

JOURNAL OF THE HOUSE.

Monday, April 25, 2011.

Met according to adjournment at twelve o'clock P.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

Pledge of
allegiance.

Statement of Representative Canessa of New Bedford.

A statement of Mr. Canessa of New Bedford 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 must briefly leave today's formal session this afternoon due to a family medical issue. My missing of roll calls today will be due entirely to the reason stated.

Statement of
Mr. Canessa of
New Bedford.

Statement of Representative Golden of Lowell.

A statement of Mr. Golden of Lowell 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 not be present in the House Chamber for the remainder of today's formal session due to the recent passing of my mother-in-law, Josephine T. Sheehan. I will also not be present in the House Chamber for tomorrow's session due to attending her funeral. My missing of roll calls will be due entirely to the reason stated.

Statement of
Mr. Golden of
Lowell.

Resolutions.

Resolutions (filed with the Clerk by Mr. Dempsey of Haverhill) forecasting the amount of tax revenue for fiscal year 2012 (House, No. 3396), were referred, under Rule 85, to the committee on Rules.

Tax
revenue
forecast.

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

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

Resolutions (filed by Mr. Brodeur of Melrose) congratulating Dennis J. Kelley on the occasion of his retirement;

Dennis J.
Kelley.

Resolutions (filed by Mr. Keenan of Salem) congratulating the Salem Little League on the occasion of its twenty-fifth anniversary;

Salem Little
League.

Resolutions (filed by Messrs. Kuros of Uxbridge and Fattman of Sutton) congratulating the Uxbridge High School boys varsity basketball team on their victory in the 2011 Clark University Tournament Small School Championship; and

Uxbridge,—
basketball
team.

Polish Constitution Day.

Resolutions (filed by Mr. Scibak of South Hadley and other members of the House) honoring the historic aspirations of the people of Poland for freedom and democracy in commemoration of Polish Constitution Day;

Mr. Binienda of Worcester, 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. Mariano of Quincy, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communication.

Broadband Institute.

A communication from the Executive Office of Housing and Economic Development (pursuant to Section 6B(f) of Chapter 40J of the General Laws) relative to a long-term plan for the Massachusetts Broadband Institute (copies forwarded to the House committee on Ways and Means and the committees on Telecommunications, Utilities and Energy and Economic Development and Emerging Technologies, as required), was placed on file.

Petition.

Probation,—reform.

Mr. DeLeo of Winthrop presented a petition (subject to Joint Rule 12) of Robert A. DeLeo relative to the reorganization of the judicial system; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. O’Flaherty of Chelsea, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Papers from the Senate.

Everett,—sewer interceptor.

A Bill authorizing an alternative mode of design and construction for the rehabilitation of a sewer interceptor in the city of Everett (Senate, No. 1571) (on a petition) [Local Approval Received] [Representative Lyons of Andover dissenting], passed to be engrossed by the Senate, was read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Kingston,—wind energy.

Petition (accompanied by bill, Senate, No. 1915) of Therese Murray (by vote of the town) for legislation to authorize the town of Kingston to install, finance and operate wind energy facilities. To the committee on Municipalities and Regional Government; and

Kingston,—renewable energy facilities.

Petition (accompanied by bill, Senate, No. 1916) of Therese Murray (by vote of the town) relative to the town of Kingston. To the committee on Telecommunication, Utilities and Energy.

Reports of Committee.

By Mr. Binienda of Worcester, 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 John J. Rogers and Michael F. Rush for legislation to establish a sick leave bank for Robert P. Henifer, an employee of the Trial Court. Under suspension of the rules, on motion of Rogers of Norwood, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Robert P. Henifer,—sick leave.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill increasing the retirement allowance to former police officer Michael Marchese of the city of Everett (House, No. 3342) [Local Approval Received].

Everett,—Michael Marchese.

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for Mark E. Lopes, an employee of the Bristol County Sheriff’s Office (House, No. 3388).

Mark E. Lopes,—sick leave.

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

Mr. Kafka of Stoughton, for said committee, reported that the matters be scheduled for consideration by the House. Under suspension of the rules, in each instance, on motion of the same member, the bills were read a second time forthwith; and they were ordered to a third reading.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the following bills be scheduled for consideration by the House:

Senate bills

Establishing a sick leave for Peggy Machado, an employee of the department of corrections (Senate, No. 1336); and

Peggy Machado.

Establishing a sick leave bank for Hartmut R. Andrade, an employee of the Bristol County Sheriff’s office (Senate, No. 1881);

Hartmut R. Andrade,—sick leave.

Under suspension of Rule 7A, in each instance, on motion of Mr. Kafka, the bills severally were read a second time forthwith; and they were ordered to a third reading.

Engrossed Bills.

The engrossed Bill validating the actions taken at the annual town election held in the town of North Brookfield (see House bill printed in House, No. 1831) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

Bill enacted.

Engrossed bills

Relative to the filling of vacancies in the office of mayor of the city of Revere (see Senate, No. 1877) (which originated in the Senate); and

Bills enacted.

Bills enacted.

Amending the charter of the town of Eastham (see House, No. 3256); and
 Establishing an appointed treasure-collector position in the town of Eastham (see House, No. 3257, amended);
 (Which severally originated in the House);
 Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Third reading bills.

House bills
 Authorizing the town of Shrewsbury to establish a special fund (House, No. 556, changed);
 Authorizing the town of Saugus to place a certain question relative to a real estate tax assessment for snow and ice removal costs on the town's election ballot (House, No. 3334) (its title having been changed by the committee on Bills in the Third Reading); and
 Establishing a sick leave bank for Linda Kelley, an employee of the Department of Transportation (House, No. 3387);
 Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

General Appropriation Bill.

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400), was read a second time.

Quorum.

Pending the question on ordering the bill to a third reading, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—yea and nay No. 36.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 36 in Supplement.]

Therefore a quorum was present.

After remarks on the question on ordering the bill to a third reading, Mr. Jones of North Reading and other members of the House moved to amend it by inserting after section 47 the following ten sections:

"SECTION 47A. Section 2 of chapter 64H of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words '6.25 per cent' and inserting in place thereof the following words:— 5.625 per cent.

SECTION 47B. Section 2 of said chapter 64H of the General Laws, as so appearing, is hereby amended by striking out the words '5.625 per cent' and inserting in place thereof the following words:— 5 per cent.

SECTION 47C. Section 30A of chapter 64H, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby

amended by striking out, in each instance in which it appears, the figure '6.25' and inserting in place thereof, in each instance, the following figure:— 5.625.

SECTION 47D. Section 30A of said chapter 64H, as so appearing, is hereby amended by striking out, in each instance in which it appears, the figure '5.625' and inserting in place thereof, in each instance, the following figure:— 5.

SECTION 47E. Section 2 of chapter 64I of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words '6.25 per cent' and inserting in place thereof the following words:— 5.625 per cent.

SECTION 47F. Section 2 of said chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the words '5.625 per cent' and inserting in place thereof the following words:— 5 per cent.

SECTION 47G. Section 31A of chapter 64I, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out, in each instance in which it appears, the figure '6.25' and inserting in place thereof, in each instance, the following figure:— 5.625.

SECTION 47H. Section 31A of said chapter 64I, as so appearing, is hereby amended by striking out, in each instance in which it appears, the figure '5.625' and inserting in place thereof, in each instance, the following figure:— 5.

SECTION 47I. Sections 47A, 47C, 47E, and 47G, inclusive, of this act shall be effective on July 1, 2012.

SECTION 47J. Sections 47B, 47D, 47F, and 47H, inclusive, of this act shall be effective on July 1, 2013."

The amendment was rejected.

Mr. Winslow of Norfolk then moved to amend the bill by inserting after section 46 the following four sections:

"SECTION 46A. Section 6 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following subsection:—

(r) A taxpayer may take a credit against the taxes imposed by this chapter in an amount equal to the sales tax paid by the taxpayer under chapter 64H up to \$300 per tax year, except such credit shall not exceed \$150 for the tax year beginning on January 1, 2011.

SECTION 46B. The commissioner of revenue shall promulgate regulations necessary to implement the provisions of section 46A on or before November 1, 2011.

SECTION 46C. The provisions of section 46A shall be effective for any tax year beginning on or after January 1, 2011.

SECTION 46D. Section 46A of this act shall take effect on December 2, 2011."

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 of North Reading; and on the roll call 31 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 37 in Supplement.]

Therefore the amendment was rejected.

Amendment rejected,—yea and nay No. 37.

General
Appropriation
Bill.

Ms. Peake of Provincetown then moved to amend the bill by inserting after section 47 the following five sections:

“SECTION 47A. Section 1 of chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word ‘motel’ in line 29, the following words:— or other transient accommodations.”

SECTION 47B. Said section 1 of said chapter 64G, as so appearing, is further amended by inserting after the word ‘rooms’ in line 33, the following words:— or other transient accommodations.

SECTION 47C. Said section 1 of said chapter 64G, as so appearing, is further amended by adding the following subsections:—

(k) ‘Transient accommodations’ any vacation or leisure accommodation, including but not limited to apartment, single or multiple family housing, cottage, condominium and time-share unit which, is rented to occupants for a period of 90 consecutive days or less regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

(l) ‘Vacation or leisure accommodation’, occupancy for a price to be paid and intended at the time of contract or agreement to be for a period of 90 consecutive days or less regardless of whether such use and possession is as lessee, tenant, guest or licensee.

SECTION 47D. Said chapter 64G is further amended by adding the following section:—

Section 13. (i) Any city or town which accepts or has accepted the provisions of section 3A may, by a separate vote, accept the provisions of this section and expand the imposition of room occupancy excise to include transient accommodations.

(ii) For transient accommodations subject to this section, the owner of the apartment, single or multiple family housing, cottage, condominium or time-share unit shall be responsible for assessing, collecting, reporting, and paying over the tax as described for operators in sections 3, 4, 5, 6 and 7A, and shall be liable in the same manner as operators in section 7B. If a property owner has a manager or management company collecting the rent such manager or management company shall collect the room occupancy excise and forward it to the owner along with the accommodation fee.

SECTION 47E. Said provisions shall not apply to accommodations provided to seasonal employees by employers.”

The amendment was rejected.

Messrs. Webster of Pembroke and Diehl of Whitman then moved to amend the bill by inserting after section 47 the following section:

“SECTION 47A. Chapter 64A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city, town or regional school system which having consumed the same for the purpose of transporting children to and from school shall be exempt from the excise established by this chapter.”

The amendment was rejected.

Mr. Webster and other members of the House then moved to amend the bill by inserting after section 47 the following section:

“SECTION 47A. Section 6 of chapter 64H of the General Laws is hereby amended by inserting the following new section:—

(x) Allowances afforded to a purchaser in a bundled cellular telephone transaction, so-called. For the purposes of this subsection, allowances exempt from taxation shall be the difference between the amount the dealer charges for a particular telephone in a bundled transaction and the price the dealer would charge for that same telephone in an unbundled transaction.”

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. Frost of Auburn; and on the roll call (Mrs. Haddad of Somerset being in the Chair) 31 members voted in the affirmative and 125 in the negative.

Amendment
rejected,—
yea and nay
No. 38.

[See Yea and Nay No. 38 in Supplement.]

Therefore the amendment was rejected.

Mr. Mariano of Quincy then moved to amend the bill by adding at the end thereof the following two sections:

“SECTION 112. Section 37 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 4-6, inclusive, the words ‘three years from the last day for filing the return for such tax, determined without regard to any extension of time’ and inserting in place thereof the following words:— 3 years after the date the return was filed or the date it was required to be filed, whichever occurs later.

SECTION 113. Section 112 shall be effective retroactively to all open tax periods as of the effective date this act. This amendment shall not open a tax period that had already closed prior to the amendment’s effective date.”

The amendment was adopted.

Mr. Howitt of Seekonk then moved to amend the bill by adding the following section:

“SECTION 114. Section 52B of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following sentence at the end of the paragraph:— Nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.

Section 60 of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following sentence on line 32, after word, ‘duties.’:— However, nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.

Section 32 of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following sentence on line 32, after word, ‘duties.’:— However, nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.”

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 46 the following six sections:

“SECTION 46A. Section 4 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

General
Appropriation
Bill.

(b) Part B taxable income shall be taxed at the rate of 5.2 percent for the taxable year beginning July 1, 2012.

SECTION 46B. Section 4 of said 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 5.1 per cent for the taxable year beginning July 1, 2013.

SECTION 46C. Section 4 of said 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 per cent for the taxable year beginning July 1, 2014.

SECTION 46D. Section 46A of this act shall be effective on July 1, 2012.

SECTION 46E. Section 46B of this act shall be effective on July 1, 2013.

SECTION 46F. Section 46C of this act shall be effective on July 1, 2014.”

Pending the question on adoption of the amendment, Mr. Jones moved to amend it by striking out the text contained therein and inserting in place thereof the following:—

“SECTION 46A. Section 4 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, 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 January 1, 2013.

SECTION 46B. Section 4 of said 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 5.1 per cent for the taxable year beginning January 1, 2014.

SECTION 46C. Section 4 of said 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 per cent for the taxable year beginning January 1, 2015.

SECTION 46D. Section 46A of this act shall be effective on January 1, 2013.

SECTION 46E. Section 46B of this act shall be effective on January 1, 2014.

SECTION 46F. Section 46C of this act shall be effective on January 1, 2015.”

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 Mr. Peterson of Grafton; and on the roll call (Mr. Mariano of Quincy being in the Chair) 34 members voted in the affirmative and 121 in the negative.

[See Yea and Nay No. 39 in Supplement.]

Therefore the further amendment was rejected.

The amendment offered by Mr. Jones, et als, then also was rejected.

Further
amendment
rejected,—
yea and nay
No. 39.

Mr. Rushing of Boston and other members of the House then moved to amend the bill by inserting after section 36 the following section:

“SECTION 36A. (a) Notwithstanding any general or special law to the contrary, there shall be established a tax expenditure commission that shall review and evaluate tax expenditures, as defined in section 1 of chapter 29 of the General Laws, and make recommendations to the General Court on the effectiveness, timeliness, and cost benefit of tax expenditures. The commission shall consider the public policy objectives behind tax expenditures, the metrics for measuring success in meeting those objectives, and the need for additional reporting, sunset or clawback provisions. The commission shall file a report of its findings with the General Court by April 30, 2012, which shall include any recommendations regarding tax expenditures that should be repealed or modified and any changes to the ongoing evaluation of tax expenditures and criteria for evaluating proposals for new tax expenditures.

The commission shall be comprised of the secretary of administration and finance or the secretary’s designee, who shall serve as chair; the state auditor or the auditor’s designee; the state treasurer and receiver general or the treasurer’s designee; the minority leader of the house of representatives or the house leader’s designee; the minority leader of the senate or the senate leader’s designee; the chair of the house committee on ways and means or the chair’s designee; the chair of the senate committee on ways and means or the chair’s designee; the house and senate chairs of the joint committee on revenue or their respective designees; and 4 persons appointed by the governor who shall have an expertise in economics or tax policy, 1 of whom shall be a representative from the associated industries of Massachusetts, 1 of whom shall be a representative from the Boston chamber of commerce, 1 of whom shall be a representative from the Massachusetts budget and policy center, and 1 of whom shall be a representative from the University of Massachusetts.

(b) Each agency of the commonwealth shall file a progress report with the executive office of housing and economic development for each project for which a development subsidy has been granted, no later than December 31, 2011. The report shall include the following information: (1) the application tracking number; (2) the name, street and mailing addresses, phone number and chief officer of the granting body; (3) the name, street and mailing addresses, phone number, and chief officer of the recipient corporation; (4) the value and source of each subsidy, including TIF, annually and cumulative; (5) a list of all other development subsidies which the applicant has been granted by state or local agencies within the commonwealth; (6) the value of committed private investment and the value of the actual private investment; (7) a summary of the number of jobs committed, created, and lost, broken down by full-time, part-time and temporary positions, and by wage groups; (8) the type and amount of health care coverage provided to the employees at the project site, including any costs borne by the employees; (9) the comparison of the total employment in the commonwealth by the recipient’s corporate parent on the date of the application and the date of the report, broken down by full-time, part-time

and temporary positions; (10) a statement as to whether the use of the development subsidy during the previous fiscal year has reduced employment at any other site controlled by the recipient corporation or its corporate parent, within or without of the commonwealth as a result of automation, merger, acquisition, corporate restructuring or other business activity; and (11) a signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.

(c) The executive office of housing and economic development shall compile and publish all data from the progress reports in both written and electronic form, including to a reporting web site maintained by the office. The information in the reports shall be included as part of the searchable website administered by the secretary of administration and finance and shall be submitted to the clerks of the senate and house of representatives on or before April 30, 2012.”

The amendment was adopted.

