

JOURNAL OF THE HOUSE.

Thursday, October 6, 2005.

Met at twenty-seven minutes before two o'clock P.M.

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

Pledge of
allegiance.

Statement Concerning Representative Kennedy of Brockton.

A statement of Mr. Rogers of Norwood 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 his hospitalization. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Kennedy of
Brockton.

Statement of Representative Petersen of Marblehead.

A statement of Mr. Petersen of Marblehead was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will be unable to be present in the House Chamber for the remainder of today's sitting due to personal family business. Had I been present for the taking of ye and nay number 226, I would have voted in the affirmative. Any roll calls that I may miss today will be due entirely to the reason stated.

Statement of
Representative
Petersen of
Marblehead.

Statement Concerning Representative Spiliotis of Peabody.

A statement of Mrs. Harkins of Needham concerning Mrs. Spiliotis of Peabody 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 Spiliotis of Peabody will not be present in the House Chamber for today's sitting due to her attendance at a previously scheduled meeting in Taiwan to promote trade with the Taiwan Economic Council. Any roll calls that she may miss today and Tuesday, October 11, will be due entirely to the reason stated.

Statement
concerning
Representative
Spiliotis of
Peabody.

Resolutions.

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

Resolutions (filed by Mr. Galvin of Canton) on the dedication of the Joseph A. Uliano Square;

Joseph A.
Uliano.

Resolutions (filed by Messrs. Kocot of Northampton and Kulik of Worthington) honoring Casimir Pulaski Day in the city of Northampton;

Casimir
Pulaski.

Resolutions (filed by Mr. Mariano of Quincy) congratulating Ralph "Buddy" Iannaco;

Ralph
Iannaco.

Resolutions (filed by Mr. Rush of Boston) honoring Dorothy May on the occasion of her eightieth birthday; and

Dorothy
May.

Mary LeBlanc. Resolutions (filed by Mr. Stanley of Waltham) congratulating Mrs. Mary LeBlanc on her one hundredth birthday;

Mrs. Parente of Milford, 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. 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.

Communications.

Communications

Transportation and Construction. From the Executive Office of Transportation and Construction (under the provisions of item 6000-0100 of Section 2 of Chapter 26 of the Acts of 2003) submitting copies of several quarterly and special reports, including STIP funding, Chapter 90 PWED fund, and certain payroll reports; and

Boston University. From the Chairman of the Management Team of Boston University (under the provisions of Section 13 of Chapter 133 of the Acts of 1989) submitting a copy of its annual report of the Boston University/Chelsea Partnership for the fiscal year 2004; Severally placed on file.

Annual and Special Reports.

Status of Women. The annual report of the Commission on the Status of Women (under the provisions of Section 1 of Chapter 138 of the General Laws) for the fiscal year 2005;

Unemployment insurance trust fund. The monthly report of the Division of Unemployment Assistance (under the provisions of Chapter 142 of the Acts of 2003) relative to the condition of the Commonwealth's Unemployment Insurance Trust Fund for June, July and August 2005; and

Insurance Fraud Bureau. The semi-annual report of the Insurance Fraud Bureau (under the provisions of Section 99 (k) of Chapter 398 of the Acts of 1991) on the disposition of matters referred to said bureau; Severally were placed on file.

Petitions.

Petitions severally were presented and referred as follows:

Boston, fines. By Ms. Fox of Boston, petition (accompanied by bill, House, No. 4418) of Gloria L. Fox (with the approval of the mayor and city council) for legislation to increase the maximum amount that may be imposed by fines for violations of ordinances in the city of Boston. To the committee on Municipalities and Regional Government.

Boston, Dennis Mullen. By Mr. Wallace of Boston, petition (accompanied by bill, House, No. 4419) of Brian P. Wallace (with the approval of the mayor and city council) relative to the disability retirement of Dennis Mullen, a police officer in the city of Boston; and

Boston, James J. Cahill. By the same member, petition (accompanied by bill, House, No. 4420) of Brian P. Wallace (with the approval of the mayor and city council) relative to the disability retirement of James J. Cahill, a fire fighter in the city of Boston;

Severally to the committee on Public Service.

By Ms. Fox of Boston, petition (accompanied by bill, House, No. 4421) of Gloria L. Fox (with the approval of the mayor and city council) relative to the homeowners' residential tax exemption in the city of Boston; and

Boston, homeowners tax.

By the same member, petition (accompanied by bill, House, No. 4422) of Gloria L. Fox (with the approval of the mayor and city council) relative to the rate of excise on condominium conversions and lot subdivisions in the city of Boston;

Boston, condominiums.

Severally to the committee on Revenue.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Broadhurst of Methuen, petition (subject to Joint Rule 12) of Arthur J. Broadhurst and Steven A. Baddour relative to the illegal sale of drugs in the vicinity of public parks and playgrounds in the Commonwealth.

Drug sales, public parks.

By Mr. Evangelidis of Holden, petition (subject to Joint Rule 12) of Lewis G. Evangelidis and Robert A. Antonioni that the Division of Capital Asset Management and Maintenance be authorized to convey certain land in the town of Sterling to the Sterling Greenery.

Sterling Greenery, land conveyance.

By Mr. Keenan of Salem, petition (subject to Joint Rule 12) of Jeffrey Sanchez and others for legislation to provide certain notices for the protection of patients in long-term care facilities from sex offenders who are residents of such facilities.

Elderly, long-term care.

By Mr. Timilty of Milton, petition (subject to Joint Rule 12) of Walter F. Timilty that employees of the Commonwealth be authorized to volunteer for "Operation Helping Hand" providing assistance in the recovery from the disaster caused by hurricane Katrina.

Disaster relief, assistance.

By Mr. Tobin of Quincy, petition (subject to Joint Rule 12) of A. Stephen Tobin that the Registrar of Motor Vehicles be authorized to issue special motor vehicle registration plates to siblings of certain veterans.

Veterans plates, siblings.

By Mr. Vallee of Franklin (by request), petition (subject to Joint Rule 12) of Joel D'Errico for legislation to authorize certain non-resident property owners to vote in municipal elections.

Non-residents, voting rights.

By Mr. Wagner of Chicopee, petition (subject to Joint Rule 12) of Joseph F. Wagner for legislation to further regulate certain penalties imposed on wholesalers under the cigarette excise tax law.

Cigarette excise, wholesalers.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2221) of Thomas M. McGee, Steven M. Walsh, Mark V. Falzone, Robert F. Fennell and other members of the General Court (with the approval of the mayor and city council) for legislation relative to civil forfeiture of property used for gang related activities in the city of Lynn; and

Lynn, gang activity.

Petition (accompanied by bill, Senate, No. 2222) of Thomas M. McGee, Steven M. Walsh, Mark V. Falzone, Robert F. Fennell and other members of the General Court (with the approval of the mayor and city council) for legislation to prohibit gang activity within 1,000 feet of a school zone in the city of Lynn;

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Severally to the committee on the Judiciary.

Lynn,
gang
activity.

Petition (accompanied by bill, Senate, No. 2223) of Thomas M. McGee, Steven M. Walsh, Mark V. Falzone, Robert F. Fennell and other members of the General Court (with the approval of the mayor and city council) for legislation to provide relief for premises used for gang related activity in the city of Lynn. To the committee on Public Safety and Homeland Security.

Office of
Dispute
Resolution.

A communication from the Massachusetts Office of Dispute Resolution (under Section 51 of Chapter 7 of the General Laws) submitting annual progress reports for the fiscal years 2002 to 2005, inclusive, were spread upon the records of the House; and returned to the Senate.

DCR
property,
yacht
permit.

A petition of Michael W. Morrissey, Robert L. Hedlund, Steven A. Tolman and John A. Hart, Jr. for legislation relative to reasonable permitting for yacht clubs on DCR property, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2225) was referred, in concurrence, to the committee on Environment, Natural Resources and Agriculture.

Reports of Committees.

Local
taxes,
classification.

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 petition of Charles A. Murphy and others relative to tax classifications in the cities and towns of the Commonwealth. Under suspension of the rules, on motion of Mr. Petrolati of Ludlow, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Revenue. Sent to the Senate for concurrence.

Hanover,
planning
board.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill providing for two associate planning board members in the town of Hanover (House, No. 4294) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Nyman of Hanover, 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 (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

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

“SECTION 2. This act shall take effect upon its passage.”

The amendment was adopted; and the bill (House, No. 4294, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Koutoujian of Waltham, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3660) of Bruce J. Ayers for an investigation by the Attorney General and the Department of Public Health of the liability for remediation of the negative effects caused by the manufacture and sale of lead based paint products,— and recommending that the same be referred to the committee on the Judiciary. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Lead
paint,
liability.

By Mr. Honan of Boston, for the committee on Housing, on Senate, Nos. 801, 815 and 816 and House, Nos. 1795, 1844, 3177, 3197, 3915, 3916 and 3918, an Order relative to authorizing the committee on Housing to make an investigation and study of certain Senate and House documents concerning landlords and tenants (House, No. 4409).

