administration of the committee on criminal justice, the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402, and the hate crimes awareness program; provided, that not less than \$200,000 shall be expended for the creation of an undersecretary of forensic

Charter school expenditure cap section 221 stands, yea and nay No. 776.

Worcester State matching grant item 7116-0105 stands, yea and nay No. 777.

services and forensic support services; provided further, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response.; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for

the operation of the commission 1,951,429”.

[The Governor reduced the item to \$1,876,429; and struck out the following wording: “; provided further, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response.; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yeas and Nays No. 778 in Supplement.]

Therefore item 8000-0000 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

North Shore
Community
College item
8000-0000
stands,
yea and nay
No. 778.

Section 60, which had been vetoed by the Governor, was considered, as follows:

“SECTION 60. Section 27B of said chapter 29, as so appearing, is hereby amended by inserting after the word ‘four’, in line 7, the following words:— , and at least 30 days written notification has been given to the house and senate committees on ways and means.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Yeas and Nays No. 779 in Supplement.]

Therefore section 60 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Lease purchase
reporting
section 60
stands,
yea and nay
No. 779.

Section 61, which had been vetoed by the Governor, was considered, as follows:

“SECTION 61. Section 29E of said chapter 29, as so appearing, is hereby amended by inserting after the first sentence, the following sentence:- The comptroller shall notify, in writing, the house and senate committees on ways and means 60 days before entering into any contract authorized pursuant to this section.”.

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Yeas and Nays No. 780 in Supplement.]

Therefore section 61 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Cost avoidance
project
restrictions
section 61
stands,
yea and nay
No. 780.

Section 20, which had been vetoed by the Governor, was considered, as follows:

“SECTION 20. Section 4A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:—

In the event a new governmental mandate effective on or after July 1, 2004 is imposed upon a contractor providing a social service program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section 274 of said chapter 110, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, except a contractor for goods or services related to special education as defined in section 1 of chapter 71B, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate; provided, that the contractor furnishes substantial evidence to the gov-

ernmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a 'new governmental mandate' shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly or indirectly imposes an obligation upon the contractor to take any action or to refrain from taking any action in order to fulfill its contractual duties.

For the purposes of this section, a 'material adverse financial impact' shall mean: (1) an increase in the reasonable costs to the contractor in performing the contract of the lesser of: (i) 3 per cent of the maximum obligation amount or unit price of the contract; or (ii) \$5,000, in the aggregate as a result of all such mandates in effect during the contract year; or (2) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H for a hearing and decision de novo on all issues. A contractor's request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination is not received within 30 days of the governmental unit's receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the superior court, Suffolk division, pursuant to chapter 30A."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 781 in Supplement.]

Therefore section 20 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the city of Waltham to continue the use of certain park land for water purposes (see Senate bill printed as House, No. 3849) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 156 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 782 in Supplement.]

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

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain sections stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the following sections were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 62, which had been vetoed by the Governor, was considered, as follows:

"SECTION 62. Chapter 30 of the General Laws, is hereby amended by inserting after section 9I, as so appearing, the following section:—

Section 9J. In the event that the functions performed by employees in one department or agency are transferred to another department or agency, the employees performing such functions shall be transferred to the receiving department or agency without impairment of wages, seniority, collective bargaining, civil service or other rights enjoyed at the time of the transfer. Nothing in this section shall prohibit any reduction in workforce otherwise permitted under collective bargaining agreements or civil service rules or regulations."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 143 members voted in the affirmative and 12 in the negative.

[See Ye and Nay No. 783 in Supplement.]

Therefore section 62 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 64, which had been vetoed by the Governor, was considered, as follows:

"SECTION 64. Section 65 of said chapter 30, added by section 173 of chapter 26 of the acts of 2003, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written

General
Appropriation
Bill,
reductions and
disapprovals.

Workforce
Departmental
transfer
section 62
stands,
yea and nay
No. 783.

Governmental
mandate
section 20
stands,
yea and nay
No. 781.

Waltham,
park land.

Bill enacted
(land taking),
yea and nay
No. 782.

request by the head of any department, agency, board or commission, with the written approval of the head thereof and with the voluntary written consent of the attorney who is a state employee, provide specific legal services for the requesting department, agency, board or commission for a period not exceeding 3 months but subject to renewal with the voluntary written consent of the attorney. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 784 in Supplement.]

Therefore section 64 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 102, which had been vetoed by the Governor, was considered, as follows:

"SECTION 102. Section 9A of chapter 55 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 6, the words 'said contributor's' and inserting in place thereof the following words:- the contributor's employer, or the contributor's."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 785 in Supplement.]

Therefore section 102 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 103, which had been vetoed by the Governor, was considered, as follows:

"SECTION 103. Said section 9A of said chapter 55, as so appearing, is hereby further amended by inserting after the word 'the', in line 15, the second time it appears, the following:- contributor's employer, or the."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 786 in Supplement.]

Therefore section 103 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and

voting having voted in the affirmative). Sent to the Senate for its action.