Mr. Kocot of Northampton then moved to amend the bill by adding the following two sections:

“SECTION 115. Clause (2) of subsection (o) of section 6 of Chapter 62 is hereby amended by inserting at the end thereof the following:—

Said regulations shall provide that when the Board of Food and Agriculture determines that an error has been made in calculating the trigger price or in reporting or collecting data used in the calculation of the trigger price or the tax credit, the commissioner shall recalculate, with or without amendments, the trigger price or tax credit.

SECTION 116. Subsection (b) of section 38Z of chapter 63 is hereby amended by adding at the end thereof the following:—

Said regulations shall provide that when the Board of Food and Agriculture determines that an error has been made in calculating the trigger price or in reporting or collecting data used in the calculation of the trigger price or the tax credit, the commissioner shall recalculate, with or without amendments, the trigger price or tax credit.”

The amendment was adopted.

Mr. Wagner of Chicopee and other members of the House then moved to amend the bill by adding the following two sections:

SECTION 117. Section 30 of chapter 64C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

“Every such stamper who has complied with the provisions of this chapter and, to the extent applicable, the provisions of section 3A of chapter 64H, and chapter 94F, including the pertinent rules and regulations made thereunder, may withhold and retain from each payment to be made by him for such stamps, as compensation for service rendered in compliance with the aforementioned provisions, the following amounts. The compensation for service rendered, in the case of encrypted cigarette excise stamps purchased and not returned for an abatement shall be, (1) with respect to a roll of 1,200 encrypted stamps, \$12 per roll; and (2) in every annual twelve-month period beginning July 1 with respect to a roll of 30,000 encrypted stamps, \$600 per roll for the first fifty rolls purchased by a stamper and \$200 per roll for each additional roll of 30,000 encrypted stamps purchased in excess of fifty. The compensation for service rendered shall be \$1.85 for each 600 non-encrypted cigarette excise adhesive stamps

purchased and not returned for an abatement, and a proportionate amount for any fraction thereof.

SECTION 118. Section 117 shall take effect with regard to purchases of stamps on or after January 1, 2012.”

The amendment was adopted; and the bill (House, No. 3400, amended) was ordered to a third reading.

At one minute before two o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Mariano of Quincy being in the Chair), the House recessed until the hour of four o'clock; and at twenty-nine minutes before five o'clock the House was called to order with Mr. Donato of Medford in the Chair.

The House thereupon took a further recess, on motion of Mr. Murphy of Burlington, until a quarter after five o'clock; and at a quarter before seven o'clock the House was called to order with Mr. Donato in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), 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 155 members were recorded as being in attendance.

[See Yea and Nay No. 40 in Supplement.]

Therefore a quorum was present.

Under suspension of the rules, on motion of Mr. Dempsey of Haverhill, 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, as amended, to be engrossed, Mr. Dempsey of Haverhill and other members of the House moved (consolidated mental health and disability services) to amend it in section 2

In item 0940-0101, in lines 2 and 14, by striking out the figures “\$1,930,054” and inserting in place thereof, in each instance, the figures “\$2,030,380”;

In item 4110-1000 by adding the following: “; provided further that \$50,000 be expended for assistive technologies”, and in said item by striking out the figures “\$3,861,398” and inserting in place thereof the figures “\$3,911,398”;

In item 4120-4000 by adding the following: “; provided further that \$50,000 be expended for assistive technologies”, and in said item by striking out the figures “\$10,900,074” and inserting in place thereof the figures “\$10,950,074”;

In item 4125-0100 by adding the following: “provided further that \$50,000 be expended for assistive technologies”, and in said item by striking out the figures “\$4,960,393” and inserting in place thereof the figures “\$5,010,393”;

In item 5046-0000, in line 6, by inserting after the word “facilities” the following: “; provided further, that the Department of Mental Health is authorized to utilize one time trust fund monies in an amount not greater than \$5,558,637, to expand community services, provided that said services shall include, but not be limited to, residential, clinical and support services to appropriately discharge an adult to the community and to provide them with services necessary to manage their

Recesses.

Quorum.

Quorum
yea and nay,—
No. 40.

General Appropriation Bill.

illness and support recovery; provided further, that of said trust fund monies, \$558,637 shall be expended on clubhouse services; provided further, that said funds shall not be expended until the department of mental health submits a report to the house and senate committees on ways and means and the joint committee on mental health and substance abuse services detailing the number of individuals to be discharged, the facilities from which they will be discharged and the specific community based services that will be developed to assist them in the community provided further, that the same level of funding be expended in fiscal year 2012 as expended in the prior fiscal year for jail diversion programs in municipalities that provide equal matching funds from other public or private sources”;

In item 5047-0001 by striking out the figures “\$34,122,197” and inserting in place thereof the figures “\$35,122,197”;

In item 5055-0000 by adding the words “; provided, that funds may be expended for Juvenile Court Clinics”;

In item 5095-0015 by adding the following: “; provided further, that the department shall file a report with the secretary of administration and finance and the chairs of the house and senate committees on ways on or before December 31, 2011, detailing the procedure, implementation and timing for the closure of any existing inpatient hospital beds and shall include a determination of the capacity in the inpatient public mental health system to effectively and appropriately meet the needs of individuals suffering from mental illness and whether individuals are receiving timely access to state hospital beds”;

In item 5920-3010, in lines 5 and 6, by striking out the following: “the amount authorized in fiscal year 2011” and inserting in place thereof the figures “\$3,000,000”, by adding at the end of said item the words “; and provided further, that the department shall submit copies of any amended waiver to the house and senate committees on ways and means, the joint committee on education and the joint committee on children, families and persons with disabilities upon submission of the amendment”, and in said item by striking out the figures “\$4,121,177” and inserting in place thereof the figures “\$4,621,177”;

In item 5930-1000 by adding the following: “; provided, that the department shall report on all efforts to comply with the provisions of the Olmstead decision, the enhancement of care within available resources to clients served by the department and the steps taken to consolidate or close intermittent care facilities for persons with intellectual and developmental disabilities, in this item called ICF/MRs, provided further, that the department shall submit a progress report to the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means on such initiatives by December 1, 2011, including both past actions and proposed future actions”; and

By adding the following section:

“SECTION 119. Notwithstanding any general or special law to the contrary, the executive office of administration and finance shall report on fiscal year 2011 expenditures for communication access services including, but not limited to, American Sign Language, Computer Communication Access Realtime translation, and Braille from all agencies in the executive branch. The report shall be submitted to the

house and senate ways and means committees on or before December 31, 2011, and shall include the number of people served, month of services and cost per month.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Dempsey of Haverhill; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 41 in Supplement.]

Therefore the amendments were adopted.

Recess.

At six minutes after seven o'clock P.M. (Monday, April 25), on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed until the following day at ten o'clock A.M.; and at that time the House was called to order with Mr. Donato in the Chair.

Tuesday, April 26, 2011 (at 10:00 o'clock A.M.).

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

Silent Prayer.

During the session at the request of Speaker DeLeo of Winthrop and Representative Keenan of Salem, the members, guests and employees stood in a moment of silent tribute to former Chief Justice of the District Court Department Samuel Edward Zoll of Salem. Justice Zoll was a Navy veteran of the Korean War. Justice Zoll's distinguished service to his community and the Commonwealth included his being a high school teacher, Salem city councilor, State Representative, Mayor of Salem and District Court Chief Justice. Justice Zoll passed away earlier this morning at the age of 76 after a brave struggle with cancer.

Statement of Representative Fox of Boston.

A statement of Ms. Fox of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for yesterday's session due to a medical concern. My missing of roll calls yesterday was due entirely to the reason stated. If I had been present yesterday I would have voted in the negative on roll call numbers 37, 38 and 39; and in the affirmative on roll call number 41.

Communications.

Communications From the Department of Transportation, Rail and Transit Division (see Section 5 of Chapter 161A of the General Laws) submitting the annual report of the Massachusetts Bay Transportation Authority for the year 2010; and

Amendments (mental health and disability services) adopted, — yeas and nays No. 41.

Recess.

Pledge of allegiance.

Chief Justice Samuel Edward Zoll.

Statement of Ms. Fox of Boston.

MBTA,— annual report.

MBTA,—
non-transit
revenues.

From the Massachusetts Bay Transportation Authority (see Section 11 of Chapter 161A of the General Laws) submitting a report on its efforts to maximize non-transportation revenue;
Severally were place on file.

Petition.

Michael
Briggs,—
sick leave
bank.

Mr. Fresolo of Worcester presented a petition (subject to Joint Rule 12) of John P. Fresolo for legislation to establish a sick leave bank for Michael Briggs, an employee of the Department of Youth Services; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Fresolo, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Papers from the Senate.

Educational
grants,—
low income.

A report of the committee on Children, Families and Persons with Disabilities asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 42) of James B. Eldridge, Linda Dorcena Forry, Susan C. Fargo and other members of the General Court for legislation relative to Workers' Pathway to Self Sufficiency,— and recommending the same be referred to the committee on Higher Education,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Francisco
Delgado,—
sick leave
bank.

A petition of Jennifer L. Flanagan and Stephen L. DiNatale for legislation to establish a sick leave bank for Francisco Delgado, an employee of the department of corrections [sic], came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1898) was referred, in concurrence, to the committee on Public Service.

Orders of the Day.

General
Appropriation
Bill.

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended), was considered.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Dempsey of Haverhill and other members of the House moved (consolidated transportation) to amend it in section 2E, in item 1595-6368, by adding the following: “; provided, that the Massachusetts Department of Transportation shall expend \$100,000 for the purposes of conducting a study to include field research, surveys, market studies, and other research methods as needed, to identify and deter-

mine additional recurring revenues through the leasing or disposition of commonwealth right-of-ways or other land, property, or interests therein, on the property of the Massachusetts Bay Transportation Authority and associated railroad or transportation related property of the commonwealth, inclusive of its rights-of-way, whether in use for rail, alternative access or abandoned; said study to be for the purpose of maximizing revenue to the commonwealth from installing utility and communication infrastructure including, but not limited to: utility pipelines, conduits, ditches, wires, poles, transmission lines, or transmission facilities for cellular phone devices, broadband, internet and wireless under existing agreements or permits or such agreements or permits or under existing laws, provided that such use does not interfere with the public use of the property for Massachusetts Bay Transportation Authority or other purposes. Said study shall be completed by February 1, 2012 and copies transmitted to the house and senate committees on ways and means and the joint committee on transportation”; and by adding the following two sections:

“SECTION 120. Section 41 of chapter 161A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following subsection:—

(f) to sell electricity to the divisions within the Massachusetts Department of Transportation.

SECTION 121. Notwithstanding any general or special law to the contrary, the secretary of the Massachusetts Department of Transportation, in consultation with the commissioner of the division of capital asset management, shall study and assess the current market value of real property under the ownership, possession and control of the Massachusetts Department of Transportation, including but not limited to, any land or buildings previously owned by the Massachusetts turnpike authority, and determine whether such assets are surplus to the operation of the Massachusetts Department of Transportation, as defined by section 1 of chapter 6C. The department shall submit the results of the study to the executive office of administration and finance and the house and senate committees on ways and means on or before July 1, 2012.”

After remarks (Mr. Donato of Medford being in the Chair) the amendments were adopted.

At eight minutes before twelve o'clock noon (Tuesday, April 26), the Chair (Mr. Donato) declared a recess until one o'clock; and at that time the House was called to order with Mr. Mariano of Quincy in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), 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 Yea and Nay No. 42 in Supplement.]

Therefore a quorum was present.

Subsequently a statement of Mr. Cantwell of Marshfield was spread upon the records as follows:

Recess.

Quorum.

Quorum,—
yea and nay
No. 42.

Statement of Mr. Cantwell of Marshfield.

MR. SPEAKER: I would like to call to the attention of the House the fact that during the previous quorum roll call I was absent from the House Chamber on official business in another part of the State House, and therefore was not recorded as being present. My missing of the quorum roll call was due entirely to the reason stated.

Subsequently a statement of Mr. Diehl of Whitman was spread upon the records of the House, as follows:

Statement of Mr. Diehl of Whitman.

MR. SPEAKER: I would like to call to the attention of the House the fact that during the previous quorum roll call I was absent from the House Chamber on official business in another part of the State House, and therefore was not recorded as being present. My missing of the quorum roll call was due entirely to the reason stated.

Mr. Bradley of Hingham then moved to amend the bill by adding the following section:

“SECTION 122. Section 2 of Chapter 111N of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the section.”

Amendment adopted, — yea and nay No. 43.

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. Smola of Palmer; and on the roll call 131 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 43 in Supplement.]

Therefore the amendment was adopted.

[Mr. Madden of Nantucket answered “Present” in response to his name.]

Recess.

At twenty-three minutes before two o’clock P.M. (Tuesday, April 26), on motion of Mr. Peterson of Grafton (Mr. Mariano of Quincy being in the Chair), the House recessed until two o’clock; and at that time the House was called to order with Mr. Mariano in the Chair.

Quorum.

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

Quorum, — yea and nay No. 44.

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

[See Yea and Nay No. 44 in Supplement.]

Therefore a quorum was present.

Mr. Dempsey of Haverhill and others then moved (consolidated energy and environmental affairs) to amend the bill in section 2

In item 2200-0100 by striking out the figures “\$21,532,305” and inserting in place thereof the figures “\$22,932,305”;

By inserting after item 2200-0102 the following item:

“2200-0107 For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling mar-

ket development and recycling business development and the operation of the Springfield materials recycling facility; provided, that funds may be expended for a recycling industry reimbursement program pursuant to section 241 of chapter 43 of the acts of 1997..... \$275,000”;

By striking out item 2210-0105 and inserting in place thereof the following item:

“2210-0105 The department of environmental protection may expend for the administration and implementation of the Massachusetts Toxics Use Reduction Act under chapter 211 of the General Laws an amount not to exceed \$3,052,627 from the revenue collected from fees, penalties, grants and tuition under said chapter 211; provided, that not less than \$1,629,860 from this item shall be made available for the operation of the Toxics Use Reduction Institute program at the University of Massachusetts at Lowell; provided further, that the department shall enter into an interagency service agreement with the University of Massachusetts to make such funding available for this purpose; provided further, that not less than \$644,096 from this item shall be made available for toxics use reduction technical assistance and technology in accordance with said chapter 211; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2011 detailing the status of the department’s progress in meeting the statutory and regulatory deadlines associated with said chapter 211 and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 211; provided further, that the department shall enter into an interagency service agreement with the executive office of energy and environmental affairs to make such funding available for this purpose; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$3,052,627”;

In item 2300-0100 by adding the following: “; provided further, that the department shall file a report with the secretary of administration and finance, the chairs of the house and senate committee on ways and means, the chairs of the joint committee on environment, natural resources and agriculture on or before April 30, 2012, detailing a plan for a long term funding solution for issues pertaining to repairs and maintenance of dams throughout the commonwealth; and provider further, that the report shall include, but not be limited too, the feasibility of a revolving loan program and utilization of seaport bonds”;

General Appropriation Bill.

In item 2300-0101 by striking out the figures "\$350,000" and inserting in place thereof the figures "\$410,000";

In item 2310-0200 by striking out the figures "\$9,400,019" and inserting in place thereof the figures "\$9,900,019";

By inserting after item 2310-0200 the following item:

"2310-0300 For the operation of the natural heritage and endangered species program \$150,000";

By adding at the end of item 2511-0100 the following: "; provided, that no less than \$200,000 shall be expended to enhance the buy local effort in western, central, northeastern and southern Massachusetts", and in said item by striking out the figures "\$4,100,108" and inserting in place thereof the figures "\$4,400,108";

In item 2800-0100, in line 19, by inserting after the date "February 15, 2012" the words "; provided further, that funds shall be expended for the cleanup of Pilyella algae", and by adding at the end of said item the following: "; provided further, that the department shall file a report with the secretary of administration and finance, the chairs of the house and senate committee on ways and means, the chairs of the joint committee on environment, natural resources and agriculture on or before April 30, 2012, detailing a plan for a long term funding solution for issues pertaining to repairs and maintenance of seawalls throughout the commonwealth; and provider further, that the report shall include, but not be limited too, the feasibility of a revolving loan program and utilization of seaport bonds";

In item 2800-0101, in line 19, by inserting after the word "Laws" the following: "; provided further, that the department shall continue to make payments pursuant to chapter 307 of the acts of 1987 for the use of certain land", and in said item by striking out the figures "\$475,008" and inserting in place thereof the figures "\$1,002,565";

In item 2810-0100 by striking out the figures "\$40,850,075" and inserting in place thereof the figures "\$41,550,075"; and

By adding the following two sections:

"SECTION 123. Section 7(a) of chapter 236 of the acts of 1988 is hereby amended by adding at the end of the fourth sentence the following: — ; provided, however, that any monies or interest thereon received by the Trust Fund pursuant to section 287 of chapter 110 of the acts of 1993 may be subject to appropriation if a report of the monies received and expenditures funded by such receipts is not filed with the clerks of the House and Senate on or before December 31 of each year.