Landlords/
tenants,
study.

By the same member, for the same committee, on Senate, No. 802 and House, Nos. 3165, 3218 and 3913, an Order relative to authorizing the committee on Housing to make an investigation and study of certain Senate and House documents concerning condominiums (House, No. 4410).

Condo-
miniums,
study.

By Ms. Balse of Newton, for the committee on Mental Health and Substance Abuse, on Senate, Nos. 1145 and 1147 and House, Nos. 2865 and 3124, an Order relative to authorizing the committee on Mental Health and Substance Abuse to make an investigation and study of certain Senate and House documents concerning mental health and substance abuse issues (House, No. 4411).

Mental
health and
substance
use,
study.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on House, No. 1882, an Order relative to authorizing the committee on Public Safety and Homeland Security to make an investigation and study of a certain House document concerning homeland security funds (House, No. 4412).

Homeland
security
funds,
study.

By the same member, for the same committee, on House, Nos. 1919, 1935 and 1950, an Order relative to authorizing the committee on Public Safety and Homeland Security to make an investigation and study of certain House documents concerning driver safety (House, No. 4413).

Driver
safety,
study.

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

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Honan of Boston, for the committee on Housing, on House, No. 3168, a Bill relative to data collection for government assisted housing in Massachusetts (House, No. 4423).

Housing,
data
collection

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill to require the installa-

High rise
buildings,
communications.

tion of in building emergency radio systems in high rise buildings (House, No. 1409).

University of Massachusetts police.

By the same member, for the same committee, on a petition, a Bill to provide training to University of Massachusetts police (House, No. 1864).

Boston, hazardous materials.

By the same member, for the same committee, on a petition, a Bill to provide funding for hazardous material response teams in the cities of Boston, Cambridge and Springfield (House, No. 1883).

Collective bargaining.

By Mr. Kaufman of Lexington, for the committee on Public Service, on Senate, No. 1116 and House, No. 429, a Bill relative to written majority authorization cards, petitions and other written evidence of collective bargaining results (House, No. 429).

Gerard Downing.

By the same member, for the same committee, on a petition, a Bill directing the State Retirement Board to pay certain retirement benefits to the surviving spouse and children of Gerard D. Downing (House, No. 517).

Public employees, mortality table

By the same member, for the same committee, on Senate, Nos. 1505, 1565, 1611 and 1612 and House, Nos. 161, 446 and 4179, a Bill relative to updating the mortality table for public employees (House, No. 4424).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Fairhaven, liquor license.

By Mr. Pedone of Worcester, for the committee on Consumer Protection and Professional Licensure, on House, No. 4293, a Bill authorizing the town of Fairhaven to issue a common victualer beer and wine license to Jevon K. Malcom, owner, and Lisa M. Malcom, manager, of Jevon Enterprises, 116 Sconticut Neck Road in the town of Fairhaven (House, No. 4425) [Local Approval Received].

Middleborough, liquor license.

By the same member, for the same committee, on House, No. 4316, a Bill authorizing the town of Middleborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4426) [Local Approval Received].

Fairhaven, liquor license.

By the same member, for the same committee, on House, No. 4350, a Bill authorizing the town of Fairhaven to issue a common victualer beer and wine license to Chris Boonprasert, manager, Sivalai Thai Cuisine, at 130 Sconticut Neck Road in the town of Fairhaven (House, No. 4427) [Local Approval Received].

Voter registration.

By Mr. Petruccelli of Boston, for the committee on Election Laws, on a petition, a Bill establishing identification requirements for voters who register by mail (House, No. 92).

Winthrop, civil service.

By Mr. Kaufman of Lexington, for the committee on Public Service, on a petition, a Bill excepting Winthrop from certain provisions of the civil service law (House, No. 4155) [Local Approval Received].

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

Engrossed Bill.

Bill enacted.

The engrossed Bill relative to the towns of Westborough and Shrewsbury treatment of wastewater (see Senate bill printed as House, No. 4199) (which originated in the Senate), having been

certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the city of Lowell to grant a permanent easement in certain park land to abutters (see House, No. 3227) (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.

Lowell, land easement.

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 152 members voted in the affirmative and 0 in the negative.

Bill enacted (land taking), yeas and nays No. 217.

[See Yeas and Nays No. 217 in Supplement.]

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

Motions to Discharge Matters in the Orders of the Day.

Mr. Driscoll of Braintree moved that the House Bill establishing a town manager for the town of Braintree (Senate, No. 2157), 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.

Braintree, town manager.

Pending the question on ordering the bill to a third reading, the same member moved that it be amended in section 3, in line 17, by inserting after the word "Department" the words " , but excluding the budget for the Braintree Electric Light Department"; in line 35, by inserting after the word "Committee" the words " , but excluding the Braintree Electric Light Department"; in line 56, by inserting after the word "departments" the words " , except the Braintree Electric Light Department"; and in lines 62 and 63, by inserting after the word "department" the words " , except the Braintree Electric Light Department".

The amendments were adopted; and the bill (Senate, No. 2157, amended) was ordered to a third reading.

Mr. Bosley of North Adams moved that the House Bill relative to economic investments to promote job creation, economic stability, and competitiveness in the Massachusetts economy (House, No. 4381), 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.

Economic stability.

Mr. Jones of North Reading thereupon raised a point of order that certain amendments (filed by him and other members) had been improperly withdrawn under the order previously adopted by the House establishing procedures for the consideration of the pending bill (see House, No. 4384, amended).

Point of order.

The Speaker ruled that the point of order was not well taken.

Appeal from
decision of
Chair.

Mr. Jones thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Peterson of Grafton.

After debate the decision of the Chair was sustained.

Pending the question on adoption of the amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4404),— Mr. Frost of Auburn moved that the proposed substitute bill be amended by adding at the end thereof the following section:

“SECTION 95. Section 32 of Chapter 63 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding after the first sentence the following:— provided, however, for the purposes of this section, a newly formed domestic corporation that is otherwise eligible to pay the excise provided in subsection (b) shall be exempt from the minimum payment of such excise tax for the first two taxable years of operation of said domestic corporation, should that corporation qualify.”

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 38 members voted in the affirmative and 116 in the negative.

[See Yea and Nay No. 218 in Supplement.]

Therefore the further amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the proposed substitute bill be amended by inserting after section 40 the following two sections:

“SECTION 40A. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as so appearing in the 2004 Official Edition, is hereby amended by striking out subparagraph (13) and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1), of clause (A) of subparagraph (1A), and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clauses; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 40B. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5.0 percent for the taxable year beginning on January 1, 2006.”

Further
amendment
rejected,
yea and nay
No. 218.

Mr. Bosley of North Adams then raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending measure.

Point of
order.

The Speaker ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Mr. Peterson of Grafton thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

Appeal from
decision of
Chair.

After debate the question was put: “Shall the decision of the Chair stand as the judgment of the House?”; and on this question, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson, and on the roll call 134 members voted in the affirmative and 20 in the negative.

Decision of
Chair
sustained,
yea and nay
No. 219.

[See Yea and Nay No. 219 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Jones of North Reading and other members of the House then moved that the proposed substitute bill be amended by inserting after section 40 the following two sections:

“SECTION 40A. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as so appearing in the 2004 Official Edition, is hereby amended by striking out subparagraph (13) and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1), of clause (A) of subparagraph (1A), and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clauses; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 40B. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5.2 percent for the taxable year beginning on January 1, 2006, and shall be taxed at the rate of 5.1 percent for taxable years beginning on or after January 1, 2007, and shall be taxed at the rate of 5.0 percent for taxable years beginning on or after January 1, 2008.”

Mr. Bosley of North Adams then raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending measure.

Point of
order.

The Speaker ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Appeal from decision of Chair.

Decision of Chair sustained, yea and nay No. 220.

Mr. Peterson of Grafton thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

After remarks the question was put: "Shall the decision of the Chair stand as the judgment of the House?"; and on this question, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson, and on the roll call 133 members voted in the affirmative and 20 in the negative.

[See Ye and Nay No. 220 in Supplement.]

Therefore the decision of the Chair was sustained.

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

"SECTION 95. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as so appearing in the 2004 Official Edition, is hereby amended by striking out subparagraph (13) and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1), of clause (A) of subparagraph (1A), and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clauses; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 96. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5.2 percent for the taxable year beginning on January 1, 2007, and shall be taxed at the rate of 5.1 percent for taxable years beginning on or after January 1, 2008, and shall be taxed at the rate of 5.0 percent for taxable years beginning on or after January 1, 2009.