Engrossed Bill — Land Taking.

The engrossed Bill protecting the Nashua River Basin (see Senate, No. 2347) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 787 in Supplement.]

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

Recess.

At a quarter after two o'clock P.M. (Thursday, July 22), the Chair (Ms. Candaras of Wilbraham) declared a recess until the hour of three o'clock; and at ten minutes after three o'clock the House was called to order with Mr. O'Flaherty of Chelsea in the Chair.

Quorum.

Ms. Rogeness of Longmeadow thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. O'Flaherty) 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 150 members were recorded as being in attendance.

[See Yea and Nay No. 788 in Supplement.]

Therefore a quorum was present.

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and certain sections stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and

Outside
counsel
retention
procedures
section 64
stands,
yea and nay
No. 784.

Political
contribution
technical change
section 102
stands,
yea and nay
No. 785.

Political
contribution
technical change
section 103
stands,
yea and nay
No. 786.

Nashua River
Basin.

Bill enacted
(land taking),
yea and nay
No. 787.

Recess.

Quorum.

Quorum,
yea and nay
No. 788.

General
Appropriation
Bill,
reductions and
disapprovals.

the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 167, which had been vetoed by the Governor, was considered, as follows:

“SECTION 167. Section 31 of said chapter 118E, is hereby amended by striking out, subsections (c) and (c 1/2), as most recently amended by section 329 of chapter 26 of the acts of 2003, and inserting in place thereof the following subsection:—

(c) For purposes of this section, ‘estate’ shall mean all real and personal property and other assets includable in the decedent’s probate estate under the General Laws.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 789 in Supplement.]

Therefore section 167 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 168, which had been vetoed by the Governor, was considered, as follows:

“SECTION 168. Said chapter 118E is hereby amended by striking out section 32, as amended by section 330 of said chapter 26, and inserting in place thereof the following section:—

Section 32. (a) Notwithstanding any provision of law to the contrary, a petition for admission to probate of a decedent’s will or for administration of a decedent’s estate shall include a sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within 30 days of a request by the division, an executor or administrator shall complete and send to the division by certified mail a form prescribed by the division and provide such further information as the division may require.

In the event a petitioner fails to send copies of the petition and death certificate to the division and the decedent received medical assistance for which the division is authorized to recover under section thirty-one, any person receiving a distribution of assets from the decedent’s estate shall be liable to the division to the extent of such distribution.

(b) The division may present claims against a decedent’s estate as follows: (1) within four months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or (2) within one year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator

of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31 do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator shall have an additional 60 days to mail notice to the division under clause 1 of subsection (d).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery for undue hardship.

(g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing four months plus 60 days after approval of the official bond of the executor or administrator.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division under said clause (2) cease to exist. The executor or administrator shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) notice, and upon request by the division, shall provide updated documentation verifying that the circumstances or conditions continue to exist.

If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:—

(1) the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 790 in Supplement.]

Therefore section 168 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 244, which had been vetoed by the Governor, was considered, as follows:

"SECTION 244. Section 703 of said chapter 26 is hereby repealed."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 791 in Supplement.]

Therefore section 244 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the town of Yarmouth to make certain conveyances of wellfield land (see House, No. 4706, changed and amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, 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 153 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 792 in Supplement.]

[Mr. George of Yarmouth answered "Present" in response to his name.]

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

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4900), returning with His disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 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 (see House, No. 4850), reported, in part, in each instance, that certain items (contained in section 2) and certain sections stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the following items and section were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 322, which had been vetoed by the Governor, was considered, as follows:

"SECTION 322. Notwithstanding any general or special law to the contrary, where (i) 2 spouses married to each other are both members of the same or different systems, (ii) each of the spouses

MassHealth estate recovery section 244 stands, yeas and nays No. 791.

Yarmouth, wellfield land.

Bill enacted (land taking), yeas and nays No. 792.

General Appropriation Bill, reductions and disapprovals.

MassHealth estate recovery section 168 stands, yeas and nays No. 790.

were members in service on or before November 1, 2003, and (iii) 1 of the 2 members is retired under the provisions of sections 1 to 28, inclusive, of said chapter 32; then the other member, upon his or her written application to the board, shall be retired for superannuation regardless of such member's age. The retirement of the other member shall occur on a date specified in the application, and must be subsequent to, but not more than, 4 months after the date of filing the application. The form of the application shall be prescribed by the board. Terms used in this section not herein defined are used as such terms are defined in chapter 32 of the General Laws."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 793 in Supplement.]

Therefore section 322 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-3957 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

"1599-3857 For capital lease payments from the university of Massachusetts to the Massachusetts development finance agency and for annual operations of the advanced technology and manufacturing center in Fall River 1,100,000".

[The Governor reduced the item to \$550,442.]

The question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 137 members voted in the affirmative and 18 in the negative.

[See Ye and Nay No. 794 in Supplement.]

Therefore item 1599-3957 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 2800-9004 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

"2800-9004 For certain payments for the maintenance and use of the trailside museum and the Chickatawbut Hill center 375,000".