SECTION 124. Section 114 of chapter 169 of the Acts of 2008 is hereby amended by striking out the number '2011' and inserting in place thereof the following number:— 2016."

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Ms. Gobi of Spencer; and on the roll call 151 members voted in the affirmative and 5 in the negative.

[See Yeas and Nays No. 45 in Supplement.]

Therefore the amendments were adopted.

Ms. Reinstein of Revere being in the Chair,—

Mr. Frost of Auburn then moved to amend the bill in section 2

Amendments (energy and environmental affairs) adopted,— yeas and nays No. 45.

In item 4400-1000 by striking out the figures "\$53,097,438" and inserting in place thereof the figures "\$51,584,416"; and

In item 4401-1000 by striking out the figures "\$3,689,934" and inserting in place thereof the figures "\$5,202,956".

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Frost; and on the roll call (the Speaker being in the Chair) 32 members voted in the affirmative and 125 in the negative.

[See Yeas and Nays No. 46 in Supplement.]

Therefore the amendments were rejected.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated housing and social services) to amend the bill in section 2

In item 4401-1000, in line 10, by inserting after the word "Massachusetts" the words "; provided further, that funds may be expended for trauma informed employment services, including Project SAFE";

In item 4403-2000, in lines 19 and 20, by striking out the words "and pursuant to said act the work-related activity requirement shall conform to the federal standard" and inserting in place thereof the following: "and pursuant to said act and not withstanding section 218 of chapter 149 of the acts of 2004, or any other special or general law to the contrary, the recipients defined in said section 218 whose youngest child of record is of the age at which full time schooling is mandatory or older shall meet the federal standard of 30 hours per week of work-related activity", in line 61, by striking out the word "and" and;

In item 4403-2000, by striking out, in line 61, the word "and", and by adding at the end of said item following: "; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis and reasons for the proposed changes; provided further, that the report shall state exactly which components of the current benefit package shall be altered and the department's assessment of the effects of such benefit or eligibility changes upon recipient families and the number of families affected by the benefit changes; provided further, that the report shall outline all steps that the department has taken to avoid or mitigate any such benefit changes; provided further, that the report shall detail the savings realized by any such changes to benefits or eligibility; and provided further that no benefit changes shall go into effect prior to January 17, 2012".

In item 4408-1000, by striking out, in line 55, the word "and", and by adding at the end of said item the following: "; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis and reasons for the proposed changes; provided further, that the report shall state exactly which components of the current benefit package shall be altered and the department's assessment of the effects of such benefit

Amendments items 4400-1000 and 4401-1000 rejected,— yeas and nays No. 46.

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Bill.

or eligibility changes upon recipient families and the number of families affected by the benefit changes; provided further, that the report shall outline all steps that the department has taken to avoid or mitigate any such benefit changes; provided further, that the report shall detail the savings realized by any such changes to benefits or eligibility; and provided further that no benefit changes shall go into effect prior to January 17, 2012”;

By adding at the end of item 4800-0038 the following: “; provided further, that funding shall be expended on children’s advocacy centers, services for child victims of sexual abuse and assault; provided further, that funds may be expended on programs that received funding in fiscal year 2011; and, provided further, that a children’s advocacy center shall be established in Bristol County”;

In item 4800-0040 by striking out the figures “\$39,500,000” and inserting in place thereof the figures “\$39,750,000”;

By adding at the end of item 7004-0099 the following: “; provided further, that not less than \$100,000 shall be expended to the town of Holbrook for a one-time community action grant which will fund an upgrade to town facilities; provided further, that not less than \$175,000 shall be expended annually for provisions of emergency services that provide domestic violence intervention, workforce development, housing assistance, foreclosure prevention assistance, operation of food vouchers, winter coats for kids and holiday dinners operated by Community Action Programs Inter-City, Inc. for the communities of Chelsea, Revere and Winthrop”, and in said item by striking out the figures “\$6,642,317” and inserting in place thereof the figures “\$6,742,317”;

In item 7004-0101, in line 10, by inserting after the word “exceeding” the following: “; provided further, that funds shall be expended for homelessness prevention services and resources for families who have incomes at or below 115 per cent of the federal poverty limit and include a child under age 21 or a pregnant woman; provided further, that such prevention services shall be administered by community action agencies and other community based organizations, shall be provided on first-come, first-serve basis and shall include landlord/tenant mediation, legal assistance to prevent eviction, housing search services stabilization services”, and in line 91, by striking out the year “2011” and inserting in place thereof the year “2012”;

In item 7004-0108, in line 17, by inserting after the word “Development” the words “; provided further, that the administering agency shall be able to allow for a higher monthly rent in the event that a household transitioning to housing pursuant to this line item from another time-limited assistance program would be displaced due to the restriction on fair market rent or if the administering agency has been unable to find a feasible rental property in a reasonable amount of time due to the lack of safe available rental housing in the region”, and in line 74, by inserting after the word “Corporation” the following “and RCAP Solutions, Inc.”; and

By striking out section 26 and inserting in place thereof the following section:

“SECTION 26. Chapter 18 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 5H the following new sections:—

Section 5I. Notwithstanding any general or special law to the contrary, eligible recipients of direct cash assistance shall not use direct cash assistance funds for the purchase of alcoholic beverages, lottery tickets or tobacco products. An eligible recipient of direct cash assistance who makes a purchase in violation of this section shall reimburse the department for such purchase.

Section 5J. Notwithstanding any general or special law to the contrary, an individual or store owner shall not accept direct cash assistance funds held on electronic benefit transfer cards for the purchase of alcoholic beverages, lottery tickets, or tobacco products. An individual or store owner who knowingly accepts electronic benefit transfer cards in violation of this section shall be punished by a fine of not more than \$500 for the first offense, a fine of not less than \$500 nor more than \$1,000 for the second offense, and a fine of not less than \$1,000 for the third or subsequent offense.

Section 5K. Notwithstanding any general or special law to the contrary, whoever embezzles, steals or obtains by fraud any funds, assets or property provided by the department of transitional assistance and whoever receives, conceals or retains such funds, assets or property for his own interest knowing such funds, assets or property have been embezzled, stolen or obtained by fraud shall, if such funds, assets or property are of a value of \$100 or more, be punished by a fine of not more than \$25,000 or by imprisonment in a jail or house of correction for not more than 5 years, or both such fine and imprisonment, or if such funds, assets or property are of a value of less than \$100, by a fine of not more than \$1,000 or by imprisonment in a jail or house of correction for not more than 1 year, or both such fine and imprisonment.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mrs. O’Connell of Taunton; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 47 in Supplement.]

Therefore the amendments were adopted.

At four minutes before six o’clock P.M. (Tuesday, April 26), on motion of Mr. Peterson of Grafton (Mr. Kafka of Stoughton being in the Chair), the House recessed until seven o’clock; and at nine minutes after eight o’clock the House was called to order with Mr. Donato of Medford in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), 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 156 members were recorded as being in attendance.

[See Yeas and Nays No. 48 in Supplement.]

Therefore a quorum was present.

Mr. Dempsey of Haverhill and others moved (consolidated public health) to amend the bill in section 2

By inserting before item 4510-0025 the following item:

Amendments
(housing and
social services)
adopted,—
yeas and nays
No. 47.

Recess.

Quorum.

Quorum,—
yeas and nays
No. 48.

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"4510-0020 For the department of public health; which may expend not more than \$375,000 in revenues collected from fees charged by the food protection programs for program costs of the Department's Food Protection Program; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system \$375,000";

In item 4510-0615, in line 3, by inserting after the word "reactors" the following: "; provided further, that not less than \$90,000 shall be expended to the C-10 Research and Education Foundation of Newburyport for the purposes of providing radiological monitoring of the six Massachusetts communities within the plume exposure emergency planning zone of Seabrook Nuclear Power Plant"; and in said item by striking out the figures "\$1,534,791" and inserting in place thereof the figures "\$1,624,791";

In item 4512-0103 by striking out the figures "\$31,097,810" and inserting in place thereof the figures "\$33,597,810";

By adding at the end of item 4512-0200 the following: "; and provided further, that not less than \$125,000 shall be expended for Self Esteem Boston's substance abuse direct service prevention, and provider training programs"; and in said item by striking out the figures "\$75,185,802" and inserting in place thereof the figures "\$75,310,802";

In item 4512-0201 by striking out the figures "\$2,400,000" and inserting in place thereof the figures "\$4,800,000";

By adding at the end of item 4512-0500 the words "; and provided further, that funds shall be expended for the Forsyth Institute's Center for Children's Oral Health";

In item 4513-1000 by striking out the figures "\$3,659,311" and inserting in place thereof the figures "\$3,959,311";

In item 4513-1002 by striking out the figures "\$9,766,617" and inserting in place thereof the figures "\$10,266,617";

In item 4513-1020 by striking out the figures "\$21,491,404" and inserting in place thereof the figures "\$23,991,404";

By striking out item 4513-1111 and inserting in place thereof the following item:

"4513-1111 For the promotion of health and disease prevention including, but not limited to, the following programs: breast cancer prevention; diabetes screening and outreach; ovarian cancer screening; a statewide STOP stroke program and ongoing stroke prevention and education; hepatitis C prevention and management; multiple sclerosis screening, information, education and treatment programs and the Multiple Sclerosis Home Living Navigating Key Services program administered by the Central New England Chapter of the

National Multiple Sclerosis Society; colorectal cancer prevention; prostate cancer screening, education and treatment with a particular focus on African American males; osteoporosis education; maintenance of the Amyotrophic Lateral Sclerosis registry created pursuant to section 25A of chapter 111 of the General Laws; and maintenance of the statewide lupus database; and provided further, that funds may be expended for the operation of the Betsy Lehman Center for patient safety \$3,400,000";

In item 4590-0250 by adding the words "; and provided further, that funds may be expended for the Massachusetts Model of Community Coalitions";

In item 4590-0300 by striking out the figures "\$4,150,703" and inserting in place thereof the figures "\$4,485,983";

In item 4590-0912 by striking out the figures "\$15,962,194" and inserting in place thereof the figures "\$16,212,194";

By striking out item 4590-1507 and inserting in place thereof the following item:

"4590-1507 For matching grants to the Massachusetts Alliance of Boys and Girls Clubs, the Alliance of Massachusetts YMCAs, the YWCA organizations, non-profit community centers, and youth development programs; provided, that the department of public health shall award the full amount of each grant to each organization previously included in the youth-at-risk grants, upon commitment of matching funds from such organizations; provided further, that each organization previously included in the youth-at-risk grants shall receive in fiscal year 2012 a grant amount not less than that received in fiscal year 2011; and provided further, that any allocation less than \$2,000,000 to a recipient of a youth-at-risk grant must be distributed equally between said recipient's member organizations \$1,500,000";

and by adding the following five sections:

"SECTION 125. Chapter 111 of the General Laws is hereby amended by striking out section 25I, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:—

Section 25I. The department, in conjunction with the board of registration in pharmacy and the division of medical assistance, shall establish and implement methods to reduce medication waste in facilities licensed by the departments of public health, mental health and corrections. The department shall establish such methods, based on its review, that are determined to be effective in reducing waste without imposing unreasonable costs on the health care delivery system. Such methods may be based on, but not be limited to, the following: (1) current technology, standards and reimbursement mechanisms for dispensing and distributing medications to facilities; (2) other states' requirements for limiting prescription drug waste and any cost savings realized; (3) the commonwealth's standards for the return and re-dispensing of patient-specific schedule VI prescription drugs; and (4) possible

incentive mechanisms to prevent the creation of prescription drug waste. The department shall promulgate regulations to implement this section.

SECTION 126. The fifth paragraph of section 70E of said chapter 111, as so appearing, is hereby amended by adding the following subsection:—

(p) to obtain from the facility in charge of the patient's care, upon discharge, any bulk medications that were prescribed for the patient during the patient's stay including, but not limited to, aerosol inhalers, topical products such as creams and powders eye drops, insulins and special order items, provided that any such items are patient specific and personal and would not otherwise be used in the treatment of another patient. Upon discharge from the hospital, these bulk items shall be considered the personal property of the patient and at the prescribing physician's discretion may include in discharge orders that the patient be provided with the specific bulk products that were used in the hospital with use directions. The department shall promulgate regulations to implement this section.

SECTION 127. The department of public health, in consultation with the board of registration in pharmacy shall, as shall provide to the joint committee on health care financing and the joint committee on public health, on or before April 1, 2012 a report and legislative recommendations relative to issues of implementation of the programs established under subsection p of section 70E of chapter 111 and section 25I of chapter 111, including, but not limited to: savings and costs related to the implementation of the programs established and recommendations related to penalties for violations of subsection (p) of section 70E of chapter 111 and section 25I of chapter 111.

SECTION 128. Notwithstanding any general or special law to the contrary, the department of public health, in consultation with the department of environmental protection, shall make an investigation and study regarding the issue of pharmaceutical drug waste and its effect on the environment in the Commonwealth. The department shall report on the following: (1) the estimated quantity of pharmaceutical drug waste in the Commonwealth; (2) the quantity of such waste that may be recovered prior to disposal; (3) the methods and techniques used in other states or local governments to reduce the amount of pharmaceutical drug waste, and identify model programs used to recover or recycle such waste; and (4) the efforts of pharmaceutical drug industry to mitigate waste through consumer support or take-back programs. The department shall make recommendations, consistent with its report, regarding: (1) the feasibility of expanding a drug recycling program similar to that prescribed in section 25I of chapter 111 to all consumers; (2) the feasibility of adopting similar programs adopted by other states or local governments to reduce drug waste; and (3) the feasibility of the department assisting municipal governments to establish local programs to reduce such waste. The department shall make its report and recommendations together with legislation to implement those recommendations by filing the same with the clerks of the senate and house not later than July 31, 2012.

SECTION 129. Notwithstanding any general or special law or regulation to the contrary, a special commission hereafter referred to as the commission, is hereby established for the purpose of investigating and

studying the incidence and impacts in the commonwealth of Lyme disease and other tick-borne diseases, including but not limited to anaplasmosis, babesiosis, bartonellosis, and ehrlichiosis.

Said study shall include, but not be limited to, a cost-benefit analysis of: (i) conducting a Lyme disease public health clinical screening study in high risk regions; (ii) developing education materials and training resources for detecting signs and symptoms of tick-borne illnesses in school-aged populations, to be used by clinical providers and school health personnel (iii) statewide surveillance and testing for tick-borne diseases in both *Ixodes scapularis* (black-legged deer tick) and *Amblyomma americanum* (Lone Star) ticks, and (iv) educating the medical community about research on all aspects of Lyme, both acute and chronic. The commission shall also investigate the availability of grants and federal funds for the study of Lyme disease and other tick-borne diseases to determine if future action is feasible and warranted to support Lyme and tick-borne diseases research in the Commonwealth. (v) The Commission shall review mandatory reporting procedures to promote improved compliance both for CDC-positive and clinically diagnosed cases of Lyme disease and associated tick-borne co-infections.

Said commission shall consist of: 3 members of the Senate, 1 of whom shall be appointed by the Senate Minority Leader; 3 members of the House of Representatives, 1 of whom shall be appointed by the House Minority Leader; the Commissioner of the Department of Public Health or a designee; the Commissioner of the Division of Health Care Finance and Policy or a designee, 3 members of local boards of health from different Lyme endemic areas of the state; the Director of the State Laboratory Institute or a designee; the State Epidemiologist or a designee; and 4 members to be appointed by the Governor, 1 of whom shall be a physician specialized in infectious disease, 1 of whom shall be a professional member of the International Lyme and Associated Diseases Society, and 2 members who shall be considered experts in the treatment or research of Lyme disease. Additionally, there shall be 4 public members, 2 of whom shall be patients or family members of patients; and 2 shall be members of Lyme and other tick-borne diseases organizations representing diverse regions across the state. One patient shall be appointed by the Senate, one patient by the House of Representatives and the 2 members of Lyme and other tick-borne diseases organizations shall be appointed by the Governor.

Said commission shall report to the Senate and House of Representatives the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerks of the Senate and House of Representatives, who shall forward the same to the Joint Committee on Public Health and the House and Senate Committees on Ways and Means by April 1, 2012."

After debate on the question on adoption of the amendments, Mr. Honan of Boston moved to amend them in proposed item 4590-1507 by striking out the figures "\$1,500,000" and inserting in place thereof the figures "\$1,700,000".

The further amendment was adopted.

Amendments
(public health)
adopted,—
yea and nay
No. 49.

On the question on adoption of the amendments, as amended, the sense of the House was taken by yeas and nays at the request of Mr. Sánchez of Boston; and on the roll call 154 members voted in the affirmative and 2 in the negative.

[See Yea and Nay No. 49 in Supplement.]