SECTION 97. Sections 95 and 96 shall take effect only after the aggregate amount of the so called section 3 distributions, chapter 70 education aid, additional assistance, and lottery aid, that are distributed in any fiscal year to cities and towns are equal to or exceeds, including an amount to compensate for inflation using the U.S. Department of Labor Statistic's Consumer Price Index starting in July 2003 (CPI-U, Northeast, 1982-1984=100), the amounts provided for the sum of the three purposes in fiscal year 2002."

Mr. Bosley of North Adams then raised a point of order that the further amendment offered by Mr. Jones and other members was

Point of order.

improperly before the House for the reason that it went beyond the scope of the pending measure.

The Speaker ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved that the proposed substitute bill be amended by inserting after section 41 the following three sections:

"SECTION 41A. Paragraph (1) of subsection (k) of section 6 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting, before the definition of 'cost-of-living-adjustment', the following definition:—

'Cost-of-housing adjustment', for any calendar year, the percentage, if any, by which the average assessed value for a single-family home in Massachusetts for the preceding calendar year, as calculated by the department of revenue, exceeds the average assessed value for a single-family home in the commonwealth for calendar year 2004, as reported by the department.

SECTION 41B. Paragraph (3) of said subsection (k) of said section 6 of said chapter 62 of the General Laws, as so appearing, is hereby further amended by striking out, in line 437, the figure '\$400,000' and inserting in place thereof the following figure:— \$600,000.

SECTION 41C. Paragraph (4) of said subsection (k) of said section 6 of said chapter 62 of the General Laws, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following 2 sentences:— For a taxable year beginning on or after January 1, 2001 and before January 1, 2005, the income, valuation and credit limits in this subsection shall be increased by amounts equal to such income, valuation and credit limits multiplied by the cost-of-living adjustment for the calendar year in which such taxable year begins. For a taxable year beginning on or after January 1, 2005, the income and credit limits in this subsection shall be increased by amounts equal to such income and credit limits multiplied by the cost-of-living adjustments for the calendar year in which such taxable year begins, and the valuation limit in this subsection shall be increased by an amount equal to such valuation limit multiplied by the cost-of-housing adjustment for the calendar year in which such taxable year begins."

Mr. Bosley of North Adams then raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending measure.

Point of order.

The Speaker ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Mr. Peterson of Grafton thereupon appealed from the decision of the Chair; and the appeal was seconded by Ms. Rogeness of Longmeadow.

Appeal from decision of Chair.

After debate (Mrs. Harkins of Needham being in the Chair), the decision of the Chair was sustained.

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

“SECTION 95. Section 6 of Chapter 62 of the general laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following new subsection:—

(I) Land Conveyed for Conservation Purposes. There shall be allowed as a credit against the tax liability imposed by this chapter, an amount equal to fifty percent of the fair market value of any qualified donation of certified land located in Massachusetts, by a landowner taxpayer to a public or private conservation agency.

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

(I) ‘Bargain sale,’ shall mean the sale of an interest in real property by a taxpayer at a cost below appraised market value, when a portion of the value of the interest in real property is a qualified donation, as such terms are defined herein, and which meets the requirements of Section 1011(b) of the Internal Revenue Code of 1986, as amended.

(II) ‘Certified land’ or ‘certified lands,’ shall mean an interest in real property, as defined herein, the donation or bargain sale of which, as defined herein, has first been determined by the secretary of the executive office of environmental affairs to be in the public interest for natural resource protection, including, but not limited to, drinking water supplies, wildlife habitat and biological diversity, (agricultural and forestry production, recreational opportunities, archaeological and historical resources, or scenic and cultural values. The secretary of environmental affairs shall assure that all certified lands are protected in perpetuity.

(III) ‘Interest in real property,’ shall mean any right in real property in the Commonwealth of Massachusetts, with or without improvements thereon, or water, including, but not limited to, fee simple, life estate, restriction, easement, covenant, condition, partial interest, remainder, future interest, lease, license, mineral right, riparian right, or other interest or right in real property that may be conveyed concerning the power to transfer property.

(IV) ‘Public or Private Conservation Agency,’ shall mean the Commonwealth of Massachusetts, or any subdivision thereof, or private nonprofit corporation organized for the purposes of land conservation, which is authorized to do business in the Commonwealth of Massachusetts, and which has tax-exempt status as a nonprofit charitable organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(V) ‘Qualified donation,’ shall mean a donation, or the donated portion of a bargain sale, made in perpetuity of a fee interest in real property or a less-than-fee interest in real property, including a conservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to chapter 184 of the general laws, provided that such less-than-fee interest meets the requirements of Qualified Conservation Contributions under the Internal Revenue Code of 1986, Section 170(h).

(VI) ‘Taxpayer’ shall mean a taxpayer subject to income tax under chapter 62 of the general laws or a taxpayer subject to excise tax under chapter 63 of the general laws.

(2) The fair market value of certified land shall be substantiated by a Qualified Appraisal, as defined in United States Treasury Regulation Section 1.170A-13(c)(3), and shall be prepared by a Qualified Appraiser, as defined in United States Treasury Regulation Section 1.170A-13(c)(5). For any taxpayer to qualify for the credit provided for in this subsection, the taxpayer shall file with the Massachusetts Department of Revenue at the same time as the taxpayer files a return for the taxable year in which the credit is claimed, a summary of a Qualified Appraisal, or if requested by said Department, the taxpayer shall submit the appraisal itself.

(3) The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed fifty thousand dollars.

(4) In any one tax year the credit used may not exceed the amount of individual or corporate excise tax otherwise due by the taxpayer.

(5) Any portion of the credit, which is unused in any one tax year, may be carried over for a maximum of ten consecutive tax years following the tax year in which the credit originated until fully expended.

(6) The secretary of environmental affairs shall promulgate regulations that define land eligible for certification under this subsection. Regulations shall be promulgated within ninety days of passage of this Act.

(7) The commissioner of the department of revenue, in consultation with the secretary of environmental affairs, shall promulgate regulations to administer this subsection. Such regulations shall include provisions to prevent the generation of multiple credits with respect

(8) The tax credits provided by this subsection shall apply to transfers of interests in real property in taxable years beginning on or after January 1, 2005 and consecutive taxable years thereafter.

(9) The tax credits provided by this subsection may be in addition to any charitable deductions claimed on the taxpayer’s federal income tax return for the same qualified donations of certified lands.

(10) Any taxpayer claiming a state income tax or excise tax credit under this subsection may not claim an additional state income tax or excise tax credit during any one tax year for costs related to the same interest in certified lands.

(11) Any tax credits which arise under this subsection from the qualified donation of certified land by a pass-through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited liability partnership, limited liability corporation, subchapter S organization, or other fiduciary, shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, partner, shareholder, or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, partner, shareholder, or beneficiary, for the same conveyance.

(12) Any tax credits which arise under this subsection from the qualified donations of certified land by a married couple shall be

Economic stability.

used only if the spouses file a joint return, if both spouses are required to file Massachusetts income tax returns. If only one spouse is required to file a Massachusetts income tax return, that spouse may claim the credit allowed by this subsection on a separate return.

(13) Nothing in this subsection shall be interpreted in any way to alter or amend any permitting requirements, reporting requirements, allocation procedures, or other requirements set forth in any other provision of the General Laws.

SECTION 96. The secretary of the executive office of environmental affairs, within five years of passage of this act, shall prepare a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, describing the certified lands conserved.

SECTION 97. The commissioner of the department of revenue, within five years of passage of this act, shall prepare a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, calculating the annual tax savings to individuals and corporations.

SECTION 98. There shall be a commission to study the transferability of tax credits under this subsection. The commission shall be composed of 11 persons, including the commissioner of the department of agricultural resources, or his designee, who shall serve as chairman; the commissioner of the department of revenue, or his designee; three members of the house of representatives, two to be appointed by the speaker of the house of representatives and one to be appointed by the house minority leader; three members of the senate, two to be appointed by the president of the senate and one to be appointed by the senate minority leader; a representative of the American Farmland Trust; a representative of the Massachusetts Audubon Society; and a representative of the Massachusetts Chapter of The Nature Conservancy. The commission shall examine all aspects of transferability, including but not limited to: the status of its application in other states, potential fiscal impacts, and potential conservation benefits. The commission shall file a report of its findings and recommendations, including any drafts of legislation necessary to put its recommendations into effect, with the joint committee on revenue and joint committee on environment, natural resources and agriculture on or before January 1, 2007.”

Point of order.

Mr. Bosley of North Adams then raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending measure.

The Chair (Mrs. Harkins of Needham) ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Appeal from decision of Chair.

Mr. Peterson of Grafton thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

After debate the decision of the Chair was sustained.

Mr. Casey of Winchester then moved that the proposed substitute bill be amended by adding at the end thereof the following section:

“SECTION 95. Notwithstanding any ruling, regulation, general or special law to the contrary, there shall hereby be established

within the department of revenue an Alternative Energy Sources Tax Incentives program, for which \$10,000,000 shall be appropriated. The program shall award tax exemptions for residents and businesses that utilize solar, non-fossil and similar energy sources.”