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 136 members voted in the affirmative and 18 in the negative.

[See Ye and Nay No. 795 in Supplement.]

Therefore item 2800-9004 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 6000-0100 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

"6000-0100 For the office of the secretary of transportation; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to families with dependent children program pursuant to item 4401-1000; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that the

Spousal retirement section 322 stands, yea and nay No. 793.

Fall River, Ken Mill project item 1599-3957 stands, yea and nay No. 794.

Trailside Museum item 2800-9004 stands, yea and nay No. 795.

office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0001, 6010-0002 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate the information for full-time employees, part-time employees and contracted personnel; provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways shall proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required..... 199,638".

[The Governor reduced the item by striking out the following wording: “; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the

projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary”; and “; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways shall proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 132 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 796 in Supplement.]

Therefore item 6000-0100 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 316, which had been vetoed by the Governor, was considered, as follows:

“SECTION 316. 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

Transportation
and
Construction
item 6000-0100
stands,
yea and nay
No. 796.

charter school tuition charges to the Hull, Nauset, and Up Island school districts' net school spending not to exceed 13 per cent of the Hull school district's net school spending, 12 per cent of the Up Island school districts net school spending and 11 per cent 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.”.

Charter school
tuition
section 316
stands,
yea and nay
No. 797.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 797 in Supplement.]

Therefore section 316 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 82, which had been vetoed by the Governor, was considered, as follows:

“SECTION 82. Section 23 of said chapter 32 is hereby amended by adding the following subdivision:

(6) Confidentiality of certain records. Any documentary material or data made or received by a member of the 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 subdivision. 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 question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 798 in Supplement.]

Therefore section 82 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 145, which had been vetoed by the Governor, was considered, as follows:

“SECTION 145. Section 10C of chapter 91 of the General Laws, as so appearing, is hereby amended by striking out, in line 23, the word ‘division’ and inserting in place thereof the following word:— office.”.

Investment
records
section 82
stands,
yea and nay
No. 798.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 799 in Supplement.]

Therefore section 145 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 181, which had been vetoed by the Governor, was considered, as follows:

“SECTION 181. Said section 18 of said chapter 138 is hereby further amended by adding the following paragraph:—

It shall be unlawful for any licensee under this section to purchase alcoholic beverages from any source other than the primary American source of supply unless authorized by the primary American source of supply. ‘Primary American source of supply’ shall mean the distiller, bottler, brewer, vintner, brand owner, or designated agent of the distiller, bottler, brewer, vintner, or brand owner.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 131 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 800 in Supplement.]

Therefore section 181 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 206, which had been vetoed by the Governor, was considered, as follows:

“SECTION 206. Chapter 222 of the General Laws is hereby amended by adding the following section:-

Section 12. Notwithstanding any general law, rule, regulation or order to the contrary, attorneys-at-law and counselors-at-law as well as paralegals, legal secretaries and other legal staff, who by virtue of their employment perform notary duties shall be exempt from maintaining a journal of their notary transactions.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 142 members voted in the affirmative and 11 in the negative.

[See Yea and Nay No. 801 in Supplement.]

Therefore section 206 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Harbormaster
permits
section 145
stands,
yea and nay
No. 799.

Liquor
purchasing
requirements
section 181
stands,
yea and nay
No. 800.

Notary journal
elimination
section 206
stands,
yea and nay
No. 801.

Section 271, which had been vetoed by the Governor, was considered, as follows:

“SECTION 271. Notwithstanding any general or special law or regulation to the contrary, for the purpose of qualification as an essential MassHealth hospital, teaching hospitals affiliated with a commonwealth-owned university medical school shall include hospitals with the affiliation that: (i) have at least 25 full time equivalent residents and interns; or (ii) provide clinical training programs for nurses and allied health professionals and technicians through affiliations with community colleges and private universities.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 138 members voted in the affirmative and 15 in the negative.

[See Ye and Nay No. 802 in Supplement.]

Therefore section 271 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 375, which had been vetoed by the Governor, was considered, as follows:

“SECTION 375. The Public Employee Retirement Administration Commission in consultation with the state and state teacher’s retirement boards shall analyze, study, and evaluate the costs and actuarial liabilities attributable to increasing the base to which cost of living adjustments are applied under section 102 of chapter 32 of the General Laws. The study shall include the cost and actuarial liability associated in increasing the base from 12,000 to 22,000 incrementally by the thousand. In order to effectuate the funding for the change in the base, the commission shall prepare supplemental pension funding schedules which shall be designed to reduce the actuarial unfunded liability, attributable to the increased COLA base, to 0 on or before June 30, 2028 and shall provide 2 alternative schedules providing the option of reducing the unfunded liabilities to 0 by June 30, 2034 and June 30, 2038, respectively; provided, that in preparing such schedules, the commission shall consider the actuarial value and the market value of the system’s assets and liabilities, the long term investment rate of return on the systems assets and the system’s unfunded actuarial liability. The commission shall file the study together with its recommendations and proposed funding schedule to the house and senate committees on ways and means, along with the joint committee on public service on or December 31, 2005. The commission shall provide assistance in developing funding schedules for the purpose of increasing the COLA base to city, town, county, regional, district and authority retirement systems at the request of the appropriate retirement board.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 803 in Supplement.]