Therefore the amendments, as amended, were adopted.

Suspension
of Rule 1A.

The Chair (Mr. Donato of Medford) then 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.

Rule 1A
suspended,—
yea and nay
No. 50.

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

[See Yea and Nay No. 50 in Supplement.]

Therefore Rule 1A was suspended.

Mrs. Haddad of Somerset being in the Chair,—

Mr. Walsh of Boston and other members of the House then moved to amend the bill by striking out section 46 (as published) and inserting in place thereof the following [A] seven sections:

“SECTION 45. Section 19(a) of Chapter 32B is hereby amended by striking out the first and third sentences of paragraphs 1, paragraph 2, paragraph 4 and the second sentence of paragraph 5 and inserting in place of the first sentence of paragraph 1 the following:—

Notwithstanding any other provision of this chapter, after July 1, 2011, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter shall provide health insurance coverage to all its subscribers pursuant to this section by entering into contracts with health insurance carriers.

SECTION 45A. Paragraph (e) of Section 19 of Chapter 32B, as amended by sections 2 and 2A of chapter 377 of the acts of 2008, is further amended by striking the second sentence and inserting in place thereof the following two sentences: For any political subdivision that transfers its subscribers to the commission under subsection (c), notice shall be provided to the commission by the appropriate public authority not later than December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1.

SECTION 45B. Section 19 of Chapter 32B is hereby amended by striking the last paragraph in subsection (c).

SECTION 45C. Section 2 of chapter 32B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after subsection (f) the following subsection:—

(f½) ‘Health Reimbursement Account’, a federally-recognized tax-exempt health benefit program that allows an employer to reimburse qualified medical expenses paid by subscribers.

SECTION 45D. Said section 19 of said chapter 32B, as so appearing, is hereby amended by adding the following subsection (j):—

(j) (1) Given the severe fiscal crisis facing the commonwealth and municipalities, this section shall allow municipalities to achieve cost savings on municipal group health insurance provided pursuant to G.L. c. 32B.

(2) The secretary of administration and finance shall promulgate regulations requiring the group insurance commission to submit to the secretary the actuarial value of a) the non-medicare plan provided by the commission which has the largest subscriber enrollment at the start of the fiscal year beginning fiscal year 2012 through fiscal 2014 which shall be the group insurance commission non-medicare actuarial benchmark, and b) the actuarial value of the medicare extension plan provided by the commission which has the largest subscriber enrollment at the start of the fiscal year beginning fiscal year 2012 through fiscal 2014 which shall be the group insurance commission medicare extension actuarial benchmark.

(3) Notwithstanding any special or general law to the contrary, after July 1, 2011, a political subdivision may, in order to achieve reductions in health care expenditures, elect to engage in a one-time process through coalition bargaining pursuant to section 19. Municipalities shall notify each exclusive bargaining representative of the determination that it desires to engage in this process to reduce health insurance costs. The municipality shall convene a meeting of its appropriate authority and the public employee committee under the provisions of subsection (a) of section 19.

(4) The appropriate authority and the public employee committee shall negotiate a section 19 agreement which shall determine whether to transfer subscribers to the group insurance commission or how the plan or plans will be modified to reduce the actuarial value of its health care plan or plans, provided however, that the actuarial value of the negotiated plan or plans shall be no lesser than the group insurance commission actuarial benchmark or the group insurance commission medicare extension actuarial benchmark.

(5) The parties shall negotiate over how the resulting cost savings shall be shared. Cost savings for purposes of this subsection shall mean the decrease in the political subdivision’s share of the total premium costs for the fiscal year beginning July 1, 2011 Not less than one fourth of the cost savings shall be returned to the political subdivision’s general operating budget; provided, further that not less than one fourth of the cost savings realized shall be returned to the subscribers in the form of: premium reductions, premium contributions paid by the political subdivision, health reimbursement accounts, wellness programs, health care trust funds for emergency medical care or inpatient hospital care, Medicare Part B reimbursements or other qualified medical expenses, as determined through negotiation.

(6) If the appropriate public authority and public employee committee have not reached an agreement within 45 days after their first meeting, any unresolved issues shall be submitted to an arbitrator with expertise in municipal health benefits selected by the parties under the rules of the American Arbitration Association.

The form of arbitration shall be last best offer, issue by issue. The arbitrator shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, production of books, records and other evidence relative to or pertinent to the issues. The cost of arbitration shall be shared equally by the appropriate public authority and the public employee committee. Any person acting as an

arbitrator under this section, shall not be required by any administrative, arbitration or non-criminal judicial tribunal to disclose any files, records, documents, notes or other papers or be required to testify with regard to any information obtained while functioning as an arbitrator under this subsection.

The arbitrator shall issue a decision not later than 45 days after the unresolved issues are submitted to the arbitrator. In reaching a decision, the arbitrator shall decide any issues concerning the section 19 agreement not resolved by the parties, including how the remaining cost savings shall be shared, which shall include savings for the political subdivision and for subscribers. In reaching a decision, the arbitrator shall consider the political subdivision's ability to pay, existing premium contribution ratios between the appropriate authority and the subscribers, intended use of savings by the political subdivision, any historical negotiations or concessions by retirees on benefits, and the historical negotiations on benefits and salary including total compensation and all other evidence.

The arbitrator's decision, if supported by material and substantive evidence on the whole record shall be, binding upon the parties, unless the decision of the arbitrator is rejected by the legislative branch of the municipality by a two-thirds vote within 30 days. If the political subdivision rejects the decision of the arbitrator, the political subdivision shall not implement any changes authorized under paragraph (4).

(7) Any such agreement reached pursuant to this subsection shall remain in effect through June 30, 2014 and the parties shall then negotiate a successor agreement regarding subscribers' group health insurance pursuant to section 19.

SECTION 45E. Chapter 32B is hereby amended by adding the following section:—

Section 21. Notwithstanding any other provisions of this chapter or Chapter 32A, a political subdivision which transfers its subscribers to the commission, reduces the actuarial value of the health care plans under subsection (j) of section 19, may provide health reimbursement accounts to reimburse subscribers for qualified medical expenses. Qualified medical expenses may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

SECTION 45F. Section 8 of Chapter 32A is hereby amended by striking out paragraphs 1 and 2 and substituting the following:—

Section 8. For policies of group life insurance and accidental death and dismemberment insurance, and group health insurance purchased by the commission in accordance with the provisions of sections four, five and ten C, and for self-insured health coverage provided by the commission in accordance with the provisions of section 4A, the commonwealth, on behalf of active and retired employees and their dependents, shall contribute no less than seventy-five per cent of the total monthly premium or rate applicable to said coverages and the active and retired employees on behalf of themselves or themselves and their dependents shall contribute the remaining twenty-five per cent of the total monthly premium or rate, except, that upon approval by way of an annual appropriation act, the commonwealth may contribute more

than seventy-five per cent but less than the entire total monthly premium or rate. The annual appropriation act shall provide the necessary annual sum to be funded by the commonwealth based upon the estimated monthly cost as required by sections four and four A and the estimated monthly cost for coverages contained in other sections of this chapter and shall describe the ratio of contribution to be paid by the commonwealth and by the active and retired employees insured under sections of this chapter. The adoption of the annual appropriation act establishing the annual contribution ratios for active and retired employees and their dependents shall be deemed to establish and to have established a contractual relationship under which employees, retirees and their dependents are entitled to contractual rights and benefits, including the coverage and benefits provided, the contribution ratios established in the annual appropriation act, the schedule of co-pays and deductibles and other terms upon which the total premium cost of each plan and the contribution ratios established in the annual appropriation act were based, and, notwithstanding the provisions of chapter twenty-nine, no amendments or alterations shall be made that will deprive any employee or retiree of their rights and benefits thereunder, including municipal subscribers, during the fiscal year covered by the annual appropriation act.

With respect to any period of insurance authorized by this chapter which is in effect for an active employee and dependent, there shall be withheld from each payment of salary or wages no more than twenty-five per cent of the aforesaid total monthly premium or rate, or, there shall be a lesser amount as provided in the annual appropriation act. With respect to any period of insurance authorized by this chapter which is in effect for a retired employee and dependent, there shall be withheld from each payment of pension or retirement allowance no more than twenty-five per cent of the aforesaid total monthly premium, or, there shall be withheld a lesser amount as provided in the annual appropriation act. The commonwealth shall contribute a share of any additional premium which may be required for coverage of an employee's dependent child who is nineteen years of age or over and mentally or physically incapable of earning his own living, such share equaling the same ratio as that paid on behalf of an active or retired employee and dependent.”.

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out the text of said amendment [at “A”] and inserting in place thereof the following:

“section:
SECTION 45. Said chapter 32B of the General Laws, as so appearing, is hereby further amended by inserting the following section:—

Section 19A. (a) Notwithstanding the provisions of this chapter or any other general or special law to the contrary, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers, co-payments, deductibles, tiered provider network co-payments and other plan design features that are no greater in dollar amount than the co-payments, deductibles, tiered provider network co-payments and other plan design features offered by the

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commission pursuant to section 4 or 4A of chapter 32A in a plan with the largest subscriber enrollment. For purposes of this section, the term "subscribers" shall mean employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision accepting this section; and, for the purposes of this section, "point of service" shall mean a plan offered by an appropriate public authority and shall be considered to fall within a preferred provider organization class. This section shall take effect in a political subdivision upon its acceptance in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting.

(b) Upon acceptance of this section, the appropriate public authority shall evaluate its health insurance coverage and determine the cost savings that may be realized after the first year of implementation of plan design changes or upon transfer of its subscribers to the commission. The appropriate public authority shall then notify its insurance advisory committee, or such committee's regional or district equivalent, of the estimated savings and provide any reports or other documentation with respect to the determination of said savings as requested by the insurance advisory committee. Upon the agreement by the insurance advisory committee as to the estimated cost savings, the appropriate public authority shall deposit 10 per cent of the estimated cost savings into an escrow account.

(c) The appropriate public authority shall convene a meeting with a representative from each of the collective bargaining units to which the authority provides coverage and a retiree representative, hereafter called the public employee committee, and submit the proposal for plan design changes or a transfer to the commission. The proposal shall include details of changes to current plan design features and a cost savings estimate. The appropriate public authority and the public employee committee shall have 30 days to discuss the details of the proposal put forth by the appropriate public authority and negotiate the use of the 10 per cent cost savings realized by the governmental unit; provided, however, that the savings shall only be used for health related programs in the first year of implementation of plan design or transfer to the commission; provided further, that a percentage of the savings must address costs incurred by retirees as a result of the implementation of this section. At the conclusion of the 30 day period, and upon consent to the plan design proposal by the public employee committee, as submitted by the appropriate public authority or modified during the meeting, the 10 per cent savings deposited in escrow shall be disbursed in accordance with the terms of the agreement. If no agreement is reached between the parties, then the original plan design proposal or proposal to transfer to the commission submitted by the appropriate public authority shall be implemented by the appropriate

public authority who shall establish an HRA to offset costs for high utilizers and retirees to be funded by 20 per cent of the estimated cost savings established under subsection (c).

(d) An appropriate public authority may increase the dollar amounts for co-payments, deductibles, tiered provider network co-payments and other plan design features; provided that such features do not exceed other plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a plan with the largest subscriber enrollment. Nothing herein shall prohibit an appropriate public authority from including in its health plans higher co-payments, deductibles or tiered provider network co-payments or other plan design features than those authorized by the preceding paragraphs of this section; provided, however, such higher co-payments, deductibles, tiered provider network co-payments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to chapter 150E.

(e) The decision to accept and implement the provisions of this section shall not be subject to bargaining pursuant to chapter 150E or section 19 of chapter 32B. Nothing in this section shall preclude the implementation of plan design changes pursuant to this section in communities that have adopted section 19 of this chapter or by the governing board of a joint purchasing group established pursuant to section 12.

(f) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

(g) After a meeting with public employee committee has adjourned, the appropriate public authority who has elected to transfer its subscribers shall notify the commission that it will transfer all subscribers for whom it provides health insurance coverage to the commission. The notice shall be provided to the commission by the appropriate public authority on or before December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios which shall be determined by a written agreement between the appropriate public authority of a governmental unit and the collective bargaining units pursuant to this chapter and chapter 150E.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of trans-

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fer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to, family and personnel status changes, and shall report all changes monthly to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at 3 year intervals from the date of transfer of subscribers to the commission.

The decision and notice to withdraw shall be made by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission and the political subdivision shall abide by all commission requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under sections 10B and 12 of chapter 32A and, after withdrawal from the commission, those subscribers who received coverage from the commission under said sections 10B and 12 of said chapter 32A shall not pay more than 25 per cent of the cost of their health insurance premiums.

In the event of withdrawal from the commission, the political subdivision and public employee unions shall return to governance of negotiations of health insurance under chapter 150E and this chapter.

(h) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

Notwithstanding any general or special law to the contrary, a political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts, or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage pursuant to this section shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and

payments, excluding contribution ratios, and obligations, including, but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers and these matters shall be determined exclusively by the commission and shall not be subject to collective bargaining. The commission may issue rules and regulations consistent with this section and shall provide public notice of any proposed rules and regulations and notice of thereof at the request of interested parties, together with an opportunity to review those rules and regulations and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing; provided, however, that the commission shall not be subject to chapter 30A.

The commission shall negotiate and purchase health insurance coverage for subscribers transferred under subsection (e) and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to chapter 32A. The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said chapter 32A. Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses, and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by section 20 of chapter 59 requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation of coverage is for non-payment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total

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premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage for purposes of determining the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(i) If there is a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, the retiree shall no longer be eligible for the retiree's existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of the retiree's eligibility or ineligibility for Medicare part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan."

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 Mr. Walsh of Boston; and on the roll call 113 members voted in the affirmative and 42 in the negative.

[See Yeas and Nays No. 51 in Supplement.]

[Representatives Smizik of Brookline and Straus of Mattapoisett answered "Present" in response to their names.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment. Mr. Dempsey of Haverhill moved that this vote be reconsidered; and the motion to reconsider was negated.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 130. Notwithstanding any general or special law to the contrary, any unexpended and unencumbered balances of appropriations on June 30, 2011 shall be distributed to cities and towns in accordance with the distribution of the balance of the State Lottery Fund, as stipulated in section 3 of this act; provided however, the distribution authorized herein shall be equal to 50% of the aggregate balances of appropriations on June 30, 2011, or \$65,000,000, whichever is less. The distribution authorized in this section shall be executed not later than October 31, 2011."

The amendment was adopted.

Mr. Dempsey of Haverhill and other members of the House then moved (consolidated education and local aid) to amend the bill in section 2 by inserting after item 1233-2400 the following item:

"1233-2401 For reimbursements to certain cities and towns for additional educational costs pursuant to chapter 40S of the general laws, provided further that cities and towns eligible for funding in fiscal year 2010 shall be reimbursed..... \$363,699";

Further amendment adopted, — yeas and nays No. 51.