After debate the further amendment was rejected.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 4404) was ordered to a third reading.

At two minutes after four o’clock P.M., on motion of Mr. Miceli of Wilmington (Mrs. Harkins of Needham being in the Chair), the House recessed until a quarter before five o’clock; and at five minutes after five o’clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Recess.

Mr. Flynn of Bridgewater thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

Quorum, yea and nay No. 221.

[See Yea and Nay No. 221 in Supplement.]

Therefore a quorum was present.

Under suspension of the rules, on motion of Mr. Bosley of North Adams, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Linsky of Natick and other members of the House moved that it be amended by striking out section 15 (as printed) and inserting in place thereof the following section:

“SECTION 15. Said chapter 23G, as so appearing, is hereby further amended by striking out section 43, and inserting in place thereof the following section:—

There shall be established a cultural facilities fund advisory committee, in this section called the committee. The functions of the committee shall be strictly advisory to the Agency in connection with the management and operation of the Massachusetts Cultural Facilities Fund. The committee shall be comprised of the following members: the director of the Massachusetts Cultural Council or his designee; the director of the Office of Travel and Tourism or his designee; and the Director of the Agency or his designee; and six members to be appointed by the Governor, one of whom shall have expertise in fundraising; one of whom shall have expertise in finance; and one of whom shall have expertise in construction; provided further, in appointing members, the governor shall ensure that each of the following geographic regions of the commonwealth shall be represented: the central area, the greater Boston area, the MetroWest area, the northeast area, the southeast area and the western area. Members shall be appointed for a term of five years, may be reappointed, and shall serve without compensation, but may be reimbursed from the fund for ordinary and reasonable in-state travel expenses. The committee may meet as often as the members may determine, but shall meet at least bi-annually or at such other

intervals as may be established by the Agency in order to review recommendations made by the Massachusetts Cultural Council, or such other qualified organization with which the agency contracts, with respect to the fund and to make any advisory recommendations with respect thereto to the Agency. The provisions of subsections (d), (f) to (i), inclusive, and subsection (l) of section 2 of this chapter shall apply to the members and affairs of the committee. All applications for grants or loans recommended by the Massachusetts Cultural Council, or other such organization with whom the Agency may contract, shall be reviewed by the committee. The committee shall then issue findings and recommendations to the Agency as to which applications should be approved. Only those applications that are recommended by the committee for approval shall be considered by the Agency's board of directors for final approval. If the Agency's board of directors votes to deny any recommended approval the Agency shall, within 30 days of such action, provide the applicant with a written explanation for such denial."

The amendment was adopted.

Mr. Bosley of North Adams then moved that the bill be amended in section 73 (as printed), in lines 11 and 12, by striking out the words "marketing and branding program in conjunction with the Massachusetts International Trade Council to promote" and inserting in place thereof the words "joint marketing and branding program in conjunction with the Massachusetts International Trade Council to promote and market".

The amendment was adopted.

Mr. Leary of Worcester and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

"SECTION 90. Section 1 of chapter 40Q of the General Laws is hereby amended by striking the following definition inserted by section 18 of chapter 46 of the acts of 2003:—

'Inflation factor', a ratio: (1) the numerator of which shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue pursuant to paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1.

SECTION 91. Section 1 of chapter 40Q of the General Laws is hereby further amended by striking the first sentence of the definition of 'Original assessed value' inserted by section 18 of chapter 46 of the acts of 2003 and inserting in its place the following sentence:— 'Original assessed value', the aggregate assessed value of the district as of the base date."

The amendment was adopted.

Mr. Turkington of Falmouth and other members of the House then moved that the bill be amended by striking out section 19 (as printed) and inserting in place thereof the following section:

"SECTION 19. Said chapter 29, as so appearing, is hereby further amended by striking out section 2SS and inserting in place thereof the following section:—

Section 2SS. There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Workforce Competitiveness Trust Fund, within the Commonwealth Corporation, which will be administered by Commonwealth Corporation according to guidelines established in consultation with the State Advisory Committee. The fund shall serve as a catalyst in the development of employer- and worker-responsive programs that are designed to enhance the growth, productivity, quality, retention, and competitiveness of Massachusetts firms, and the improvement of the workforce development system to better align with employer and worker needs. The Fund will support, through either grants or loans, public-private partnership initiatives lead jointly by employers, local workforce investment boards and labor unions whenever worker participants or potential new hires are represented by a union. Funded initiatives will improve employer business outcomes while advancing the career success and earning potential of current and future workers, particularly those experiencing barriers to job stability and economic self-sufficiency. The fund will be used to leverage employer, public, and other contributions, and will be available as state match for federal funds that meet the parameters of the Workforce Competitiveness Trust Fund. The Workforce Competitiveness Trust Fund shall be an expendable trust fund and shall not be subject to appropriation. The amounts appropriated in this item shall be expended to the Commonwealth Corporation to be held, applied and administered within the parameters outlined in the following sections: (a) A state advisory committee and specific industry-focused advisory committees will be established which will represent significant constituencies and beneficiaries of the Fund, including, but not limited to high growth or critical industries, the workforce development system, public education, public higher education, labor, economic development, transitional assistance, and advocates of targeted customer populations. Specific industry-focused advisory committees will include, but not be limited to healthcare, travel and tourism, manufacturing, and emerging technologies, and will be represented on the state advisory committee. The advisory committees will work with Commonwealth Corporation to establish funding priorities within the context of relevant labor-market and industry trend data and tested programmatic promising practices, and will review general programmatic parameters and guidelines, assist with the identification of issues and barriers to the Fund's success and effectiveness, disseminate relevant information about the Fund to constituents, help Commonwealth Corporation gather data from represented constituencies, and support the general oversight of Fund implementation. The Commonwealth Corporation will convene the advisory committee at least quarterly. (b) Commonwealth Corporation will be the administrator of the Fund, and shall maintain the Fund as a separate fund, and shall cause it to be audited by an independent accountant on an annual basis in accordance with accepted accounting principles. (c) There shall be credited to the

Economic
stability.

fund, revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and gifts, grants, private contributions, repayment of loans, investment income earned on the fund's assets, and all other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund. (d) A separate fund will be established by the State Advisory Committee within the Workforce Competitiveness Trust Fund to support the current and future labor force needs of the Commonwealth's healthcare industry. Massachusetts' healthcare industry, which is a world leader in research education and the provision of quality patient care, is critical to the public health and public safety of all residents, represents the state's largest employment sector and is a tremendous economic driver for the life sciences sector of the economy. The Healthcare Workforce Development Fund will support projects that address evidence-based barriers and gaps in the healthcare workforce development pipeline. Small planning and needs assessment grants of up to \$30,000 may be offered, which must be completed within 6 months. A fund distribution program will be designed by Commonwealth Corporation in consultation with the Healthcare Advisory Committee of the state advisory committee, which must include at a minimum the Massachusetts Hospital Association, the Massachusetts well as representatives of the other mandatory state advisory committee constituencies. Funds will be offered competitively, for amounts up to \$500,000 and for no longer than 3 years in duration. (e) A fund will be established by the State Advisory Committee within the Workforce Competitiveness Trust Fund to support the development of career ladder and wage improvement strategies, including employee ownership and profit-sharing strategies, within Massachusetts' travel and tourism industry. Travel and tourism is a primary supplier of jobs in the Commonwealth and serves as an important economic driver in many Massachusetts communities. However, the quality, stability, and earning potential of many jobs are inadequate to support even small families or individuals. A fund distribution program will be designed by Commonwealth Corporation in consultation with the Travel and Tourism Advisory Committee, which must include the primary industry associations that represent the industry in Massachusetts, or in their absence, a cohort of relevant industry employers, as well as representatives of the other mandatory state advisory committee constituencies. Funds will be offered competitively, for amounts up to \$500,000 and for no longer than 3 years in duration. Small planning and needs assessment grants of up to \$30,000 may be offered, which must be completed within 6 months. (f) A fund will be established by the State Advisory Committee within the Workforce Competitiveness Trust Fund to support the stabilization and growth of the state's manufacturing sector. Still the third largest employment sector in the commonwealth, the manufacturing industry must improve its technological capabilities and workplace practices in order to survive in the global marketplace. The industry must also be able to replace the large numbers of skilled workers due to retire over the next five years, with the assurance of a worker pipeline prepared to respond to technological changes as they