Therefore section 375 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 394, which had been vetoed by the Governor, was considered, as follows:

“SECTION 394. In order to enhance care for individuals, families, and communities in need of substance abuse prevention, treatment and supportive services, the secretary of health and human services shall develop a policy for substance abuse services and submit a report relative to the state of alcohol and other drug addiction, prevention and treatment services in the commonwealth. The report shall include, but not be limited to, identification of all alcohol and drug addiction, prevention and treatment services currently available across all state agencies and departments, including services for incarcerated individuals and individuals released from prisons and jails, the availability and accessibility of services, the status of a continuum of care for seamless transition for recovery, the availability and coordination of services for people with mental health and addiction disorders, the availability of services for culturally competent and culturally specific populations, the reimbursement of substance abuse recovery and treatment services, so as to reflect the reasonable cost of delivering care to individuals in the most appropriate, least restrictive settings, and the viability of third party insurance payors that will ensure that services paid for by state and federal funds remain the payor of last resort for the uninsured. The secretary shall solicit input from the public, including from individuals and families in recovery, organizations representing individuals in recovery, prevention and treatment service providers, and provider organizations. The report shall also detail all substance abuse spending by all the various agencies of the commonwealth, including but not limited to, payroll, contracts, testing, supplies, treatment and services and shall include recommendations for maximizing federal reimbursements from the Substance Abuse Prevention and Treatment Block Grant and any other federal grants. The report shall include the results of its investigation and study, together with a list of its findings and a list of prioritized legislative and regulatory recommendations, if any, to effect coordinated statewide policy and administrative structure for substance abuse prevention and treatment services. The report shall be submitted to the joint committee on health care, the joint committee on human services, the joint committee on insurance and the house and senate committees on ways and means on or before February 1, 2005.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 804 in Supplement.]

Therefore section 394 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and

MassHealth
Hospitals
section 271
stands,
yea and nay
No. 802.

Cost-of-living
study section
375 stands,
yea and nay
No. 803.

Policy
development
section 394
stands,
yea and nay
No. 804.

voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-1971 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“1599-1971 For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice control; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary

determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not; and provided further, that no funds shall be expended or allocated from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein 35,000,000”.

[The Governor reduced the item by striking out the following wording: “; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary

determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not; and provided further, that no funds shall be expended or allocated from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein".]

After debate the question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 805 in Supplement.]

Therefore item 1599-1971 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 2000-0100 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

"2000-0100 For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control chapter program, and a central data processing center for the secretariat; provided, that the secretary of environmental affairs may enter into interagency agreements with any line agency within the secretariat, whereby the line agency may render data processing services to said secretary; provided further, that the comptroller may allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided further, that funds may be expended for volunteer water monitoring grants; provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay; provided further, that funds may be expended on the watershed initiative; and provided further,

that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize staff disruption by examining the possibility of repairing portions of the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings 7,575,647".

[The Governor reduced the item to \$7,475,647 and struck out the following wording: "; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance"; "provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay"; and "; and provided further, that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize staff disruption by examining the possibility of repairing portions of

Snow and ice
removal
reserve item
1599-1971
stands,
yea and nay
No. 805.

the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings”.]

Environmental Affairs administration item 2000-0100 stands, yea and nay No. 806.

After debate the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 139 members voted in the affirmative and 17 in the negative.

[See Yea and Nay No. 806 in Supplement.]

Therefore item 2000-0100 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 2000-9912 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“2000-9912 The executive office of environmental affairs may expend an amount not to exceed \$400,000 from additional fees paid on the registration of watercrafts as described in this act, for milfoil, fanwort, and other exotic plants prevention grant program \$400,000”.

Exotic plants grant program item 2000-9912 stands, yea and nay No. 807.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 157 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 807 in Supplement.]

Therefore item 2000-9912 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4000-0115 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“4000-0115 For matching grants to the Massachusetts Technology Collaborative to implement inpatient hospital-based computerized physician order entry systems in eligible hospitals in Massachusetts for the purposes of improving patient safety and hospital efficiency; provided, that said secretary shall submit a report not later than October 30, 2004 to the house and senate committees on ways and means on the disbursement and uses of said grants; provided further, that no funds appropriated herein shall be granted unless the amount of said grant is matched dollar for dollar by the recipient; provided further, that not less than \$500,000, of which a minimum of 75 per cent must be eligible for federal financial participation, shall be available for said office to acquire through procurement professional and consulting services to enhance the fraud and abuse detection, program management, budgeting, and performance measurement capabilities of said executive

office’s existing or planned data warehouse to achieve cost-savings in the Medicaid program and identify program and policy efficiencies across all human service programs; provided further that such procurement must be completed no later than January 1, 2005; provided further that any vendor or vendors engaged contractually by said executive office must have prior Medicaid data warehouse experience in states whose Medicaid budgets are equal to or greater than Massachusetts to ensure a greater likelihood of success..... \$1,000,000”.