In item 1599-0026, in line 5, by inserting after the word "municipalities" the following: "; provided, that the secretary of administration and finance shall consider the feasibility of utilizing funds authorized through this line item for grants to regional school districts", and by adding at the end of said item the following: "; and provided further, that not less than \$2,000,000 shall be expended to fund the District Local Technical Assistance Fund, including projects that encourage regionalization, to be administered by the division of local services and distributed through the District Local Technical Assistance Fund, established in section 2XXX of chapter 29 of the General Laws;

In item 3000-5000, in lines 2 to 5, inclusive, by striking out the words "; provided further, that support of program quality may include the alignment of funding for Head Start programs with development of a Quality Rating and Improvement System (QRIS)";

In item 3000-7050, in line 13, by inserting after the word "programs" the words ", school readiness and family support programs", and in line 23, by inserting after the word "item" the words "; provided further, that funds shall be expended for the home-based parenting, family literacy, and school readiness program known as the parent-child home program"

In item 7000-9401, in line 12, by striking out the word "thirty-five" and inserting in place thereof the words "thirty-five and nine tenths";

By adding at the end of item 7010-0012 the following: "; provided further, that the secretary of education, shall report, no later than July 1, 2012, to the house and senate committees on ways and means on student achievement growth by METCO students relative to their peers in both sending and receiving districts and on the academic success of former METCO students who attended two and four year public colleges and universities in the commonwealth relative to their peers from both sending and receiving districts at said public institutions of higher education; including enrollment in remedial coursework, grade point averages, and college graduation rates; and provided further, that METCO, Inc., shall make available to the secretary of education information necessary to complete said report", and in said item by striking out the figures "\$16,142,582" and inserting in place thereof the figures "\$17,642,582";

By adding at the end of item 7035-0006 the following: "; provided further, that the department of elementary and secondary education shall report to the house and senate committees on ways and means no later than February 1, 2012, on the cost of providing 100% reimbursement for out-of-district transportation expenses to communities hosting homeless families in hotels and motels";

In item 7061-0012, in lines 13 and 14, by striking out the words "funds available to the department of developmental services for the voluntary residential placement" and inserting in place thereof the following: "no less than \$6,500,000 available to the department of developmental services for the voluntary residential placement prevention";

By adding at the end of item 7061-9010 the words "; and provided further, that the Department may retain not more than one percent of tuition payments to charter schools for the administration of the charter school program";

In item 7061-9404, in line 21 by striking out the following: "2012, inclusive, who have completed high school" and inserting in place

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thereof the following: "2014, inclusive, who may have completed all other high school requirements", in line 25 by striking out the following: "the English and Math MCAS tests" and inserting in place thereof the following: "the English, Math, and Science, Technology, and Engineering MCAS tests"; in line 28 by inserting after the word "programs" the following: "; provided further, that not less than \$200,000 shall be expended for JFY Networks for the purposes of enhancing student performance and addressing achievement gaps through the use of instructional software, teacher training, and support, in line 29 by striking out the words "a competitive grant program" and inserting in place thereof the words "competitive grants"; in line 30 by striking out the words "eleventh and twelfth graders" and inserting in place thereof the following: "students in the graduating classes of 2003-2015"; in line 44 by inserting after the words "MCAS exams" the following: "or level 1 on Science, Technology and Engineering MCAS"; in line 47 by striking out the words "English and Math" and inserting in place thereof the words "English, Math and Science, Technology and Engineering"; and by striking out the figures "\$9,094,805" and inserting in place thereof the figures "\$9,575,175";

By adding at the end of item 7061-9408 the following: "; and provided further, that in carrying out the provisions of this item, the department may contract with vendors that have an established record of working with schools to target and enhance middle school academic support services, provided the department shall give priority to programs that have the capacity to serve not less than 25% of a district's middle school population, make available documentation of a minimum of \$1 in private sector local or federal funds for every \$1 in state funds, extend the learning day for students on site in the same building where students attend school during the day by a minimum of 10 hours per school week, provided further, said programs shall have conducted at least one independent longitudinal study demonstrating gains in student performance in any of the following areas; MCAS scores, school attendance, student grades, or long-term high school graduation rates, teach students in groups with ratios no larger than one to eighteen, integrate an extended school faculty which includes an on-site leader, and further, said program shall develop data sharing agreements and MOUs with middle schools to ensure the timely and effective sharing of grade progress and other formative or diagnostic measurement of student progress"; and in said item by striking out the figures "\$6,740,746" and inserting in place thereof the figures "\$7,692,193";

In item 7061-9601 by striking out the figures "\$1,265,038" and inserting in place thereof the figures "\$1,367,409";

By inserting after item 7061-9611 the following item:

"7061-9614 For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws; provided, that the commissioner shall allocate funds for both subsections (a) and (b) of said section 1N of said chapter 69; and provided further, that no funds shall be expended for personnel costs \$146,140";

By inserting after item 7061-9619 the following item:

"7061-9626 For grants and contracts with YouthBuild programs for the purposes of providing comprehensive YouthBuild services \$1,300,000";

In item 7061-9804, in line 3, by inserting after the word "preparation" the following: "; provided further, that not less than \$400,000 shall be expended on a program which shall provide advanced placement math, science and English teacher training in at least 40 school districts, provided that such program shall provide a matching amount of at least \$400,000 in private funding; and provided further, that the department shall deliver to the legislature an independent evaluation of the program and its impact on student achievement, particularly as it relates to closing achievement gaps"; and in said item by striking out the figures "\$353,227" and inserting in place thereof the figures "\$753,227";

By inserting after said item 7061-9804 the following item:

"7061-9810 For regional bonus aid pursuant to M.G.L. Chapter 71 Section 16(D)(g)..... \$300,000";

In item 7061-9634 by striking out the figures "\$100,000" and inserting in place thereof the figures "\$250,000";

By inserting after item 7066-0024 the following item:

"7066-0025 For the performance management set aside incentive fund for the University of Massachusetts, the state universities, and the community colleges; provided, that these funds shall be distributed by the department of higher education to public institutions of higher education through a competitive grant process based on priorities determined by the department in pursuit of goals articulated in the commonwealth's Vision Project \$2,500,000";

In item 7070-0065 by striking out the figures "\$86,507,756" and inserting in place thereof the figures "\$87,607,756";

In item 7077-0023 by striking the figures "\$1,000,000" and inserting in place thereof the figures "\$2,000,000";

By adding at the end of item 7100-0200 the following: "; and provided further, that funds may be expended for the UMass Extension, and for the statewide 4-H program";

By adding at the end of section 2E the following item:

"7066-0035 For the support of the science, technology, engineering, and mathematics grant fund established by section 2MMM of chapter 29 of the General Laws \$500,000";

In section 46 by inserting after paragraph (d) the following paragraph:

"(e) The governing board of a joint purchase group established pursuant to section 12 of this chapter may make the same changes to the plan design features of the health plans that it offers to its governmental unit members' subscribers as the appropriate public authority of a governmental unit is authorized to make to that governmental unit's health plans pursuant to subsection (a) and (b). The governmental unit members of such joint purchase group shall not be required to bargain

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over the decision to make such changes to their subscribers' health plans."; and

By adding the following four sections:

"SECTION 131. Section 2 of chapter 32B of the General Laws is hereby amended by inserting, in line 5, as so appearing, after the word 'and' the following words:— joint purchasing groups established pursuant to section 12 of this chapter, and.

SECTION 132. Said section 2 of said chapter 32B of the General Laws is hereby further amended by adding the following definitions:—

'Health care flexible spending account', a federally recognized tax exempt health benefit program that allows an employee to set aside a portion of earnings to pay for qualified expenses as established in an employer's benefit plan.

'Health reimbursement arrangement' or 'HRA', a federally recognized tax exempt health benefit program funded solely by an employer to reimburse employees for qualified medical expenses.

SECTION 133. Chapter 32B of the General Laws, as so appearing, is hereby amended by adding the following sections:—

Section 21. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any section of this chapter shall conduct an enrollment audit not less than once every 2 years. Said enrollment shall be completed in order to ensure that members are appropriately eligible for coverage.

Section 22. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any section of this chapter shall provide health care flexible spending accounts to allow certain subscribers to set aside a portion of earnings to pay for qualified expenses including, but not limited to, inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

SECTION 134. Section 92 of Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding after subsection (p), the following subsections:—

(q) A school committee operating an Innovation School that is a virtual public school may vote to allow students who do not reside in the district to enroll in said school pursuant to chapter 76, section 12B, provided that such vote and policy is consistent with department of elementary and secondary education regulations governing enrollment at such schools; provided further, that any student so enrolled shall have no right to attend any other school operated by said school committee. Notwithstanding subsection (b), an Innovation School that is a virtual public school may receive each school year from the school committee less than the same per pupil allocation as any other district school receives." The amendments were adopted.

Recess.

Recess.

At ten minutes after eleven o'clock P.M. (Tuesday, April 26), on motion of Mr. Dempsey of Haverhill (Mrs. Haddad of Somerset being in the Chair), the House recessed until the following day at half past eleven o'clock A.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Wednesday, April 27, 2011 (at 11:37 o'clock A.M.).

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

Appointment to a Permanent Special Commission.

The Minority Leader announced (under Section 69 of Chapter 3 of the General Laws) that he had appointed Mr. John Lepper of Attleboro to serve as his designee on the permanent commission on the status of grandparents raising grandchildren. Grandparents raising grandchildren.

Paper from the Senate.

A petition of Benjamin B. Downing and Gailanne M. Cariddi for legislation relative to an exclusive and perpetual easement within Monroe State Forest came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight. Monroe State Forest,—easement.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1899) was referred, in concurrence, to the committee on State Administration and Regulatory Oversight.

Report of a Committee.

By Mr. Sánchez of Boston, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3310) of Alice K. Wolf and others relative to the personal care services administered by the Division of Medical Assistance,— and recommending that the same be referred to the committee on Elder Affairs. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence. Personal care services.

Orders of the Day.

Mr. Murphy of Burlington being in the Chair,— The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended) was considered. General Appropriation Bill.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy), 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 147 members were recorded as being in attendance. Quorum,—yea and nay No. 52.

[See Yea and Nay No. 52 in Supplement.]

Therefore a quorum was present.

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Mr. Dempsey of Haverhill and others members of the House then moved (consolidated Constitutional officers and state administration) to amend the bill in section 2 by striking out item 0511-0270 and inserting in place thereof the following item:

"0511-0270 For the secretary of state who shall contract with the University of Massachusetts Donahue Institute to provide the commonwealth with technical assistance on United States census data and to prepare annual population estimates provided that all estimate data and reports be made available to the joint committee on redistricting in electronic files and estimate data formatted to be compatible with GIS software..... \$500,000";

In item 0521-0000 by striking out the figures "\$4,203,698" and inserting the figures "\$5,175,000";

In item 0521-0001 by adding after the year "2012" the following: "provided further that all information contained in the Central Voter Registration Computer System as described in MGL 51 § 47C and all election results since January 1, 2001 for which the office of the State Secretary has any involvement under MGL 54 be made available to the joint committee on redistricting for the purpose of the redistricting under Article XVI and Article CI of the Massachusetts Constitution."; and by striking out the figures "\$4,687,121" and inserting the figures "\$4,937,121";

By inserting after item 0610-0050 the following item:

"0610-0051 For the operations of the alcoholic beverages control commission relative to the prevention of underage drinking and related programs, including but not limited to applying for and obtaining federal Alcohol, Tobacco, and Firearms funds, grants, and other federal appropriations; provided further, that the commission is hereby authorized to expend revenues up to \$171,664 collected from fees generated by said commission; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, said commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system..... \$171,664";

In item 0640-0300 by striking the figures "\$4,449,866" and inserting the figures "\$5,449,866";

In line item 0840-0101 by striking the figures "\$728,773" and inserting the figures "\$772,500";

In item 0900-0100, by striking out the figures "\$1,696,500" and inserting the figures "\$1,796,500";

In item 0920-0300 by striking out the figures "\$1,220,342" and inserting the figures "\$1,270,342";

By inserting after item 0950-0000 the following item:

"0950-0050 For the Commission on Gay, Lesbian, Bisexual and Transgender Youth; provided, that funds shall be

used to address issues related to the implementation of the state's anti-bullying law (Chapter 92 of the Acts of 2010)..... \$25,000";

By inserting after item 1100-1100 the following item:

"1100-1201 For the operation of the office of commonwealth performance, accountability and transparency; provided, that the activities funded from this item may include, but not be limited to, the operations and maintenance of a performance management program, maximization of federal revenue opportunities and oversight of compliance with federal reporting requirements including the implementation and oversight of the Federal Financial Accountability and Transparency Act section 14c of chapter 7 of the general laws and other statewide transparency initiatives to enhance program integrity and ongoing efforts to prevent fraud, waste and abuse throughout the executive branch; provided further, that funds may be expended for performing enhanced economic forecasting and analysis; and provided further, that the unit may develop guidelines and methodologies for agencies to follow in the forecasting of caseloads and revenue..... \$350,000";

In section 11, in line 6, by striking out the following "and (7)" and inserting the following: "(7) reduce and simplify paperwork of stage agencies and departments by, wherever possible, adopting uniform forms or federal forms when they are more shorter than the corresponding state form; (8) implement and streamline electronic paperwork options to better facilitate public interaction with state agencies; and (9).";

By striking outside section 96;

In section 107, in line 1516, by inserting after the word "armory." the following sentence: "Prior to sale, lease, grant, or conveyance of the subject property, the Commissioner shall enter into a historical covenant agreement with the Massachusetts Historical Commission."; and, in line 1575, by adding the following paragraph:

"(j) Notwithstanding any general or special law to the contrary, prior to offering either of the properties described in subsections (b)(2) and (3) of this section for disposition, the division of capital asset management and maintenance shall notify the city of New Bedford in writing of its intention to dispose of either or both of these properties and shall offer to sell, lease for terms up to 99 years including all renewals and extensions or otherwise grant, convey or transfer to the city an interest in either of those properties, or portions thereof, and shall enter into negotiations with the city to sell, lease for terms up to 99 years including all renewals and extensions or otherwise grant, convey or transfer to the city an interest in either of those properties, or portions thereof, if the division receives written notice from the city of an interest in either property or any portion thereof within ninety days of the date of the city's receipt of the division's written notice."; and by adding the following nine sections:

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“SECTION 135. Section 4F½. There shall be established and set up a separate account, to be known as the Commonwealth Performance, Accountability, and Transparency Trust, in this section called the trust. The secretary of administration and finance shall expend funds in the trust without further appropriation to support the purposes of the office of commonwealth performance, accountability, and transparency, established by paragraph (f) of section 4A. The

comptroller shall annually transfer to the trust, from the indirect costs charged under section 5D of chapter 29, an amount determined by the secretary for these purposes, not exceeding \$500,000 plus the one-time costs of any technology determined by the secretary.

SECTION 136. Notwithstanding the provisions of any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the North Randolph Little League for property currently under the care and control of the department, the land adjacent to the existing North Randolph Little League field off High Street near the former Nike Missile site in the town of Randolph. The term of any such lease agreement shall be for not less than 20 years. All costs, fees and expenses relating to the care and maintenance for such property shall be paid by the lessee.

SECTION 137. Section 12 of chapter 11 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences: The department of the state auditor shall audit the accounts, programs, activities and functions directly related to the aforementioned accounts of all departments, offices, commissions, institutions, and activities of the commonwealth, including those of districts and authorities created by the general court, and including those of the income tax division of the department of revenue, and for said purpose the authorized officers and employees of said department of the state auditor shall have access to such accounts at reasonable times and said department may require the production of books, documents, vouchers, and other records relating to any matter within the scope of such audit or an audit authorized by section 13, except tax returns. In determining the audit frequency of a covered entity, the department shall consider the materiality, risk, and complexity of the entity’s activities as well as the nature and extent of prior audit findings. Each entity may be audited separately, as a part of a larger organizational entity, or as a part of an audit covering multiple entities; however, in no event will an entity be audited less than once every three years and shall be subject to audit as often as the state auditor determines it necessary.

SECTION 138. Notwithstanding any general law to the contrary, the secretary of the Massachusetts Department of Transportation, in consultation with the commissioner of the division of capital asset management, shall study and assess the current market value of real property under the ownership, possession and control of the Massachusetts Department of Transportation, including but not limited to, any land or buildings previously owned by the Massachusetts turnpike authority, and determine whether such assets are surplus to the operation of the Massachusetts Department of Transportation, as defined by section 1 of chapter 6C.

SECTION 139. A Special Commission shall be established to study and make recommendations concerning functional overlaps and other redundancies among state agencies and opportunities to promote efficiency and accountability in state government. The Commission shall identify ways to eliminate such overlaps and redundancies and make such other recommendations as the commission deems appropriate, with the goal of reducing costs to the state and enhancing the quality and accessibility of state services to the public. The Commission shall consider merging or consolidating state agencies and programs if such action would reduce costs without adversely impacting the quality of services. The Commission shall also seek to identify opportunities to maximize revenues, such as federal grants and matching funds.

SECTION 140. Members of the Commission shall be determined as follows:

(1) Three members to be appointed by the Speaker of the House; (2) Two members to be appointed by the House Minority Leader; (3) Three members to be appointed by the Senate President; (4) Two members to be appointed by the Senate Minority Leader; (5) One member to be appointed by the State Auditor; (6) One member to be appointed by the State Treasurer; (7) Five members to be appointed by the Governor. The Commission shall be bipartisan and may include members of the General Court, members of the executive branch, members of the judicial branch, or outside experts. The Speaker of the House and the Senate President shall determine which two members of the Commission will serve as co-chairpersons.

SECTION 141. The Commission may hold hearings and invite testimony from experts and the public. The Commission shall review and identify best practices learned from undertaking similar efforts in other states, such as Connecticut’s Commission on Enhancing Agency Outcomes which reported its findings and recommendations in December, 2010.

SECTION 142. The agency head and staff of each state agency under consideration by the Commission shall ensure that any data, information or materials that the Commission requests for purposes of its review and deliberations are provided to the Commission in a timely manner.

SECTION 143. Section 45 of chapter 30 of the General Laws is hereby amended by inserting in subsection (1), after the words ‘... and legislative branches...’ the following:— ‘...in the state ethics commission...’.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Kocot of Northampton; and on the roll call 132 members voted in the affirmative and 26 in the negative.

[See Yea and Nay No. 53 in Supplement.]

Therefore the amendments were adopted.