occur. A fund distribution program will be designed by Commonwealth Corporation in consultation with the Manufacturing Advisory Committee, which must include the primary industry associations that represent the industry in Massachusetts, or in their absence, a cohort of relevant industry employers, Massachusetts Manufacturing Extension Partnership, as well as representatives of the other mandatory state advisory committee constituencies. Funds will be offered competitively, for amounts up to \$500,000 and for no longer than 3 years in duration. Small planning and needs assessment grants of up to \$30,000 may be offered, which must be completed within 6 months. (g) A fund will be established by the State Advisory Committee within the Workforce Competitiveness Trust Fund to support workforce enhancement programs that create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth. Funds and/or technical assistance will be provided to clusters of firms characterized by technological or market focus, geographic proximity or other shared interests, in order to: (1) identify critical labor shortages and structural barriers to building a skilled workforce pipeline; (2) foster increased collaboration among cluster organizations and workforce development partners such as education and training providers, workforce boards, and other service organizations; (3) create programs and models that effectively respond to identified current and emerging workforce challenges within the cluster and that support career ladder pathways for entry-level workers; (4) leverage the resources of cluster firms to implement programs and to sustain new models beyond the life of grant-funded projects; and (5) encourage the creation of and access to new well-paying jobs in technology-intensive clusters through the availability of grants or loans to be used in coordination with local, regional or state business development proposals. The state advisory committee will use primary and secondary data sources to determine which emerging research-based industries are currently experiencing or are projecting significant job growth. Members of the Emerging Technologies Advisory Committee will be constituted from those industries selected for investment, the Massachusetts Technology Collaborative, the Massachusetts High Technology Council, the Massachusetts Computer Software Council, the Massachusetts Office of Business Development, as well as representatives of the other mandatory state advisory committee constituencies. A fund distribution program will be designed by Commonwealth Corporation in consultation with the advisory committee. Funds will be offered competitively, for amounts up to \$500,000 and for no longer than 3 years in duration. Small planning and needs assessment grants of up to \$30,000 may be offered, which must be completed within 6 months. (h) The CEO shall annually, by December 31, report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, the joint committee on economic development and emerging technologies, and the joint committee on labor and workforce development on the status of the Fund, including Fund priorities as established by the Advisory Committee; grant and

loan recipients, amounts, and intended purpose; the number of participants receiving services; the number of participants placed in employment; the salary and benefits that participants receive post placement; job retention or promotion rates one year after training ends; and employer or industry-specific outcomes that measure the return on investment to employer partners.(i) The establishment of the Workforce Competitiveness Trust Fund, or any other worker training fund, shall not be determined to replace, displace or serve as a substitute for the Workforce Training Fund as established by section 2RR.”.

The amendment was adopted.

Mr. Turkington of Falmouth then moved that the bill be amended in section 14 (as printed) in lines 27 and 28, by inserting after the word “aquariums” the words “, Nature/Science Centers”; and the amendment was adopted.

Mr. Honan of Boston then moved that the bill be amended in section 20 (as printed), in line 48, by inserting after the word “learning” the words “and e-learning”.

The amendment was adopted.

Messrs. Kulik of Worthington and Donelan of Orange then moved that the bill be amended by inserting after section 59 (as printed) the following section:

“SECTION 53A. Section 18 of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the last paragraph the following new paragraph:—

(A) (1) The commissioner may issue to any manufacturer of food products, including ice cream, licenses as importers only to import alcoholic beverages into the commonwealth for use only in connection with the manufacture of such products by the holder of the license issued under this paragraph.

(2) Nothing contained in this paragraph shall authorize the holder of an importer’s license to sell such alcoholic beverages as he is licensed to import hereunder, or to export such alcoholic beverages from this commonwealth into any state or into any foreign country.

(3) No vote in any city or town under section eleven shall prevent the granting or renewal of a license under this paragraph.

(4) All alcoholic beverages purchased by any licensee under this paragraph, and all alcoholic beverages, shipped into the commonwealth pursuant to any such purchase, shall be warehoused at the warehouse facilities of such licensee and held in his physical possession at such warehouse.

(5) Every importer under this section shall keep such records as the commission may prescribe, and shall file with the commission, whenever and as often as it may require, duplicates of copies of such records. The commission shall at all times, through its designated officers or agents, have access to all books, records or other documents of every licensed importer relating to the licensee’s importer business.

(6) The annual license fee for each importer shall be computed based on the barrelage imported by the importer as follows:

5,000 gallons or less per year \$22 per year

More than 5,000 gallons and less than 20,000 gallons per year \$44 per year

More than 20,000 gallons per year and less than 50,000 gallons per year \$82 per year

Any amount over 50,000 gallons shall be subject to current statute

For the above purposes, a barrel shall be thirty-one gallons.

(7) Every applicant for an importer license shall, at the time of filing an application, pay a license fee based on a reasonable estimate of the amount of alcoholic beverages to be imported during the year covered by the license. Persons holding importers licenses shall report annually at the end of the year covered by the license the amount of alcoholic beverages produced during such year. If the total amount of such alcoholic beverages exceeds the amount permitted by the fee already paid, the licensee shall pay whatever additional fee is owing under this section.”.

The amendment was adopted.

Mrs. Parente of Milford then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 92. Every party having entered into a tax increment financing or economic opportunity area agreement shall be responsible for notifying the Economic Assistance Coordinating Council and the municipality of any substantial change to the tax increment financing or economic opportunity area agreement. Said notice shall be provided to the Economic Assistance Coordinating Council and the municipality by writing within 90 days of occurrence and shall be provided annually to the Department of Revenue.

Substantial change as used herein shall mean the offshoring of production or outsourcing of functions or relocation of business functions; or any operational changes in the nature of products or services; or any cessation or pause in operations; or any net workforce reduction or change in hiring plans; or any sale or transfer or change in ownership or structure of the company.

Violation of any of the foregoing shall result in a revocation of the tax increment financing or the economic opportunity area agreement by the municipality or Economic Assistance Coordinating Council at its discretion.”.

The amendment was adopted.

Mr. Bosley of North Adams then moved that the bill be amended by striking out section 17 (as printed) and inserting in place thereof the following section:

“SECTION 17. Said section 11F of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 33, the words ‘clauses (vi) and (vii) herein.’ And inserting at the end thereof the following words:— clause (vi) herein; provided, however, that notwithstanding the provisions of subsection (a) the division shall on an annual basis determine the actual percentage of kilowatts generated in the commonwealth by naturally flowing water and run of the river hydroelectric facilities and adjust the minimum percentage of kilowatt hours sales to end use customers in the commonwealth from new renewable generating sources accordingly.”.

The amendment was adopted.

Economic
stability.

Messrs. Stanley of Waltham and Koutoujian of Waltham then moved that the bill be amended in section 14 (as printed) in line 168, by inserting after the word "grant" the following: "; provided that a grant in a one-to-one match of \$100,000 be awarded to The Friends of the Waltham Museum for the purpose of capital investment in the historic former Police Station that will create economic development in the Downtown Waltham business district".

The amendment was rejected.

Mr. Rush of Boston then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Bellevue Hill in West Roxbury for the purpose of repairs and improvements that will stimulate economic development through investment in heritage and tourism."

The amendment was rejected.

The same member then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded for the creation of Bicycle Trails in Southwest Boston for the purpose of increasing economic development through entertainment, entrepreneurial opportunities and tourism."

The amendment was rejected.

Mr. Rush then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded for the creation of a Brook Farm Museum on the grounds of the Brook Farm Historic Landmark in West Roxbury for the purpose of investing in an important part of our heritage and increasing economic development opportunities through employment and tourism."

The amendment was rejected.

Mr. Rush of Boston then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to The Reservoir Park in Brookline for the purpose of repairs and improvements that will stimulate economic development through investment in heritage and tourism."

The amendment was rejected.

The same member then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Havey Beach in West Roxbury for the purpose of repairs and improvements to the boathouse and trails that will create increased economic development and tourism opportunities."

The amendment was rejected.

Mr. Rush then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Larz Anderson Park in Brookline for the purpose of repairs and improvements that will create increased economic, cultural and tourism opportunities for the historic and environmental landmark."

The amendment was rejected.

Mr. Rush of Boston then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to The Old Burying Ground in Brookline for the purpose of repairs and improvements that will stimulate economic development through cultural investment."

The amendment was rejected.

The same member then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Putterham Meadows Golf Course in Brookline for the purpose of repairs and improvements that will create increased economic, cultural and tourism opportunities."

The amendment was rejected.

Mr. Rush then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Putterham Branch Library in Brookline for the purpose of repairs and improvements that will stimulate investment in the arts and humanities and education."

The amendment was rejected.

Mr. Rush of Boston then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Stony Brook Reservation in West Roxbury for the purpose of repairs and improvements that will stimulate economic development through investment in heritage and tourism."

The amendment was rejected.

The same member then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to West-erly Burying Ground in West Roxbury for the purpose of repairs and improvements that will stimulate economic development through cultural investment."

The amendment was rejected.

Mr. Rush then moved that the bill be amended in section 14 (as printed) by adding at the end thereof the following paragraph:

"(f) Provided that not less than \$1,000,000 be awarded to Boston Public Library branch in West Roxbury for the purpose of repairs and improvements that will stimulate investment in the arts and humanities and education."

The amendment was rejected.

Economic
stability.