Technology collaborative grants item 4000-0115 stands, yea and nay No. 808.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 136 members voted in the affirmative and 20 in the negative.

[See Yea and Nay No. 808 in Supplement.]

Therefore item 4000-0115 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7003-0702 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“7003-0702 For grants to be administered by the department of workforce development; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner; provided further; that not less than \$250,000 shall be expended for the center for women and enterprise; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further; that not less than \$300,000 shall be expended for a hospital skill training program operated by the Commonwealth Corporation; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than

\$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career Development Institute; provided further, that not less than \$900,000 shall be expended on the Massachusetts Service Alliance; provided further, that not less than \$150,000 shall be expended for a Farm Workers' Council serving low income people and the Hispanic population in Western Massachusetts; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents

4,379,500".

[The Governor reduced the item to \$2,000,000 and struck out the following wording: “; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be

expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner”; “; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea”; “; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn”; “; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career Development Institute”; and “; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 154 members voted in the affirmative and 2 in the negative.

[See Yea and Nay No. 809 in Supplement.]

Workforce
development
grants item
7003-0702
stands,
yea and nay
No. 809.

Therefore item 7003-0702 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 8100-0000 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“8100-0000 For the administration and operation of the department of state police; provided, that the department shall expend funds from this item for the purposes of maximizing federal grants for the operation of a counter-terrorism unit; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of environmental affairs department of fisheries, wildlife and environmental law enforcement at no cost to, or compensation from, that office; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005; provided further, that not less than \$750,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Lawrence, Revere, Springfield and Worcester; and provided further, that the department may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the criminal justice training council and the criminal history systems board 196,375,102”.

[The Governor reduced the item to \$194,046,156 and struck out the following wording: “; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 147 members voted in the affirmative and 10 in the negative.

[See Yeas and Nays No. 810 in Supplement.]

Therefore item 8100-0000 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7007-0500 (contained in section 2), which had been vetoed by the Governor, was considered, as follows:

“7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth 500,000”.

The question on passing said item, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 146 members voted in the affirmative and 11 in the negative.

[See Yeas and Nays No. 811 in Supplement.]

Therefore section 7007-0500 (contained in section 2) was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1750-0111 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“1750-0111 For the planning and implementation of a civil service continuous testing program and the operation of the bypass appeals process program; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program 102,437”.

[The Governor struck out the following language:” ; provided that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program”.]

The question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

State police item 8100-0000 stands, yeas and nays No. 810.

Biotech Research Institute item 7007-0500 stands, yeas and nays No. 811.

Civil service continuous testing item 1750-0111 stands, yeas and nays No. 812.

[See Yea and Nay No. 812 in Supplement.]

Therefore item 1750-0111 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1000-0001 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“1000-0001 For the office of the state comptroller for the purpose and cost of compliance with the Single Audit Act of 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 2005 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of the audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of \$750,000 to other items of appropriation for the cost of the audit; provided further, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be retained and expended from a separate item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify

the house and senate committees on ways and means of any and all amounts so deducted; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this section; provided further, that the budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance projects which are undertaken pursuant to the provisions of this section; and provided further, that the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws 7,905,392”.

[The Governor reduced the item by striking out the following wording: “; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted”; and “; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways

and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information”.]

Comptroller operations item 1000-0001 stands, yea and nay No. 813

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 813 in Supplement.]

Therefore item 1000-0001 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 0321-2205 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“0321-2205 For the expenses of the social law library located in Suffolk county 1,704,671”.

[The Governor reduced the item to \$1,200,000.]

Suffolk Social Law Library item 0321-2205 stands, yea and nay No. 814.

The question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 136 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 814 in Supplement.]

Therefore item 0321-2205 (contained in section 2) was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 363, which had been vetoed by the Governor, was considered, as follows:

“SECTION 363. There shall be a special commission to investigate and study middle education in the commonwealth, 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, 3 members of the senate appointed by the senate president, 5 members of the house of representatives appointed by the speaker, the commissioner of education or his designee, and 10 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 1 superintendent, not less than 1 middle school principal recommended by the Massachusetts Secondary School Administrators Association, not less than 1 member of a school committee, not less than 1 member of the New England League of Middle Schools, not less than 1 parent of a middle school child and not less than 3 middle school teachers, 2 to be recommended by the Massachusetts Teacher Association and 1 by the Massachusetts Federation of Teachers.

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 who shall forward the same to the joint committee on education, arts and humanities, on or before November 24, 2004.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 140 members voted in the affirmative and 17 in the negative.

Middle education study section 363 stands, yea and nay No. 815.

[See Yea and Nay No. 815 in Supplement.]