Mr. Diehl of Whitman moved to amend the bill by adding the following section:

“SECTION 144. Notwithstanding any general or special law to the contrary, there shall be a commission to study the feasibility of providing home mortgage refinancing assistance to non-delinquent homeowners. The commission shall consist of the following members: the

Amendments
(Constitutional
officers, etc.)
adopted,—
yea and nay
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executive director of Massachusetts Housing Finance Agency, who shall serve as chair of the commission; the treasurer of the commonwealth, or his appointee; the senate chair of the joint committee on financial services; the house chair of the joint committee on financial services; a member to be appointed by the house minority leader; a member to be appointed by the senate minority leader; a representative of the Massachusetts credit union league; and a representative of the Massachusetts bankers association. The commission shall conduct a comprehensive review and evaluation of providing refinancing assistance for residents of the Commonwealth who, due in part to a loss of income, a depreciation in the value of their real estate, or the current refinancing exposure criteria as established by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, are unable to refinance at a lower market interest rate. The commission's study shall include, but may not be limited to, the feasibility of establishing a fund encumbered by the commonwealth to be pledged to the Massachusetts Housing Finance Agency as a mortgage refinance guarantee. The commission shall submit its findings and recommendations, together with drafts of legislation or regulations necessary to carry those recommendations into effect by filing the same with the governor, the clerks of the house of representatives and senate, and the joint committee on financial services, not later than December 31, 2012."

Quorum.

Pending the question on adoption of the amendments, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy of Burlington), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—
yea and nay
No. 54.

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

[See Yea and Nay No. 54 in Supplement.]

Therefore a quorum was present.

After remarks the amendment was adopted.

Mr. Murphy of Burlington being in the Chair,—

Mr. Kafka of Stoughton then moved to amend the bill by inserting after section 107 the following section:

"SECTION 107A. Notwithstanding any special or general law to the contrary, Section 6(l) of Chapter 64 H of the Massachusetts General Laws, as appearing in the 2010 Official Edition, by adding, in line 10, after the term 'suction machines,' the following: 'including physician-prescribed, medically necessary breast pumps,'[A]; and in line 11, by adding, after the word 'canes', the following:— or any other medical equipment deemed medically necessary and prescribed by a physician.,"

The amendments were adopted.

Mr. Garballey of Arlington then moved to amend the bill by adding the following two sections:

"SECTION 145. The definition of 'Regular compensation' in section 1 of chapter 32 of the General Laws, as most recently amended by section 23 of chapter 131 of the acts of 2010, is hereby further amended by striking out the second sentence in the third paragraph and replacing it with the following new sentence:— After September 1,

2011, faculty, librarians and administrators in public higher education who are eligible for the state employees retirement system shall not be prohibited from participating in the optional retirement program pursuant to the provisions of chapter 15A section 40.

SECTION 146. Section 40 of chapter 15A of the general laws is hereby amended by inserting in the first sentence of subsection 2(b)(i) after the word 'writing' the following:— , 'or in another form acceptable to the council,' first sentence of subsection 2(b)(ii) after the word 'writing' the following:— ', or in another form acceptable to the council,'. Said section 40 is hereby further amended by inserting in the first sentence of subsection 2(b)(iii) after the word 'writing' the following:— ', or in another form acceptable to the council.,"

After remarks the amendment was adopted.

Ms. O'Connell of Taunton then moved to amend the bill by adding the following section:

"SECTION 147. Section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking, in lines 87 to 92, the second sentence of the eighteenth clause."

Pending the question on adoption of the amendment, Mr. O'Flaherty of Chelsea moved to amend it by striking out proposed section 147 and inserting in place thereof the following section:

"SECTION 147. Clause Eighteenth of section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 87-92, the words "'Legal holiday" shall also include, with respect to Suffolk county only, March seventeenth and June seventeenth, or the day following when said days occur on Sunday; provided, however, that the words 'legal holiday' as used in section forty-five of chapter one hundred and forty-nine shall not include March seventeenth, or the day following when said day occurs on Sunday" and inserting in place thereof the following words:— 'Legal holiday' shall also include, with respect to Suffolk county only, Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, or the day following when said days occur on Sunday; provided, however, that all state and municipal agencies, authorities, quasi-public entities or other offices located in Suffolk county shall be open for business and appropriately staffed on Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, and that section forty-five of chapter one hundred and forty-nine shall not apply to Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, or the day following when said days occur on Sunday".

Pending the question on adoption of the further amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy of Burlington), 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 153 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 55.

[See Yea and Nay No. 55 in Supplement.]

Therefore a quorum was present.

Amendments adopted,—yea and nay No. 56.

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 79 members voted in the affirmative and 75 in the negative.

[See Yea and Nay No. 56 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment. Subsequently, Mr. O’Flaherty of Chelsea moved that this vote be reconsidered.

Motion to reconsider negatived,—yea and nay No. 57.

On the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 32 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 57 in Supplement.]

Therefore the motion to reconsider was negatived.

Representatives Rogers of Norwood and Khan of Newton moved to amend the bill by adding the following section:

“SECTION 148. M.G.L. Ch. 18C, sec 6, line 3 is amended and clarified in line 3 by striking after the word ‘and’ the word ‘relevant’ and replacing it with the following:— unrestricted access to all electronic information systems.”. After remarks the amendment was adopted.

Mrs. Haddad of Somerset being in the Chair,—

Mrs. Harrington of Groton then moved to amend the bill section 2, in item 0321-1500, by striking out the figures “\$45,304,806” and inserting in place thereof the figures “\$32,255,081”.

Quorum.

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

Quorum,—yea and nay No. 58.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 154 members were recorded as being in attendance.

[See Yea and Nay No. 58 in Supplement.]

Therefore a quorum was present.

After debate on the question on adoption of the amendment (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Mrs. Harrington; and on the roll call 36 members voted in the affirmative and 120 in the negative.

Amendment rejected,—yea and nay No. 59.

[See Yea and Nay No. 59 in Supplement.]

The amendment was rejected.

The same member then moved to amend the bill in section 2, in item 0321-1510, by striking out the figures “\$93,255,462” and inserting in place thereof the figures “\$117,506,173”; and the amendment was rejected.

Mrs. Haddad of Somerset being in the Chair,—

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated judiciary and public safety) to amend the bill in section 2, in item 0337-0002, by inserting after the word “department”, the following: “; provided that in fiscal year 2012 the department shall not reduce the amount allocated to the CASA programs as appearing in items 0337-0300, 0337-0400, 0337-0600, 0337-0700, 0337-0900 of section 2 of chapter 182 of the acts of 2008”;

In section 2 by striking out item 0330-0300 and inserting in place thereof the following item:

“0330-0300 For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreements, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rentals and leases, operation of courthouse facilities, rental of county court facilities, witness fees, printing expenses, equipment maintenance and repairs, the court interpreter program, insurance and chargeback costs, the Massachusetts sentencing commission, court security and judicial training; provided, that funds shall be expended on permanency mediation services; provided further, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than February 2, 2012, detailing the number of court officers, per diem court officers and security personnel located in each trial court of the commonwealth; provided further, that the chief justice for administration and management may expend funds for guardian ad litem services; provided further, that not less than \$20,000 shall be spent for the ‘Grandparents Raising Grandchildren Project’ to provide legal services to such grandparents in the areas of family law and public benefits and further requiring the chief justice of administration and management to make a report to the Legislature no later than January 2012 of all the above grandparents who requested legal services, were eligible for legal services and were denied because of insufficient resources, including the legal problem for which they sought assistance; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall submit a report to the joint committee on the judiciary and the house and senate committees on ways and means 90 days prior to the temporary closure or temporary relocation of courthouses; provided further, that said report shall include, but not be limited to, the transfer of personnel, the reallocation of resources, the impact on other courthouses resulting from the temporary closure of said court and other factors that may affect implementation of said temporary closure; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30 of the General Laws, or any other general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any such veteran who holds a trial court office

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or position in the service of the commonwealth not classified under chapter 31 of the General Laws, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who: (1) has held the office or position for not less than 1 year; and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32 of the General Laws; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that the report shall include, but not be limited to, the number of cases in which the assessment was reduced or waived by a judge or clerk-magistrate within the courts; and provided further, that the report shall be submitted to the victim and witness assistance board on or before January 9, 2012..... \$186,060,141”;

By striking out item 8000-0000 and inserting in place thereof the following item:

“8000-0000 For the office of the secretary, including the administration of the committee on criminal justice and the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402 and the costs associated with the implementation of chapter 228 of the acts of 2000; provided, that the secretary shall, to the fullest extent consistent with the duties of the office, prioritize the development and implementation of a real-time data-sharing system between federal, state and municipal law enforcement to facilitate interdepartmental cooperation and assistance; and provided further, that the secretary may enter into an agreement with a state college or university to provide for the expansion of a comprehensive law enforcement and emergency response training program for local, state and federal criminal justice and homeland security professionals, subject to the receipt of federal matching funds..... \$1,905,427”;

By striking out item 8100-0000 and inserting in place thereof the following item:

“8100-0000 For the administration and operation of the department of state police; provided, that the department shall expend funds from this item for the purpose of maximizing federal grants for the operation of a counter-terrorism unit and the payment of overtime for state police officers; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not

fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of energy and environmental affairs at no cost to, or compensation from, that office; provided further, that there shall be a study submitted to the house and senate committees on ways and means not later than January 31, 2012, on traffic details worked by the department of state police, including troops A, B, C, D, E, F, and H, over the last year, which shall detail, on a monthly basis: the total number of hours worked on traffic details by state police officers, the total amount paid to state police officers for traffic details, the standard hourly rates for traffic details done by state police officers and the city or town in which traffic details are performed by state police officers; provided further, that funds may be expended for a new state police class; provided further, that not less than \$1,000,000 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds for directed patrols in fiscal year 2008 shall receive 100 percent of the amount so earmarked in fiscal year 2012; and provided further, that the department may expend funds from this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the municipal police training committee and the criminal history systems board..... \$227,725,459”;

By inserting after item 8100-0101 the following item:

“8100-0111 For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security, to support regional, multidisciplinary approaches to combat gang violence through coordinated programs for prevention and intervention, coordinated law

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enforcement, including regional gang task forces and regional crime mapping strategies, focused prosecutions and reintegration strategies for ex-convicts; provided, that the secretary of public safety and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (b) demonstrate a commitment to regional, multijurisdictional strategies to deal with such community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (c) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (d) make a written commitment to match grant funds with a 25 per cent match provided by either municipal or private contributions; and (e) identify a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorney's offices, may apply for such funds; provided further, that such funds shall be considered one-time and grants awarded to public agencies and shall not annualize into fiscal year 2013 or subsequent years; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further, that the executive office of public safety and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 16, 2011; provided further, that awards shall be made to applicants not later than December 15, 2011; and provided further, that the executive office of public safety and security may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering the program \$3,000,000”;

By striking out item 8200-0200 and inserting in place thereof the following item:

“8200-0200 For the operation of veteran, reserve, and in-service training programs conducted by the municipal police training committee; provided, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; provided further, that no less than \$25,000 be provided for towns in Worcester County hosting municipal police training academies; and provided further, that no expenditures shall be made,

on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item..... \$2,500,378”;

By striking out item 8311-1000 and inserting in place thereof the following item:

“8311-1000 For the administration of the department of public safety, including the division of inspections, the board of building regulations and standards, and the architectural access board; provided, that the department may charge fees for permitting the operation of amusement devices and to support the department's participation in the National Council for Amusement and Recreational Equipment Safety; provided further, that the department may charge fees for amusement operator certification; provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item; provided further, that a doctor's certificate from another state shall be accepted as evidence of an eye examination; provided further, that the department shall employ not less than 42 full-time equivalent elevator inspectors, including an additional engineer inspector; provided further, that such additional engineer inspectors' duties shall include, but not be limited to, administering pipefitter license examinations; provided further, that such an additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA object class of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; provided further, that the division shall develop reasonable rules or promulgate regulations for the granting of hardship fee exemptions to certain owners or persons in control of a building or domicile in which an elevator is operated; provided further, that the division shall report to the house and senate committees on ways and means on the elevator inspection backlog not later than October 3, 2011; provided further, that the division shall develop and maintain an electronic database that shall include, but not be limited to, the location and a categorical classification of buildings in which inspections are conducted; provided further, that the division shall inspect all elevators in the state house and the McCormack office building; and provided further, that the board of building regulations and standards shall expend funds from this item for the purpose of providing for the limited use of first-class mail to send Construction Supervisor License notifications to those who are unable to access notifications via e-mail \$4,604,082”;

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By striking out item 8324-0000 and inserting in place thereof the following item:

“8324-0000 For the administration of the department of fire services, including the state fire marshal’s office, the hazardous materials emergency response program, the board of fire prevention regulations, under section 4 of chapter 22D of the General Laws, the expenses of the fire safety commission, and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that the amount allocated for programs providing information about the fire risks caused by smoking, the regional dispatch center, critical incident stress intervention programs and fire department training academies listed in item 8324-0000 of section 2 of chapter 182 of the acts of 2008 shall be allocated to each program in fiscal year 2012; provided further, that the amount allocated for critical incident stress management residential services in item 8000-0000 of said section 2 of said chapter 182 shall be allocated to the program in fiscal year 2012; provided further, that the amount allocated for hazardous material response teams specifically listed in item 8324-0000 of said section 2 of said chapter 182 shall be allocated to each program in fiscal year 2012 and shall not be reduced by more than 57 per cent; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal’s office and the Massachusetts firefighting academy, shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; and provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program..... \$16,644,000”;

By striking out item 8900-0001 and inserting in place thereof the following item:

“8900-0001 For the operation of the commonwealth’s department of correction; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and security shall report to the house and senate committees on ways and means and public safety and homeland security on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety and security shall report to the house and senate committees on ways and means and public safety and homeland security before January 1 of each year the point score compiled by the department of corrections objective classification system for all prisoners confined in each prison operated by the department; provided further, that the amount allocated for programs for incarcerated mothers in item 8900-0001 of section 2 of Chapter 131 of the Acts of 2010 shall be allocated to the program in fiscal year 2012; provided further, that the department shall report to the house and senate committees on ways and means on or before January 1, 2012 relative to the feasibility of the department to be consistent with 8900-0001 of section 2 of Chapter 61 of the Acts of 2007 relative to MCI-Cedar Junction; provided further, that the department shall expend not less than \$500,000 for cities and towns hosting facilities; provided further, that the department of corrections shall expend funds for the operation of the Massachusetts Alcohol and Substance Abuse Center; and provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level \$520,143,025”;

In item 8950-0001 by striking out the figures “\$16,275,514” and inserting in place thereof the figures “\$16,986,537”;

In item 8910-8310 by striking the out figures “\$8,000,000” and inserting in place thereof the figures “\$8,460,000”; and

In item 8910-8610 by striking the out figures “\$1,200,000” and inserting in place thereof the figures “\$2,500,000”; and

In section 60 (as published), in line 715, by inserting after the word “commonwealth” the following: “except in noncriminal or delinquency proceedings where such assignments or appointments shall not exceed 500 billable hours”, in line 797, by striking out the words “not less than”, in line 813, by striking out the words “department of transitional assistance”; and in lines 815-817 by striking out the sentence in those lines.

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In section 64 (as published), in line 899, by striking out the figures “\$1500” and inserting in place thereof the figure “\$1650”; in line 906 by striking out the figure “\$1200”, and inserting in place thereof the figure “\$1350”; and

By adding the following four sections:

“SECTION 149. Section 27C of chapter 261 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:—

(6) If the court makes a finding that the applicant could reasonably pay part of the normal fees and costs or extra fees and costs, the court may assess a reasonable partial payment towards said fees or costs and a date by which same is to be paid by the applicant. The court shall not order partial payment without first holding a hearing thereon, and if there is an appeal pursuant to section 27D following such an order, the court shall, within 3 days, set forth its written findings and reasons justifying the order of partial payment, which document shall be part of the record on appeal.

SECTION 150. Chapter 262 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following section:—

Section 65. For all fees, fines, costs, assessments and other monies collected by any department of the trial court and payable to the commonwealth under this chapter, the trial court may accept payment by credit card.

SECTION 151. Section 128 of Chapter 27 of the Acts of 2009 is hereby amended by striking subsection (a) and inserting the following new subsection in place thereof:—

(a) Notwithstanding any general or special law to the contrary, any successor agreement to the current collective bargaining agreement for employees of the state police executed by the Commonwealth, acting by and through the secretary of administration and finance, and the State Police Association of Massachusetts shall not include benefits for any regular full-time member of the state police hired on or after July 1, 2009 pursuant to the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws. Nothing in this section shall preclude regular full-time members of the state police otherwise eligible for participation in the career incentive pay program established pursuant to said section 108L of said chapter 41 from participating in the program. Any new educational career incentive benefit agreed to by the State Police Association of Massachusetts and the Commonwealth for regular full-time members of the state police hired on or after July 1, 2009 shall be subject to appropriation.