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

“SECTION 93. Paragraph (6) of subsection (d) of section 29 of chapter 151A of the general laws, as appearing in the 2004 Official Edition, is hereby amended, in line 125, by striking out the words ‘the Social Security Act or’.

SECTION 94. Said paragraph (6) of subsection (d) of said section 29 of said chapter 151A, as so appearing, is hereby amended by adding the following sentence:— Payments received under the Social Security Act shall not be subject to the provisions of this paragraph.”.

Amendment
adopted,
yea and nay
No. 222.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 222 in Supplement.]

Therefore the amendment was adopted.

Mr. Nangle of Lowell and other members of the House then moved that the bill be amended in section 14 (as printed), in line 34, by inserting after the word “need” the words “; provided, further that any municipally owned building, structure or site which is a minimum of fifty thousand square feet in size and fifty percent or more of which is used as a cultural facility” and, in line 72, by striking out the words “private monies donated” and inserting in place thereof the words “private or public monies donated or appropriated”.

The amendments were adopted.

Mr. Walsh of Boston then moved that the bill be amended in section 6 (as printed), in lines 13 and 14, by inserting after the word “corporation” the words “; a chief executive officer of a consulting engineering firm”.

The amendment was adopted.

Mr. Cabral of New Bedford then moved that the bill be amended in section 77 (as printed), in line 32, by striking out the words “and citizenship preparation” and inserting in place thereof the following: “; provided further that \$2,000,000 shall be expended for a new americans initiative to assist legal permanent residents in becoming citizens of the United States by preparing residents to successfully complete the citizenship application process, which assistance shall include adult basic education grants to community based organizations serving recent arrivals; provided, that the executive office of health and human services is authorized and directed to enter into an interagency service agreement with the department of education and office of refugees and immigrants for the administration of said program; provided further that said program should be provided through community based organizations to the maximum extent possible and that the program may accept funding from private organizations or local government agencies; provided further, that the said program shall not be an entitlement and shall be subject of state appropriation; provided further that the office for immigrants and refugees shall issue quarterly reports to the house and senate committees on ways and means and to the executive office of adminis-

tration and finance on the number of persons participating in said program and the number of participants attaining citizenship in each quarter; provided further that the office for immigrants and refugees shall issue quarterly reports to the house and senate committees on ways and means and to the executive office of administration and finance on the amounts of matching or in-kind contributions by private organizations or local government agencies; provided further, that no funds shall be expended from this item to replace expiring federal funds” and at the end of said section, by striking out the figures “\$32,322,628” and inserting in place thereof the figures “\$35,322,628”.

Pending the question on adoption of the amendments, the same member moved that the amendments offered by him be amended by striking out the figures “2,000,000” and inserting in place thereof the figures “500,000”.

After remarks the further amendment was rejected.

The amendments then also were rejected.

Mr. Patrick of Falmouth then moved that the bill be amended in section 6, in line 11, by striking out the words “a labor economist” and inserting in place thereof the words “the President of the Massachusetts Teachers Association or his designee”; and the amendment was adopted.

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

“SECTION 95. The Joint Committee on Economic Development and Emerging Technologies shall develop a statewide plan to encourage the adoption and formulation of research programs to ensure the Commonwealth retains its current status as the premier location for the creation, development and commercialization of biomedical research. The Committee shall file a report with the Clerk of the House and Senate together with draft legislation necessary to implement said plan by December 31, 2005.”.

The amendment was adopted.

Ms. Grant of Beverly and other members of the House then moved that the bill be amended in section 14 (as printed), in line 168, by inserting after the word “grant” the following: “; provided that a grant of \$500,000, subject to a one-to-one match, be awarded to the North Shore Music Theatre, the largest full-time professional non-profit theatre company in New England, who recently has sustained a devastating fire just as they were unveiling a long term development plan and capital campaign”.

The amendment was rejected.

Ms. L’Italien of Andover then moved that the bill be amended in section 76 (as printed), in line 24, by inserting after the word “job” the following: “; provided further, The Department of Education shall establish a formula regarding how funding for this program shall be apportioned. The Department must develop a funding formula for legislative approval by June 1, 2006”; and the amendment was adopted.

At eight o’clock P.M., on motion of Mr. Jones of North Reading (Mr. Petrolati of Ludlow being in the Chair), the House recessed

Recess.

Economic
stability.

before nine o'clock the House was called to Mrs. Harkins of Needham in the Chair.

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

“SECTION 96. There is hereby established a special commission to consist of two members of the senate appointed by the Senate President; two members of the house of representatives appointed by the Speaker of the House; the treasurer and receiver general; the secretary of the executive office of administration and finance or his designee; the director of the department of housing and community development or his designee; the secretary of the executive office of health and human services or his designee; the director of the department of economic development or his designee; the chairman of the board of higher education or his designee; one of whom shall be a representative of the Massachusetts Community Action Program Directors' Association; one of whom shall be a representative of the Massachusetts Association of Community Development Corporations; one of whom shall be a representative of the Massachusetts Individual Development Account Solutions; and, thirteen persons appointed by the Governor, one of whom shall be a representative of the general public who has participated or is participating in an individual development account administered by a community based organization based in Massachusetts; one of whom shall be a representative from the general public who manages an existing Individual Development Account program in Massachusetts; two of whom shall be representatives of the Massachusetts Bankers Association; one of whom shall be a representative of the United Way of Massachusetts Bay; one of whom shall be a representative of a private philanthropy or private foundation; one of whom shall be a representative of the Women's Educational and Industrial Union; one of whom shall be a representative of an Earned Income Tax Credit counseling organization; one of whom shall be a representative of the Institute on Assets and Social Policy at the Heller School, Brandeis University; one of whom shall be a representative of a public or private institution of higher education; one of whom shall be a representative of a private, non-profit, non-partisan research and policy organization; one of whom shall be a representative of the Massachusetts AFL-CIO; and, one of whom shall be a representative of the Federal Reserve Bank of Boston.

The commission is created for the purpose of studying and making recommendations concerning the development of financial assets as a way to ensure that all people in the state of Massachusetts achieve long-term and sustainable economic security and self-sufficiency and enjoy economic opportunity.

Said commission shall examine the success of low-income workers of the Commonwealth in saving money and building assets, and the reasons why some people have had less success than others; assess the impact of current state policies and private sector practices on saving and asset-building; identify strategies that offer a real promise of significantly increasing the numbers of those who save and build assets and the amounts they accumulate; and make

recommendations — consistent with the state's short- and long-term fiscal condition — for state policies and practices, including action in coordination and collaboration with businesses and financial institutions, labor organizations, community- and faith-based organizations, and philanthropic organizations to implement those strategies.

The commission, in formulating its recommendations, shall take account of the best policies and practices in other states and jurisdictions, particularly, but not limited to those relating to Individual Development Accounts for low-income and low-asset households.

The focus of the commission shall include but not be limited to asset development strategies for low-income and low-asset individuals and families living in Massachusetts.

Where relevant, the commission shall consider the impact of labor market, education and training, and family-support policies and practices on opportunities for financial asset-building.

The commission shall be empowered to hold regular, public meetings and fact-finding hearings and other public forums, as it deems necessary.

Said commission shall report to the house of representatives the results of its investigation and study, and its recommendations if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives no later than two years after the passage of this act.”

The amendment was adopted.

Mr. Peterson of Grafton then asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), 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 146 members were recorded as being in attendance.

[See Ye and Nay No. 223 in Supplement.]

Therefore a quorum was present.

Messrs. Murphy of Lowell and Kocot of Northampton then moved that the bill be amended in section 90 (as printed), in line 2, by striking out the figures “\$148,920,000” and inserting in place thereof the figures “\$158,920,000”; and by adding at the end thereof the following section:

“SECTION 97. Notwithstanding any other general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller is hereby authorized and directed to transfer \$10,000,000 from the General Fund to the Massachusetts Research Center Matching Fund established pursuant to section 4F of chapter 40J of the General Laws.”

The amendments were adopted.

Ms. Khan of Newton then moved that the bill be amended by inserting after section 21 (as printed) the following four sections:

“SECTION 21A. Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by inserting after line 31, the following:—

The Commissioner of Education, in consultation with the Chairman of the Board of Higher Education, shall direct the global education

Quorum.

Quorum,
yea and nay
No. 223.

Economic
stability.

advisory council to explore international opportunities for learning, exchange programs and the availability of curriculum materials for students, teachers, administrators and educational policy makers.