Therefore section 363 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 2820-0100 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“2820-0100 For the administration, operation and maintenance of the division of urban parks and recreation including, for the maintenance, operation and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody and control of the division, flood control activities of the division, purchase of all necessary supplies and related equipment, and the civilianization of crossing guards located at division intersections where state police previously performed such duties; provided, that said parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation; and provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth; provided further, that

not less than \$3,902 shall be expended on additional school crossing guards for the corner of Mystic Avenue and Shore Drive in the city of Somerville; provided further, that \$250,000 shall be expended for a linked trail system for state and local parks along the Back River in the town of Weymouth; provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford; provided further, that \$45,000 shall be expended on the maintenance of Red Rock Park on Lynn Shore Drive, in the city of Lynn; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than October 1, 2004 on the reconstruction on the Vietnam Veterans Memorial Pool in Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost estimate to repair said pool and structures, (d) an estimate of the time to complete said repairs, (e) and any other information that said division deems necessary for the completion of this report; provided further, that \$225,000 shall be expended for maintenance and infrastructure repair of the southwest corridor park; provided further, that \$50,000 shall be expended for the removal of a pedestrian bridge at the end of Fairlawn Street in the City of Malden; provided further, that \$50,000 shall be expended for flood mitigation at Fellsmere Pond; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center in Boston; provided further that \$85,000 shall be expended for the town of Boylston; and provided further that funds shall be expended for environmental preservation of the historic Park Avenue Fire Barn in Worcester 20,186,478”.

[The Governor reduced the item by striking out the following wording: “; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth”; “provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford”; “; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than October 1, 2004 on the reconstruction on the Vietnam Veterans Memorial Pool in Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost estimate to repair said pool and structures, (d) an estimate of the time to complete said repairs, (e) and any other information that said division deems necessary for the completion of this report”; and “; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center

in Boston; provided further that \$85,000 shall be expended for the town of Boylston”.]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 816 in Supplement.]

Therefore item 2820-0100 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 304, which had been vetoed by the Governor, was considered, as follows:

“SECTION 304. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall annually prepare a public health access program beneficiary employer report. For the purposes of this section, a ‘public health access program beneficiary’ shall mean a person who receives medical assistance or medical benefits under chapter 118E of the General Laws or a person who receives health care services that qualifies as free care pursuant to chapter 118G of the General Laws. The report shall provide the following information for each employer of 50 or more public health access beneficiaries: (1) The name and address of the employer; (2) the number of public health access program beneficiaries who are employees of the employer; (3) the number of public health access program beneficiaries who are spouses or dependents of employees of the employer; (4) whether the employer offers health benefits to its employees; and (5) the cost to the Commonwealth of providing public health access program benefits for their employees and enrolled dependents. The report shall not include the names of any individual public health access program beneficiaries and shall be subject to privacy standards pursuant to Public Law 104-191, and the Health Insurance Portability and Accountability Act of 1996. The report shall be submitted annually on February 1 to the clerk of the house of representatives who shall forward the same to the joint committee on health care and the house and senate committees on ways and means.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 817 in Supplement.]

Therefore section 304 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 6010-0001 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“6010-0001 For personnel costs of the department of highways, for certain administrative and engineering

Urban Parks and Recreation item 2820-0100 stands, yea and nay No. 816.

Employer health access program section 304 stands, yea and nay No. 817.

expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges, and for the costs associated with the global positioning system program; provided, that no expenditures shall be made from the AA subsidiary; provided further, that notwithstanding any general or special law to the contrary, the department may expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall develop a plan that, by June 30, 2007, shall phase into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further, that such plan be reported to the house and senate committees on ways and means by December 31, 2004; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of the department, and for all administrative and personnel expenses of the department charged to such bonds; provided further, that such reports shall be filed not later than 30 days after the end of each quarter; provided further, that notwithstanding any administrative bulletin or general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided further, that the department shall not be subject to section 36A of chapter 30 of the General Laws and section 22 of chapter 7 of the General Laws, but shall submit to the secretary of transportation for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C and for costs associated with police services and overtime within the areas shall be paid from this item; provided further, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said

areas; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair; provided further, that the department shall expend \$100,000 on a traffic signal in Worcester on Route 12; provided further, that \$50,000 shall be expended for the cost of the installation of sidewalks in Worcester on Massachusetts Road from Benson Street to the Our Lady of Loreto Church Property; provided further, that \$50,000 be expended for the installation of a sidewalk behind the Roosevelt Elementary School in Worcester; provided further, that said department shall fully perform storm water management construction for the protection of Webster Lake; 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, 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 the town of Winchester; provided further, that said department shall construct sound barriers in the 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 the department shall include the proposed intersection improvements of the Route 1A/Main Street- Winter Street-Jean Road intersection in the town of Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; 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; and 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.....

14,857,993”

[The Governor reduced the item by striking out the following wording: “; provided further, that said department shall fully perform storm water management construction for the protection of

Webster Lake; 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 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”; and “; provided further that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, 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 the town of Winchester; provided further, that said department shall construct sound barriers in the 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 the department shall include the proposed intersection improvements of the Route 1A/Main Street- Winter Street-Jean Road intersection in the town of Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; 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; and 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”.]