SECTION 152. Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2012, transfer funds from any item of appropriation within the trial court, except items 0339-1001 and 0339-1003, to any other item of appropriation within the trial court, except items 0339-1001 and 0339-1003. These transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. The schedule shall include the following: (1) the amount of

money transferred from any item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.”

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by inserting after proposed section 151 the following two sections:

“SECTION 151A. Section 128 of chapter 27 of the acts of 2009 is hereby amended by striking out subsection (c).

SECTION 151B. There shall be established a commission to investigate and report on current funding levels and municipal contractual obligations established by section 108L of chapter 41, known as the police career incentive pay program. The commission shall be composed of 7 members, 1 appointed by the speaker of the house of representatives, 1 appointed by the senate president, 1 appointed by the minority leader of the house of representatives, 1 appointed by the minority leader of the senate, the secretary of the executive office public safety and security, a representative from the Massachusetts chiefs of police association and a representative from the Massachusetts municipal association. The commission shall file a report with its findings and any legislative recommendations with the house and senate clerks on or before April 30, 2012.”

After remarks the further amendment was adopted.

After debate on the question on adoption of the amendments, as amended, Mr. Moran of Boston asked for a count of the House to ascertain if a quorum was present. A count showed that 96 members in attendance.

Quorum.

After remarks on the question on adoption of the amendments as amended, the sense of the House was taken by yeas and nays at the request of Mr. Henriquez of Boston; and on the roll call 156 members voted in the affirmative and 0 in the negative.

Amendments adopted,—yea and nay No. 60.

[See Yeas and Nays No. 60 in Supplement.]

Therefore the amendments were adopted.

At ten minutes after six o'clock P.M. (Wednesday, April 27), on motion of Mr. D.Emilia of Bridgewater (Mrs. Haddad of Somerset being in the Chair), the House recessed until the half past seven o'clock P.M.; and at eighteen minutes before eight o'clock P.M. the House was called to order with Mr. Donato of Medford in the Chair.

Recess.

Ms. Fox of Boston and other members of the House then moved to amend the bill by adding the following section:

“SECTION 153. Section 15III of Chapter 6 of the General Laws, as appearing in the Official 2010 Edition, is hereby amended by striking the word ‘October’ and inserting in place thereof the following word:— May.”

The amendment was adopted.

Mr. Wong of Saugus moved to amend the bill by adding the following section:

“SECTION 154. Section 7A of chapter 271 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended, by inserting at line 36, after the word ‘bazaar’, the following:— , except that the

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sponsoring organization may retain, at a reasonable fee, non-members to assist in the operation of such raffle or bazaar, including providing paid dealers and game supervisors to insure that the rules of the game are properly administered and complied with, so long as only qualified members of the sponsoring organization handle the funds collected and disbursed at the raffle or bazaar.”

The amendment was adopted.

Messrs. Mariano of Quincy and Costello of Newburyport then moved to amend the bill by adding the following section:—

“SECTION 155. Section 1 of chapter 176O of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Unless otherwise noted, the term ‘carrier’ shall not include any entity to the extent it offers a policy, certificate or contract that does not qualify as creditable coverage as defined in section 1 of chapter 111M.

Section 21(b)(1) of chapter 176O of the General Laws, as amended by Section 40 of chapter 288 of the Acts of 2010, is hereby amended by striking out the words ‘provided, however, that “carrier” shall include an entity that offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services’ and inserting in place thereof the following words:— provided, however, that ‘carrier’ shall not include any entity to the extent it offers a policy, certificate or contract that does not qualify as creditable coverage as defined in section 1 of chapter 111M.”

The amendment was adopted.

Mr. Arciero of Westford then moved to amend the bill by inserting after section 25 the following two sections:

“SECTION 25A. Section 15E of chapter 15A of the General Laws, as amended by section 26 of chapter 189 of the acts of 2010, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

Subject to appropriation, the commonwealth shall contribute funds to each institution’s recognized foundation in an amount necessary to match private contributions in the current fiscal year to the institutions or a foundation’s endowment or capital outlay program based on the following matching formula: subject to appropriation, the commonwealth’s contribution shall be equal to \$1 for every \$2, privately contributed to the university’s board of trustees or a foundation; \$1 for every \$2, or \$1 dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to each state university’s board of trustees or foundation; and \$1 for every \$2, or \$1 for such greater number of dollars as may be established by the board of higher education, privately contributed to each community college’s board of trustees or foundation.

SECTION 25B. Said section 15E of said chapter 15A is hereby further amended by striking out the fourth paragraph.”

The amendment was adopted.

Mr. O’Day of West Boylston then moved to amend the bill by adding the following section:

“SECTION 156. Section 16, Chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following paragraph:—

The secretary of the Executive Office of Administration and Finance Services shall develop standards to identify, earmark and recruit with intent to hire qualified applicants with disabilities; said standard shall apply to all vendors providing direct services under multiyear contracts or grants funded by agencies with the Secretariat; Standards shall include a commitment toward hiring people with disabilities, training all employees involved in hiring decision on the requirements of the Americans with Disabilities Act, and annual reporting on progress toward achieving employment goals.”

The amendment was adopted.

Ms. Dykema of Holliston then moved to amend the bill by adding the following section:

“SECTION 157. Section 222 of chapter 111, as so appearing, is hereby further amended by adding at the end thereof the following:— The provisions of subsections (a) and (b) shall become effective sixty days after the promulgation of regulations by the Department of Public Health.”

The amendment was adopted.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

“SECTION 158. Section 1 of Chapter 151, as appearing in the 2008 Official Edition, is hereby amended by adding at the end of the first paragraph the following:

This section shall not apply to workers under the age of twenty who are seasonally employed for no more than 5 months in any consecutive twelve month period. A wage of less than \$7.00 for any such worker under the age of twenty shall conclusively be presumed to be oppressive and unreasonable, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.”

The amendment was rejected.

Ms. Khan of Newton and other members of the House then moved to amend the bill adding the following section:

“SECTION 158. There shall be no less than 3 dental chairs for persons with disabilities at the proposed mental health facility situated in Worcester.”

After debate the amendment was adopted.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated veterans and soldiers’ homes) to amend the bill in section 2, in item 1410-0010, by adding the following: “provided further, the department shall conduct a study of expanded treatment and residential services for veterans with head injuries and other trauma caused by Improvised Explosive Devices and other concussive weapons encountered on the modern battlefield; provided further, not less than \$15,000 shall be expended for the Vietnam Veterans Moving Wall project in the metro west region; and provided further that not less than \$25,000 be expended for the USS Massachusetts at Battle Ship Cove”; and by striking out the figures “\$2,362,778” and inserting in place the figures “\$2,402,778”;

In item 1410-0012 by adding the following: “and provided further, that the department shall not reduce the amount allocated to a program or its successor from the amount appropriated in section 2 of chapter 131 of the acts of 2010”;

In item 1410-0250 by adding the following "provided, that the department shall not reduce the amount allocated to a program or its successor from the amount appropriated in section 2 of chapter 131 of the acts of 2010"; and

In item 1410-0630 by striking out the figures "\$937,055" and inserting in place thereof the following figures "\$948,313".

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Vallee of Franklin; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 61 in Supplement.]

Therefore amendments were adopted.

The Chair (Mr. Donato of Medford) then 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 provisions of said rule; and on the roll 122 members voted in the affirmative and 33 in the negative.

[See Yeas and Nays No. 62 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 159. Chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following section:—

Section 63. The executive office of health and human services shall discontinue membership in the MassHealth fee-for-service program and primary care clinician plan, and shall begin enrolling all members meeting eligibility requirements as established pursuant to applicable federal and state law and regulation, and for whom the discontinuation would result in cost savings for the MassHealth program, into a Medicaid managed care organization that has contracted with the commonwealth to deliver such managed care services, in accordance with the enrollment and assignment processes for other eligible categories and at the appropriate levels of premium. The office shall submit a report to the joint committee on health care financing and the clerks of the house and the senate by June 30, 2012 detailing which members it has newly enrolled in a Medicaid managed care organization, which members it has maintained in the MassHealth fee-for-service program and primary care clinician plan, and an actuarial justification for those members who have not been transferred to a Medicaid managed care organization."

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. Hill of Ipswich; and on the roll call 32 members voted in the affirmative and 124 in the negative.

[See Yeas and Nays No. 63 in Supplement.]

Therefore the amendment was rejected.

Mr. Webster of Pembroke then moved to amend the bill in section 2E, in item 1595-5819, in line 3, by striking out the figures "\$50,000,000" and inserting in place thereof the figures "\$15,000,000"; and in item

1595-5820, in line 3, by striking out the figures "\$50,000,000" and inserting in place thereof the figures "\$15,000,000".

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 32 members voted in the affirmative and 124 in the negative.

[See Yeas and Nays No. 64 in Supplement.]

Therefore the amendment was rejected.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated health and human services) to amend the bill in section 2 by striking out item 4000-0300 and inserting in place thereof the following item:

"4000-0300 For the operation of the executive office of health and human services, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the Executive Office of Health and Human Services and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated in this item shall be expended for administrative and contracted services related to the implementation and operation of programs authorized by chapter 118E of the General Laws; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed the rates that are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that funds may be expended for the operation of the office of health equity within the executive office of health and human services;

Amendments (veterans and soldiers' homes) adopted,—yea and nay No. 61.

Suspension of Rule 1A.

Rule 1A suspended,—yea and nay No. 62.

Amendment rejected,—yea and nay No. 63.

Amendments rejected,—yea and nay No. 64.

provided further, that expenditures for the purposes of each item appropriated for programs authorized by chapter 118E of the General Laws shall be accounted for in the Massachusetts management accounting and reporting system not more than 10 days after the expenditures have been made by the Medicaid management information system; provided further, that no expenditures shall be made that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 1115(a) of said Social Security Act or the community first section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, except as specifically authorized herein, or unless made for cost containment efforts, the purposes and amounts of which have been submitted to the executive office of administration and finance and the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office of health and human services may continue to recover provider overpayments made in the current and prior fiscal years through the Medicaid management information system, and that these recoveries shall be considered current fiscal year expenditure refunds; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that not less than \$250,000 shall be expended on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under Section 330(f)(1) of the United States Public Health Service Act at 42 USC 254c(f)(1); provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that not later than November 1, 2011, the execu-

tive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the methodology used for projecting MassHealth enrollment and utilization in fiscal year 2012 and evaluating the accuracy of the caseload and utilization projection methodologies used to project caseload and utilization in fiscal year 2011 and fiscal year 2012; provided further, that notwithstanding any general or special law to the contrary, the state Medicaid office is hereby authorized to conduct a trial to determine the effectiveness of various fraud management tools to identify potential fraud prior to payment; provided further, any such trial may test innovative technologies to improve medical fraud detection and evaluate the efficacy of, among things, a real time, pro-active model to identify specific suspicious provider billing patterns, document the results of any potential fraud findings and estimated savings to benefit the commonwealth associated with such a fraud detection system; and provided further, that any projection of deficiency in items 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 or 4000-1405 shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that any unexpended balance in these accounts shall revert to the General Fund on June 30, 2012 \$83,734,473”;

By striking out item 4000-0500 and inserting in place thereof the following item:

“4000-0500 For health care services provided to medical assistance recipients under the executive office’s primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the executive office and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive, and clause (h) of subsection (2) of section 9A of chapter 118E of the General Laws and section 16C of said chapter 118E; provided, that no funds shall be expended from this item for children and adolescents under clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by the executive office, exceed 150 per cent of the federal poverty level; provided further, that the executive office shall maintain the fiscal year 2011 overall reimbursement rate for the commonwealth’s only medical respite program for the homeless; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that the executive office shall maximize federal

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reimbursements for state expenditures made to these providers; and provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years \$3,875,835,669”;

By striking out item 4000-0600 and inserting in place thereof the following item:

“4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that funds shall be expended for the community choices initiative; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2011; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2011; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the community choices initiative in fiscal year 2012 delineated by the federal poverty level; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further that effective July 1, 2011 for the fiscal year ending June 30, 2012, the division of health care finance and policy shall establish nursing facility MassHealth rates that are \$12 million in payments above the payments made to nursing facilities for the fiscal year ended 2011 for the purpose of recognizing the Medicaid share of the nursing home assessment established by section 25 of Chapter 118G of the General Laws; provided further, that funds shall be expended from this item to implement the provisions of section 2 of chapter 211 of the acts of 2006, the pre-admission counseling and assessment program, which shall be implemented on a statewide basis through aging and disability resource consortia; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or

non-acute chronic disease hospital that provides kosher food to its residents, the executive office of elder affairs, in consultation with the division of health care finance and policy, in recognition of the unique special innovative program status granted by the executive office of health and human services, shall continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that not less than \$2,800,000 shall be expended as fiscal year 2012 incentive payments to nursing facilities meeting the criteria determined by the Mass Health Nursing Facility Pay for Performance Program in 114.2 CMR 6.07 and that have established and participated in a cooperative effort in each qualifying nursing facility between representatives of employees and management, that is focused on implementing that criteria and improving the quality of services available to MassHealth members; provided further that the MassHealth agency shall adopt regulations and procedures necessary to carry out section; and provided further, that notwithstanding any general or special law to the contrary, nursing facility rates effective July 1, 2011 may be developed using the costs of calendar year 2005..... \$2,520,402,264”;

In item 4100-0060, in line 72, by inserting after the word “behavior” the following: “; provided further, that funds shall be expended for the operation of the Health Care Quality and Cost Council established per section 16K of chapter 6A of the General Laws to promote high-quality, cost-effective, patient-centered care;”;

In item 9110-1630, in line 25, by inserting after the word “services” the following: “; and provided further, that funding shall be expended for provider training and outreach for LGBT elders and caregivers”;

In item 9110-1636 by striking out the figures “\$15,250,554” and inserting in place thereof the figures “\$16,250,554”;

By inserting after item 9110-1660 the following item:

“9110-1700 For residential assessment and placement programs for homeless elders..... \$136,000”;

In Section 2E, in item 9110-9002, by striking out the figures “\$7,904,327” and inserting in place thereof the figures “\$8,254,327”;

In item 1595-5819, in line 3, by striking out the figures “\$50,000,000” and inserting in place thereof the figures “\$15,000,000”, and by striking out the figures “\$361,005,911” and inserting in place thereof the figures “\$363,505,911”;

In item 1595-5820, in line 3, by striking out the figures “\$50,000,000” and inserting in place thereof the figures “\$15,000,000”;

In item 1595-5820 by striking out the figures “\$361,005,911” and inserting in place thereof the figures “\$363,505,911”; and

By adding the following eleven sections:

“SECTION 159. Notwithstanding the division of health care finance and policy shall, within eight months of the passage of this act, develop regulations to ensure the following: i) that Medicare-like

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claims editing is fully and effectively implemented and used to determine reimbursements from the Health Safety Net Trust Fund; and ii) that claims editing is effectively used to reduce the occurrence of payments for medically unnecessary services, medically unlikely events, and duplicate services.

SECTION 160. Notwithstanding the office of Medicaid shall, within eight months of the passage of this act, develop regulations to ensure that incentives or regulations are implemented to increase competition among MassHealth managed care organizations, reduce the size of some provider networks offered by managed care organizations, and/or to reduce cost of managed care organizations.

SECTION 161. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2012, the office of the inspector general may expend funds from the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws, for the costs associated with conducting an audit of the Commonwealth's Medicaid program. The inspector general may examine the practices utilized in all hospitals including, but not limited to, the care of the insured receiving health care services reimbursed pursuant to the Commonwealth's Medicaid system. The inspector general shall submit a report to the house and senate committees on ways and means containing the findings of any audits so conducted and any other completed analyses not later than April 1, 2012. For the purposes of such audits, health care services shall be defined pursuant to said chapter 118G and any regulations adopted there under.

SECTION 162. Section 3 of chapter 175H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following two paragraphs:—

This section shall not apply to a discount, rebate, free product voucher or other reduction in out of pocket expenses, including but not limited to co-payments and deductibles on a prescription drug, biologic or vaccine provided by a pharmaceutical manufacturing company, as defined in section 1 of chapter 111N, that is made available to an individual, if such is provided directly or electronically to the individual or through a so-called 'point of sale' or 'mail-in' rebate, or through similar means; provided however, that a pharmaceutical manufacturing company shall neither exclude nor favor any individual pharmacy or restricted network of pharmacies in the design of such discount, rebate, free product voucher or other expense reduction offer to an individual; provided further, that this section does not negate the need for a written prescription as otherwise required by law, nor is it intended to constrain a carrier or a health maintenance organization, as defined in chapter 118G, with regard to how its plan design will treat such discounts, rebates, free product voucher or other reduction in out of pocket expenses, including but not limited to co-payments and deductibles.