Said global education advisory council shall:

(a) Investigate and compile information concerning international education programs and opportunities. The committee shall make recommendations to the commissioner on the expansion of international education programs and opportunities and shall consider ways to encourage participation in such programs. The council shall advise the Department of Education and the joint committee on education, arts and humanities on international program opportunities and the availability of federal or nonprofit agency grants or other funding sources for such programs. The department shall provide information on international education opportunities to local and regional boards of education and to institutions of higher education;

(b) Develop guidelines and standards to aid local and regional school districts in the establishment of programs of international studies. Such guidelines and standards shall describe the essential components of a quality educational program incorporating international education concepts. The council shall submit such guidelines and standards to the Department of Education for review and approval;

(c) Develop criteria for what constitutes a sister school partnership program between a public school of this state and a foreign school. Such criteria shall provide a process for recognition of such partnership. The council shall submit such criteria to the Department of Education for review and approval; (d) Advise the Department of Education on possible incentives to encourage the formation of partnerships that meet criteria established in accordance with the provisions of subsection (c) of this subsection. Such incentives may include, but need not be limited to, cooperation between sister partnership schools in teacher certification, student assessment programs and recognition of student course credit, participation in summer programs and in other areas where the state could recognize the value of the sister school partnership relationships with minimal cost. (e) Conduct an assessment of current practices regarding international education in elementary and secondary public schools in the Commonwealth. The global education advisory council's assessment of current practices shall include, but not be limited to, information gathering through public hearings.

SECTION 21B. Chapter 15 of the General Laws, as so appearing, is hereby amended at the end thereof by adding the following new section:—

Section 66. The Department of Education may recognize a school that meets the standards for international education programs developed by the international education advisory council.

The Commissioner of Education shall, annually, within available appropriations, award a grant in the amount of ten thousand dollars to a local or regional school district that operates a school recognized pursuant to subsection (a) of this section. Such board shall use the funds to support the international education programs at such schools.

The Department of Education may recognize sister school partnership programs between public schools of the Commonwealth and foreign. Within available appropriations, participation in such partnership shall allow the foreign school access to state programs of professional development and technical assistance programs under the same terms and conditions as for public schools of this state with reciprocity for participation in such programs.

It shall be the policy of the Commonwealth to encourage students, teachers, administrators and educational policy makers to participate in international studies, international exchange programs and other activities that advance cultural awareness and promote mutual understanding and respect for the citizens of other countries.

State agencies, including the educational institutions, may exchange a limited number of professional personnel and students with institutions of other states and other countries and may pay the salaries of such personnel and may assign scholarships and grants-in-aid to the exchanges. The authorized exchange of personnel and students need not be parallel and simultaneous nor specific with regard to the assignment of persons between institutions. If a vacancy exists on the staff of any state agency, including the educational institutions, because a leave of absence without pay has been granted, such agency may engage the services of professional personnel of other countries, and may pay such personnel so engaged from the funds which otherwise would have been paid to such staff members on leave of absence without pay.

SECTION 21C. Chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after Section 12XX, the following new section:—

Section 12YY. The Governor shall proclaim the third week of November of each year, or such other week if in conjunction with a federally recognized international education week, to be 'International Education Week' for the purpose of encouraging schools to participate in programs of international education.

SECTION 21D. There is here in established an international education and foreign language grant program fund. Here in after referred to as the international education fund. The international education fund shall be administered by the commissioner of education, the chairman of the board of higher education and the global education advisory council, provided that said funding be spent in elementary and secondary schools to establish foreign language and two-way bi-lingual classes, teacher training, and curriculum development to encourage students, teachers, administrators and educational policy makers to participate in international studies, international exchange programs and other activities that advance cultural awareness and including the awarding of grants to local or regional school districts that use the funds to support international education programs and promote the study of foreign languages.”

The amendment was adopted.

Messrs. deMacedo of Plymouth and O'Brien of Kingston then moved that the bill be amended by striking out section 55 (as printed) and inserting in place thereof the following three sections:

Economic
stability.

“SECTION 49. Subsection (a) of section 38N of said chapter 63, as so appearing, is hereby amended by striking the last 3 paragraphs and inserting in place thereof the following paragraphs:—

A credit allowed under this section may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation, and files the report with the EACC within two years of the initial project certification by the economic assistance coordinating council and annually thereafter. The economic assistance coordinating council shall certify that property eligible for the credit is a certified project within the economic opportunity area as defined in said section 3E of said chapter 23A and wholly within an area designated as an economic target area pursuant to section 3D of said chapter 23A, and that the certified project reasonably satisfies the employment projections specified in the original project proposal. Based upon the information provided in the report and its own independent investigation, the EACC shall determine whether the certified project is in compliance with the definition of certified project set forth in this section and whether the project has a reasonable chance of increasing employment opportunities as advanced in the initial proposal as certified by the EACC. If the EACC determines that the certified project is no longer in compliance, then certification of the project shall be revoked by said EACC as provided in section 3F of chapter 23A and notification of decertification shall be given to the commissioner of the department of revenue who shall disallow any future credits under this section. If the project is considered decertified for reasons of fraud or material misrepresentation, as determined by the EACC and the commissioner of revenue, the commissioner shall have a cause of action against the controlling business of the project for the value of any economic benefits received, including, but not limited to, the amount of the tax credit allowed under this section. Nothing in this section shall be deemed to limit the authority of the commissioner to make adjustments to a corporation’s liability upon audit.

SECTION 49A. Section 3F of chapter 23A of the General Laws is hereby amended by striking the following words inserted by section 2 of chapter 262 of the acts of 2004:— or by the commissioner of revenue upon denial of the application of the tax credit provided in section 38N of chapter 63, and — and inserting in place thereof the following words:— and only.

SECTION 49B. Said section 3F of said chapter 23A of the General Laws, as so appearing, is hereby further amended by striking out the word ‘or’ inserted by section 3 of chapter 262 of the acts of 2004 and inserting in place thereof the following word:— and.”

The amendment was adopted.

The Chair (Mrs. Harkins of Needham) then interrupted the pending business and placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o’clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said

Suspension
of Rule 1A.

Rule 1A
suspended.

rule; and on the roll call 121 members voted in the affirmative and 28 in the negative.

[See Ye and Nay No. 224 in Supplement.]

Therefore Rule 1A was suspended.

Mrs. Paulsen of Belmont then moved that the bill be amended in section 87 (as printed), in line 9, by inserting after the word “plan” the following: “; and provided further, that the equivalent of at least the first \$3,000,000 of such match funds shall be expended by said department in accordance with item 4401-1100 of the general appropriation act”; and the amendment was adopted.

The same member then moved that the bill be amended by striking out section 61 (as printed) and inserting in place thereof the following section:

“SECTION 55. Section 25 of said chapter 151A, as so appearing, is hereby amended by striking out subsection (j) and inserting in place thereof the following:—

(j) Any week in which the individual fraudulently collects benefits. Whoever fraudulently collects benefits may be disqualified for each otherwise compensable week for each such total or partial week of erroneous payment; provided however; the amount in question shall be reduced by any earnings disregard in subsection (d) of section 29; provided further, that at the discretion of the commissioner, the amount erroneously paid may be deducted first from any future payments of benefits accruing to the individual under this chapter provided further, the total benefits to which the individual may be entitled under this chapter shall be reduced by the weekly benefit amount which, but for the operation of this subsection, would be payable under this chapter; provided further that the amount deducted each week shall not exceed 25 per cent of the individual’s weekly unemployment benefit rate; and provided further, that the individual shall have the actual notice of the requirement to report his earnings and the notice shall have met the requirements of clause iii of subsection (d) of section 62A. Any individual subjected to a deduction under this section may file an appeal and obtain review in accordance with sections 39 to 42, inclusive, and section 71.”; in section 62 (as printed), in line 14, by striking out the word “The” and inserting in place thereof the following: “After 30 days notice that complies with the requirements of clause iii of paragraph (d) of section 62A to obligor of the intent to file a certificate of attachment, the”; and by inserting after section 62 (as printed) the following section:

“SECTION 56A. Section 24(c) of said chapter 151A, as so appearing, is hereby amended by inserting after the word ‘commissioner’ in line 36 the following:— provided that the commissioner shall permit individuals to furnish information concerning continuing eligibility for benefits including any remuneration received by them during the period for which they claim benefits by mail or in person at a public employment office, and provided further that the income and eligibility certification procedures utilized by the commissioner shall meet the requirements of clause iii of subsection (d) of section 62A.”

The amendments were adopted.

yea and nay
No. 224.

Economic
stability.

Mr. DeLeo of Winthrop and other members of the House then moved that the bill be amended by striking out section 91 (as printed) and inserting in place thereof the following section:

“SECTION 85. Notwithstanding any other general or special law to the contrary, the commissioner of the department of revenue is hereby authorized and directed to promulgate rules or regulations for the administration and enforcement of sections 39 and 40 of this act, which become effective on July 1, 2006.”; and by adding at the end thereof the following two sections:

“SECTION 98. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, not less than 10 days after the effective date of this act, the amount of \$10,000,000 from the Commonwealth Stabilization Fund, to the Emerging Technology Fund for the recapitalization of such fund, established pursuant to section 27 of chapter 23G of the general laws.