MassHighway
administration
item 6010-0001
stands,
yea and nay
No. 818.

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 138 members voted in the affirmative and 19 in the negative.

[See Yea and Nay No. 818 in Supplement.]

Therefore item 6010-0001 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 306, which had been vetoed by the Governor, was considered, as follows:

“SECTION 306. Notwithstanding any general or special law or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the medical assistance intergovernmental uncompensated care trust fund for Title XIX payments to Neighborhood Health Plan. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth’s Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless Neighborhood Health Plan has executed a managed care contract with the division of medical assistance and makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of section 18 of chapter 118G of the General Laws.”.

Intergovern-
mental transfer
section 306
stands,
yea and nay
No. 819.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 819 in Supplement.]

Therefore section 306 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7007-0515 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“7007-0515 For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000

be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998 \$550,000”.

[The Governor reduced the item by striking out the following wording: “; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce”; and “; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998”]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 139 members voted in the affirmative and 16 in the negative.

[See Yea and Nay No. 820 in Supplement.]

Therefore item 7007-0515 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Regional
development
projects item
7007-0515
stands,
yea and nay
No. 820.

Section 178, which had been vetoed by the Governor, was considered, as follows:

“SECTION 178. Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the word ‘commonwealth’, in line 22, the following words:- , or participate in decisions regarding the purchasing of alcoholic beverages or the purchasing of insurance or accounting or bookkeeping services, or receive any percentage or fee derived from gross revenues in exchange for management assistance, or participate in any other action designed to effect common results of more than 3 licensees under this section.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 821 in Supplement.]

Therefore section 178 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Liquor
management
restrictions
section 178
stands,
yea and nay
No. 821.

Section 329, which had been vetoed by the Governor, was considered, as follows:

“SECTION 329. There is hereby established a special commission, to consist of three members of the senate including minority representation, four members of the house of representatives including minority representation, the chief justice for administra-

tion and management of the trial court or his designee, and five persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Bar Association, one of whom shall be a representative of the Massachusetts Medical Society, one of whom shall be a member of the Massachusetts Academy of Trial Attorneys and one of whom shall be a consumer of health care who is not a doctor or lawyer. Said commission is hereby authorized and directed to conduct an investigation into the feasibility of creating a specialized court for purposes of administering medical malpractice claims. Said commission shall, in the course of its investigation and study, consider, among other things it considers relevant, specialty courts within Massachusetts, efficiencies to be gained, expertise and training needed by jurors and jurists, use of information technology, the use of medical legal advisory panels, use of regional sites, court staffing needs and such other matters as the commission may deem relevant. Appointed members of the commission shall not be considered special state employees for the purpose of compliance with chapter 268A. The special commission shall submit a report to the governor, the speaker of the house of representatives, the senate president, and the chief justice of the supreme judicial court setting forth the special commission's findings, along with its recommendations and specific legislative proposals, no later than February 1, 2005. The special commission shall dissolve upon completion of its duties and obligations, as indicated by submission of its findings and recommendations."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 822 in Supplement.]

Therefore section 329 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 349, which had been vetoed by the Governor, was considered, as follows:

"SECTION 349. Notwithstanding any law to the contrary, the department of mental health and the division of capital asset management and maintenance are hereby authorized to enter into an agreement with the town of Northborough regarding the sale, lease or conveyance of certain parcels of land located in said town, adjacent to the Westborough State Hospital for the purpose of passive recreational use by said town of Northborough."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 135 members voted in the affirmative and 21 in the negative.

[See Yeas and Nays No. 823 in Supplement.]

Therefore section 349 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and

voting having voted in the affirmative). Sent to the Senate for its action.

Section 162, which had been vetoed by the Governor, was considered, as follows:

"SECTION 162. Section 13A of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:—

For any hospital fiscal year commencing on or after October 1, 2003, the division shall not classify any ventilator dependent patients in a public payor-dependent non-acute hospital as an administratively necessary day patient, unless a physician member of the hospital's utilization review committee finds and certifies that the medical services required by the patient are actually available in a non-hospital facility located within a 25 mile radius of the patient's principle residence and that the patient will receive safe and effective care. The division shall not make any decision or take any action as to the continuing necessity of hospital care in a public payor-dependent non-acute hospital which is inconsistent with the hospital utilization review committee findings. The division shall pay public payor-dependent non-acute hospitals at the full hospital inpatient per diem rate for services provided to such ventilator dependent patients entitled to medical assistance and the ventilator dependent patients shall not be subject to administratively necessary day rates."

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call (the Speaker being in the Chair) 156 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 824 in Supplement.]