SECTION 99. Notwithstanding any general or special law to the contrary, there shall be continuing funding of \$3 million for the Massachusetts Technology Transfer Center, hereinafter referred to as the Center, at the University of Massachusetts, that shall facilitate the transfer of technology from the commonwealth’s research institutions to the commonwealth’s industries, for productive use by such industries.

The Center shall continue to provide advice and assistance to public and private research institutions on strategies for technology transfer including, but not limited to, advice and assistance in the following areas:

1. assessing the viability and value of developing technologies;
2. defining and exploiting potential markets for such technologies;
3. commercialization strategies;
4. intellectual property issues, including licensing strategies; and
5. business development.

The Center shall provide to public and private research institutions gap funds to support commercialization research and development technologies that have been developed at institutions within the state. These funds would be awarded competitively and could be used for such purposes as, but not limited to,

1. Developing prototypes
2. Undertaking initial feasibility testing or industrial testing
3. Obtaining data on performance of new technologies
4. Developing user friendly interfaces for the new technology

The board of trustees of the University of Massachusetts, in consultations with the director of the center. The executive director shall devote his full time to the operations of the center and may be removed at the pleasure of the board of trustees. The executive director shall report annually to the department of business and technology on the number of technology transfer transactions or projects that have been consummated with the assistance of the center, the names and geographic locations of the recipient industries and the estimated number of new jobs created as a result of such transactions or projects.

There shall continue to be an advisory committee relative to the center consisting of the director of business and technology, or his

designee, the director of science and technology within the department of business and technology and 7 members selected by the executive director of the center, with the approval of the board of trustees, 1 of whom shall be a representative from academia, at least 1 such member shall have experience in venture financing and at least 1 such member shall have experience in public administration. The appointed members of the committee may be removed by the executive director with or without cause, subject to the approval of the board of trustees, and shall serve without compensation, except that each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee shall meet at least twice annually.”.

The amendments were adopted.

Mr. Rodrigues of Westport then moved that the bill be amended in section 2, in item 1100-8000, by striking out the figures “\$100,000,000” and inserting in place thereof the figures “\$200,000,000”; and in section 3, in line 6, by striking out the figures “\$100,000,000” and inserting in place thereof the figures “\$200,000,000”; and the amendments were adopted.

Messrs. Smizik of Brookline and Kaufman of Lexington then moved that the bill be amended by striking out sections 22 to 26, inclusive (as printed), and inserting in place thereof the following five sections:

“SECTION 22. Section 1 of chapter 30A of the General Laws, as so appearing, is hereby amended by striking out paragraph (6) and inserting in place thereof the following paragraphs:—

(6) ‘Regulatory impact statement’ means a statement by the promulgating authority which shall, to a reasonable degree of completeness: (i) identify the statutory change, problem, issue or deficiency addressed by the proposed regulation; (ii) identify specifically who is affected and to what extent by the proposed regulation; (iii) identify when such regulation becomes effective, when such regulation will be changed, if known, and how and when the regulation will be reviewed in the future, if at all; (iv) identify costs and/or benefits, including, without limitation, impacts on businesses and jobs in the commonwealth and the impact to the protection of natural resources and public health, if any. Any data, including written information or material, statistics, measurements, calculations or other information used as the basis for the regulation, including any such information provided to the agency by a consultant, vendor or other third party, shall be part of the record and available to the public upon request.

SECTION 23. Section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:—

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups who are interested in the agency’s rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons or groups. Not later than 30 days prior to the notice of a hearing described above, the agency conducting the hearing shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of rulemaking

Economic
stability.

and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification of rulemaking shall: (a) identify the rule to be noticed for hearing and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for more information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 24. Said section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the fifth paragraph the following paragraph:—

Agencies may initiate emergency regulatory actions under relevant sections of this chapter without prior compliance with sections 1, 2, 3, and 5; provided, however that compliance shall be initiated as soon as practicable following the emergency action and, in any event, prior to making any emergency action permanent.

SECTION 25. Section 3 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:—

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons and groups. Not later than 30 days prior to the notice described above the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of agency rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification shall: (a) identify the rule to be noticed and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for further information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 26. Section 5 of said chapter 30A, as so appearing, is hereby amended by striking the first sentence of the second paragraph and inserting in place thereof the following:—

No rule or regulation so filed with the state secretary, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described above and is filed with the state secretary. The secretary of the enforcing agency shall review all regulatory impact statements prior to their filing with the state secretary to ensure and certify that a proper methodology and approach was used by the agency submitting said impact statement

and to certify that the impact statement as submitted complies with the definition of 'regulatory impact statement' as set forth in section 1 of chapter 30A within 90 days of receipt. In addition, no rule or regulation so filed, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until the promulgating agency has filed with the state secretary a statement verifying that said rule or regulation does not conflict with, overlap or duplicate other agencies' rules or regulations.”.

The amendment was adopted.

Mr. Dempsey of Haverhill then moved that the bill be amended in section 63 (as printed), in lines 25, 26 and 27, by striking out the words “is a telecommunications service provider with one or more tariffs on file with the department of telecommunications and energy” and inserting in place thereof the words “provides telecommunication service”, in line 33, by striking out the word “licensee” and inserting in place thereof the words “wireless provider”, in lines 33, 34 and 35, by striking out the words “for valid reasons of capacity, safety, reliability, generally applicable engineering standards, or for good cause shown. No” and inserting in place thereof the words “only if the utility can substantiate that the wireless provider refuses to incorporate into the terms and conditions of an agreement for access to such poles, conduits, or right-of-ways reasonable terms concerning, safety, reliability and generally applicable engineering standards, but shall otherwise execute an agreement with the wireless provider in consideration at or below the maximum rate set by the department. Subject to the requirement of the section, no”, and in lines 40 to 48, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“The department shall have authority to regulate the maximum rates applicable to wireless attachments placed on poles, and in so doing shall be authorized to consider, and shall consider, the interest of subscribers of wireless communications services as well as the interest of consumers of utility services. In any case in which the utility and wireless provider fail to agree upon rates of placing wireless attachments on the utility's poles, upon petition of any wireless provider said department shall determine and enforce reasonable rates, for the use of the poles addressed by said petition by the petitioning wireless provider.”, in lines 50, by inserting after the word “reasonable” the word “maximum”, and, in said line 50, by inserting after the word “of” (the third time it appears) the words “poles by”.

Pending the question on adoption of the amendments, Ms. Polito of Shrewsbury and other members of the House moved that the amendments be amended in the first line, by inserting after the following: “in section 63 (as printed)” the following: “; in line 12, by inserting after the word “power” the words “; provided, however, that municipal lighting plants shall be exempted from all the provisions of this section for a one year period.”.

The further amendment was adopted.

The amendments, as amended, then also were adopted.

Economic
stability.

Mr. Dempsey of Haverhill then moved that the bill be amended by striking out section 16 (as printed) and inserting in place thereof the following section:

“SECTION 16. Section 11F of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in lines 26 to 27, inclusive, the words ‘naturally flowing water and hydroelectric’ and inserting in place thereof the following words:— naturally flowing water and run-of-the-river hydroelectric units located in the commonwealth and operating under the jurisdiction of the Federal Energy Regulatory Commission, provided that such facility is a vintage generation unit as that term is defined by the division, has a generating capacity of not more than five megawatts and does not utilize a dam constructed subsequent to December 31, 1997.”

The amendment was adopted.

Mr. Cabral of New Bedford then moved that the bill be amended in section 4 (as printed), in line 12, and also in section 28 (as printed), in line 10, by inserting after the word “commonwealth”, in each instance, the words “as well as fish, seafood, and other aquatic products”; in section 29 (as printed), in line 11, by inserting after the word “operation” the the words “as well as fish, seafood, and other aquatic products”; and in section 51 (as printed), in line 16, by inserting after the word “wool” the words “as well as fish, seafood, and other aquatic products”.

The amendments were adopted.

Representatives Paulsen of Belmont and Jehlen of Somerville then moved that the bill be amended by striking out section 89 (as printed) and inserting in place thereof the following section:

“SECTION 83. the Department of Environmental Protection shall by December 31, 2005, submit to the committee on ways and means in the house and senate a report that addresses the ways in which the Department of Environmental Protection considers and responds to concerns of business during the process of adopting any new regulations.”

After remarks the amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended in section 14, in line 28, by inserting after the word “classrooms” the word “, libraries”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 14 members voted in the affirmative and 134 in the negative.

[See Ye and Nay No. 225 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out sections 30 and 88 (as printed); and the amendments were rejected.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Bosley of North Adams; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 226 in Supplement.]

Therefore the bill (House, No. 4429, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Amendment
rejected,
yea and nay
No. 225.

Bill passed
to be
engrossed,
yea and nay
No. 226.

Order.

On motion of Mr. DiMasi of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet on Tuesday next at eleven o’clock A.M.

Next
sitting.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at five minutes before ten o’clock P.M., on motion of Mr. Petrolati of Ludlow (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet on Tuesday next at eleven o’clock A.M.