Therefore section 162 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 294, which had been vetoed by the Governor, was considered, as follows:

"SECTION 294. To increase further a sense of responsibility on the part of inexperienced drivers and to increase the safety of all legitimate users of the roadway system, including but not limited to, motorists, pedestrians, the disabled, bicyclists, and motorcyclists, the registry of motor vehicles shall undertake a study of their policies, programs, curricula, testing materials and publications to ensure that education requirements encompass the safety of all roadway users and such efforts to promote safety are integrated across all such policies, programs curricula testing materials and publications. The registrar shall convene a study commission by September 1, 2004 whose membership shall include the following: the registrar or his designee who shall serve as chair and as a non-voting member; a representative of the governor's highway safety bureau appointed by the secretary of public safety; 1 of 3 persons recommended by the Mass. Bicycle Coalition and appointed by the secretary of public safety; 1 of 3 persons recommended by Walk

Medical
commission
section 329
stands,
yea and nay
No. 822.

Land use
section 349
stands,
yea and nay
No. 823.

MassHealth
ventilator
patients
payment rate
section 162
stands,
yea and nay
No. 824.

Boston and appointed by the secretary of public safety; a representative of the insurance industry appointed by the registrar; 1 of 3 persons recommended by the motorcycle interests and appointed by the secretary of public safety; the chairs of the house and senate committees on public safety or their designees; a representative of the driver education industry appointed by the registrar. The commission shall report to the secretary of public safety, the registrar of motor vehicles and to the clerk of the house of representatives who shall forward the same to the joint committee on public safety and the house and senate committees on ways and means on or before June 1, 2005.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 141 members voted in the affirmative and 15 in the negative.

[See Ye and Nay No. 825 in Supplement.]

Therefore section 294 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 286, which had been vetoed by the Governor, was considered, as follows:

“SECTION 286. The board of selectmen of the town of Lancaster shall cause to be posted in one or more locations in the town, and/or on the town’s official website, or publishing in a newspaper in general circulation in the town, as may be determined by by-law, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by bylaw, cause to be printed and sent, in the manner provided in section 285, arguments for and against each question submitted solely to the voters of said town pursuant to any General Law, including but not limited to, section 21C of chapter 59 of the General Laws. The principal proponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument, and the principal opponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument. No argument shall contain more than 250 words. Said board of selectmen shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least 14 days before the date by which the written arguments must be received. For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question,

Registry of Motor Vehicles study section 294 stands, yea and nay No. 825.

said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this Act, said town counsel shall prepare such argument. All arguments filed with or prepared by the board of selectmen pursuant to this Act, and the summary prepared pursuant to section 194, shall be open to public inspection at the office of the town clerk of said town.”

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 134 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 826 in Supplement.]

Therefore section 286 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Fire fighter accidental death benefit section 286 stands, yea and nay No. 826.

Item 2200-0100 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws; provided further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section 19 of chapter 21A of the General Laws; provided further, that \$168,000 shall be expended for sediment control in Lake Webster; provided further, that funds may be expended for a water resource identification project in the town of Carver; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay in the town of Dartmouth; and provided further, that funds may be expended for the purpose of conducting a Comprehensive Site Assessment of South Meadow Pond and the presence of leachate from the former Clinton Landfill site 28,373,935”.

[The Governor reduced the item to \$27,855,935 and struck out the following wording: “provided further, that \$168,000 shall be

expended for sediment control in Lake Webster”; and “; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay in the town of Dartmouth”]

The question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 137 members voted in the affirmative and 19 in the negative.

[See Ye and Nay No. 827 in Supplement.]

Therefore item 2200-0100 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Engrossed Bills.

The engrossed Bill relative to the reporting and liability of the chief and district medical examiners (see House, No. 4923) (which had been returned by His Excellency the Governor with recommendation of amendment), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be re-enacted, without amendment; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Relative to credit union deposits (see House, No. 483);

Relative to consumer and merchant protection (see House, No. 492); and

Relative to court advisement (see House, No. 4135, amended); (Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the Speaker and sent to the Senate.

Engrossed bills

Relative to meningitis immunization awareness (see Senate, No. 2155);

Requiring college students immunization against meningococcal disease (see Senate, No. 2159, amended); and

Relative to certain consumer transactions and the satisfaction of security interests (see Senate, No. 2238, amended); (Which severally originated in the Senate); and

Providing for dissection choice in the public schools (see House, No. 1252, amended);

Relative to unlawful conduct by nonresidents of public housing (see House, No. 1705);

Relative to the Winchendon District Court (see House, No. 2638);

Relative to a certain parcel of land in the town of Hinsdale (see House, No. 4199, amended);

Relative to electric transmissions (see House, No. 4432, amended);

Providing for a retirement incentive for W. Philip Barrett and Claire Salois as employees of the city of Methuen (see House, No. 4452);

Further regulating the setting of private passenger automobile insurance rates (see House, No. 4675, amended); and

To determine the financial feasibility of establishing the Massachusetts Health Care Trust (see House, No. 4953, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Order.

On motion of Mr. Marzilli of Arlington,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next sitting.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-four minutes before eight o'clock P.M. (Thursday, July 22), on motion of Ms. Blumer of Framingham (the Speaker being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.

Environmental
Protection
Administration
item 2200-0100
stands,
yea and nay
No. 827.

Bill
re-enacted.

Bills
enacted.

ri

Pledge of
allegiance.