For purposes of the Federal Health Insurance Portability and Accountability Act of 1996 and regulations issued there under, nothing in this section shall be deemed to require or allow the use or disclosure of health information in any manner that does not otherwise comply with such Act or such regulations.

SECTION 163. Subsection (d) of section 6 of chapter 176J of the General Laws, as inserted by section 29 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the presumptive disapproval process requirements under section 6 to carriers who receive 80% or more of its income from government programs.

SECTION 164. Subsection (a) of section 11 of chapter 176J of the General Laws, as inserted by section 32 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the 12% requirement under section 11 to carriers who receive 80% or more of its income from government programs.

SECTION 165. Subsection (a) of section 33 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the 12% requirement under section 33 to carriers who receive 80% or more of its income from government programs.

SECTION 166. Subsection (e)(3) of section 9D of Chapter 118E of the General Laws is hereby amended by inserting after said subsection the following paragraph:—

Notwithstanding any provision of law to the contrary, the executive office of health and human services shall direct MassHealth to provide each beneficiary age 65 and over with an annual notice of the options for enrolling in voluntary programs including Program of All Inclusive Care for the Elderly (PACE) plans, Senior Care Options (SCO) plans, Frail Elder Home and Community Based Waiver Program or any other voluntary elected benefit to which they are entitled to supplement or replace their MassHealth benefits. Provided that MassHealth receives approval from the Centers for Medicare and Medicaid Services, MassHealth shall arrange that such annual notice include the names and contact information for the program providers, general contact information for MassHealth and a general description of the benefits of joining particular programs in clear and simple language and method to request for the same information in a language other than English. Such notice shall include a method for the beneficiary to indicate interest in receiving additional information for any programs identified as of interest to them. A draft of the proposed language and format for providing information to beneficiaries will be circulated to the providers contracted to provide each of these programs for review and comment prior to finalization. In addition, the division will work with the program providers and other appropriate stakeholders to assess whether and to what extent barriers to program enrollment shall be alleviated through modifications to the program and or the enrollment process. The executive office of health and human services shall establish rules and regulations on or before December 31, 2011.

SECTION 167. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance and the division of health care finance and policy shall make no changes prior to December 31, 2011 in the clinical eligibility or level of reimbursement paid to providers of adult day health services for basic and complex levels of care.

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The executive office of health and human services is further directed to implement a temporary moratorium effective with the passage of this legislation on the acceptance and approval of applications for (i) enrollment of new adult day health providers and (ii) expansion of the certified capacity of already approved adult day health providers as provided in 130 C.M.R. 404.400 et seq. This moratorium shall not apply to Programs of All-Inclusive Care for the Elderly (PACE) as established in 42 US Code Section 1894.

Such moratorium shall remain in effect until such time as the Secretary of Health and Human Services and the Secretary of Elder Affairs jointly complete a comprehensive study in consultation with representatives of House and Senate Ways and Means Committee, the Joint Committee on Elder Affairs and the Joint Committee on Health Care Financing as well as the Massachusetts Adult Day Services Association and other interested parties. The study shall make recommendations regarding licensure and other means to ensure an appropriate level of high quality adult day health care. In addition the study shall make recommendations updating the basis for the current rate structure by developing a model for imputing actual costs into the rate structure and the overall financing structure of Adult Day Services. In addition the study shall assess the current manner of categorizing clients as basic or complex. The study shall also assess the commonwealth's current and future adult day health services needs and recommend needed changes these needs require.

The final study and recommendations shall be reported to the House and Senate committees on ways and means, the joint committee on elder affairs and the joint committee on health care financing no later than December 31, 2011. If that date is not met, the moratorium shall stay in effect until 90 days after the report is submitted.

The division of medical assistance and the division of health care finance and policy shall take immediate steps, on the enactment of this legislation, to terminate reimbursement for the Health Promotion and Prevention level of care pursuant to a transition plan developed by the division of medical assistance for affected members.

Notwithstanding the provision of any general or special law to the contrary, the division of health care financing and policy and the division of medical assistance shall collect any outstanding cost reports from adult day health programs and shall review said cost reports and take any action as required or allowed by 114 C.M.R. 10.04.

SECTION 168. Notwithstanding any general or special law to the contrary, in fiscal years 2012, the division of health care finance and policy shall allocate \$1,000,000 from the Health Safety Net Trust Fund for a Fishing Partnership Health Plan Corporation demonstration project under subsection (d) of section 18 of chapter 118G of the General Laws; provided, however, that all current members in the Fishing Partnership Health Plan shall make every effort to enroll in other health insurance programs including but not limited to Commonwealth Care Choice, Commonwealth Care, and MassHealth; and provided further this funding shall be made available to individuals that prove ineligible for all other insurance products available in the Commonwealth.

SECTION 169. (a) Notwithstanding any general or special law to the contrary and except as provided in subsection (b), an eligible individual pursuant to section 3 of chapter 118H of the General Laws shall

not include a person who is not eligible to receive federally-funded benefits under sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended, for fiscal year 2012.

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, the secretary of health and human services and the executive director of the health insurance connector authority may, in their discretion and subject only to the terms and conditions in this subsection, establish or designate a health insurance plan in which a person who is not eligible to receive federally-funded benefits under said sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, but who is an eligible individual pursuant to said section 3 of said chapter 118H may enroll for the period including July 1, 2011 to December 31, 2011, inclusive, provided however, that only those persons that enrolled in the health insurance plan established pursuant to section 31 of chapter 65 if the acts of 2009 shall be eligible to enroll in the plan authorized by this section.

The plan may be contracted for selectively from the health plans that contracted in fiscal year 2011 to provide insurance coverage to commonwealth care or MassHealth enrollees. Notwithstanding any general or special law to the contrary, the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority may, in their discretion and subject only to the terms and conditions in this subsection, make payments from the Commonwealth Care Trust Fund established in section 2000 of chapter 29 of the General Laws to operate the plan using resources in the trust fund, provided these payments from the said fund shall include savings from the procurement of the Commonwealth Care, increased cigarette tax revenue and any surpluses from the Commonwealth Care Trust Fund. Total state expenditures for providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed \$25,000,000 for the year 2012. Total state expenditures for providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed resources available in the trust fund not required to fund coverage of commonwealth care; provided that this shall not result in a reduction of services to commonwealth care enrollees. To the extent that additional federal financial participation becomes available for paying the costs of such coverage, the secretary of administration and finance may direct the comptroller to make such amounts available from the General Fund for the purpose of paying for the costs of such coverage. If the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority determine that the projected costs of enrolling eligible individuals in such coverage in fiscal year 2012 will exceed funds in the trust fund that are available for this program, they may limit enrollment in such coverage. If the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority are unable to establish, reauthorize or designate a health insurance plan under this

section, the secretary of administration and finance may direct the comptroller to transfer up to \$20,000,000 from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund for the cost of health care services.”

After debate on the question on adoption of the amendments (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Ms. Wolf of Cambridge; and on the roll call 150 members voted in the affirmative and 4 in the negative.

[See Ye and Nay No. 65 in Supplement.]

Therefore the amendments were adopted.

Ms. Stanley of West Newbury then moved that the bill be amended by adding the following section:

“SECTION 170. Notwithstanding any general or special law to the contrary, funds appropriated under chapter 10 of the acts of 2011 may be used for the renovation and rehabilitation of existing, limited-occupancy municipal department of public works buildings.”

The amendment was rejected.

Recess.

At eight minutes after ten o'clock P.M. (Wednesday, April 27), on motion of Mr. Mariano of Quincy (Mr. Donato of Medford being in the Chair), the House recessed until the following day at half past ten o'clock A.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Thursday, April 28, 2011 (at 10:30 o'clock A.M.).

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

Silent Prayer.

At the request of Representatives Frost of Auburn and Fattman of Sutton, the members, guests and employees stood in a moment of silent tribute to the memory of Major David L. Brodeur of the United States Air Force, a native of the town of Auburn. Major Brodeur was killed in Kabul, Afghanistan on April 27, 2011 when a gunman shot and killed 8 American service members and a contractor during a meeting of foreign and Afghan officers.

Major Brodeur was a 1994 graduate of Auburn High School; and in 1999 he graduated from the United States Air Force Academy in Colorado. A qualified F-16 pilot, he had been in Afghanistan for three months.

Major David Brodeur leaves his wife, Susan, and two children, Elizabeth and David; his parents, Lawrence and Joyce Brodeur of Sutton; and two siblings, Todd and Amanda.

Guest of the House.

During the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced Allie McMullen, accompanied by her mother, Amy, and her father, Rich. Six year old Allie, who was seated

on the House Rostrum, has been raising awareness and funds for the research and treatment of Type 1 diabetes since being diagnosed with the disease. Recently Allie was honored by the Boston Celtics when she was presented the “Hero Among Us” Award for her outstanding work in the diabetes community. Allie and her parents were the guests of Representatives Stanley of Waltham and Kaufman of Lexington.

Resolutions.

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

Resolutions (filed by Mr. Brady of Brockton and other members of the House) congratulating Elaine H. Reiser on the occasion of her retirement;

Elaine H. Reiser.

Resolutions (filed by Mr. Brownsberger of Belmont and other members of the House) congratulating the American Society of Safety Engineers on its celebration of North American Occupational Safety and Health Week and Occupational Safety and Health Professional Day;

American Society of Safety Engineers.

Resolutions (filed by Ms. Garlick of Needham) congratulating Brendan Michael Boyd on receiving the Eagle Award of the Boy Scouts of America;

Brendan Michael Boyd.

Resolutions (filed by Ms. Garlick of Needham) congratulating Caleb Andrew Smith on receiving the Eagle Award of the Boy Scouts of America; and

Caleb Andrew Smith.

Resolutions (filed by Mr. Smola of Palmer) honoring Police Officer James J. Lynch, III on the occasion of his retirement from the Palmer Police Department;

James J. Lynch, III.

Mr. Binienda of Worcester, 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 Ms. Garlick, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

A joint petition (accompanied by bill, House, No. 3402) of William M. Straus and Mark C. Montigny for legislation to relocate certain harbor lines in the Fairhaven and New Bedford harbors (having been deposited in the office of Clerk of the House prior to five o'clock in the afternoon of Friday, January 21, 2011, and having been transmitted to the Secretary of the Commonwealth under the provisions of Section 5 of Chapter 3 of the General Laws, and returned by him with memoranda relative thereto) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Fairhaven and New Bedford harbors.

Mr. DiNatale of Fitchburg presented a petition (subject to Joint Rule 12) of Stephen L. DiNatale and Jennifer L. Flanagan relative to simulcasting; and the same was referred, under Rule 24, to the committee on Rules.

Simulcasting.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report

Amendment (health and human services) adopted, ye and nay No. 65.

Recess.

Pledge of allegiance.

Major David L. Brodeur.

Allie McMullen.

was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Economic Development and Emerging Technologies. Sent to the Senate for concurrence.

Charitable life insurance policies.

Mr. Pignatelli of Lenox presented a petition (subject to Joint Rule 12) of William Smitty Pignatelli for legislation to make certain changes in the laws relative to the issuance of charitable life insurance policies; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report was considered forthwith Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Financial Services. Sent to the Senate for concurrence.

Papers from the Senate.

Essex,— Conomo Point.

A Bill authorizing the lease of certain property at Conomo Point in the town of Essex (Senate, No. 1058) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

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

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

State government and finance.

A petition of Therese Murray, Kenneth J. Donnelly, Brian A. Joyce, Richard T. Moore and Mark C. Montigny for legislation to improve the administration of state government and finance, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1900) was referred, in concurrence, to the committee on State Administration and Regulatory Oversight.

Engrossed Bill.

Bill enacted.

The engrossed Bill authorizing the town of Saugus to place a certain question relative to a real estate tax assessment for snow and ice removal costs on the town's election ballot (see House, No. 3334) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended), was considered.

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Pending the question on passing the bill, as amended, to be engrossed, Mr. Kafka of Stoughton moved that the vote be reconsidered by which the House, at the previous session [see page No. 226], adopted an amendment (offered by him) inserting a section 107A; and the motion prevailed.

Pending the recurring question on adoption of the amendment, the same member moved to amend it at the end thereof by striking out [at "A"] the following: "; and in line 11, by adding, after the word 'canes', the following:— or any other medical equipment deemed medically necessary and prescribed by a physician,".

The further amendment was adopted; and on the recurring question the amendment, as amended, also was adopted.

Mr. O'Day of West Boylston and other members of the House then moved to amend the bill by adding the following section:

"SECTION 170. Notwithstanding any general or special law to the contrary, there shall be a special commission for the purpose of studying and making recommendations concerning services for unaccompanied homeless youth under eighteen years of age with the goal of ensuring a comprehensive and effective response to the unique needs of this population. The focus of the commission's study shall include, but not be limited to, an analysis of the barriers to serving unaccompanied youth under eighteen years of age; an assessment of the impact of mandated reporting requirements on unaccompanied youths. access to services and the state's ability to identify and connect with unaccompanied youth; and proposals to reduce identified barriers to serving this population, including but not limited to extending the time for certain categories of mandated reporters to file reports and/or establishing special licensure provisions to allow service providers to serve homeless youth under eighteen years of age. The commission, in formulating its recommendations, shall take account of the best policies and practices in other states and jurisdictions.

The commission shall include the Secretary of the Executive Office of Health and Human services or designee, the Commissioner of Department of Children and Families or designee, the Commissioner of the Department of Elementary and Secondary Education or designee, the Commissioner of the Department of Early Education and Care or designee, the Undersecretary for the Department of Housing and Community Development or designee, two members of the Senate, two members of the House of Representatives, three youth who have experienced homelessness, a representative from each of the following organizations: Massachusetts Coalition for the Homeless, Children's League of Massachusetts, Task Force on Youth Aging Out of Department of Children and Families Care, Massachusetts Appleseed Center for Law and Education, The Massachusetts Mentoring Partnership, the Massachusetts Commission on Gay, Lesbian, Bisexual and Transgender Youth, the Massachusetts Housing and Shelter Alliance, and the Mass-

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achusetts Catholic Conference, and seven persons to be appointed by the Governor, five of whom shall be unaccompanied youth service providers.

The commission shall submit a report to the Governor, the Speaker of the House of Representative and the President of the Senate, the Joint Committee on Children, Families and Persons with Disabilities no later than 9 months after the passage of this outside section setting forth the commission's conclusions on how to improve access to services for unaccompanied homeless youth under 18 years of age, together with any recommendations for regulatory or legislative action with a timeline for implementation, cost estimates and finance mechanisms. Thereafter, the commission submit a report annually by December 31 of each year to the Governor, the Speaker of the House of Representative and the President of the Senate, the Joint Committee on Children, Families and Persons with Disabilities detailing the extent of homelessness among unaccompanied youth within the Commonwealth and the progress made toward implementing the commission's recommendations along with other efforts to address the needs of this population."

The amendment was rejected.

Mr. Michlewitz of Boston then moved to amend the bill by adding the following section:

"SECTION 170. Subsection (m) of section 22 of chapter 270 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

(6) A local board of health or other municipal health department may make reasonable restrictions and requirements for the licensed operation of a smoking bar but it shall not unreasonably restrict or prohibit the operation of a smoking bar if the smoking bar complies with this chapter."

Pending the question on adoption of the amendment, the same member moved to amend it by striking out proposed section 170 and inserting in place thereof the following section:

"SECTION 170. A local board of health in a city or town with a population of more than 150,000 residents may not prohibit smoking bars licensed to operate as of January 1, 2011, as long as they continue to comply with applicable state and local laws in effect as of January 1, 2011."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mrs. Creedon of Brockton and other members of the House then moved to amend the bill by adding the following section:

"SECTION 171. Notwithstanding any general or special law, rule or regulation to the contrary, in the city of Brockton, or in the towns of West Bridgewater, East Bridgewater and Easton, no fossil fuel electric power facilities or facility shall be located in an area which is less than 1 mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern, as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or an area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2011, shall not be subject to

this act. For the purpose of this section, 'fossil fuel electric power facilities or facility' shall be defined as any electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas."

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 171. Section 188 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, in line 14, after the word 'individual' the following words:—, who is a resident of the Commonwealth of Massachusetts."

The amendment was adopted.

Mr. Nangle of Lowell then moved to amend the bill by adding the following section:

"SECTION 172. Section 6 of Chapter 176J, as amended by Section 29 of Chapter 288 of the Acts of 2010 is hereby amended by striking subsection (c) in its entirety and replacing it with the following new language:—

(c) Notwithstanding any general or special law to the contrary, the commissioner may require carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to small group rating factors at least 90 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. The determination of the commissioner shall be supported by sound actuarial assumptions and methods, which shall be provided in writing to the carrier. Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

Section 6 of Chapter 176J, as amended by Section 29 of Chapter 288 of the Acts of 2010 is further amended by striking subsection (f) in its entirety and replacing it with the following new language:—

(f) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 60 days prior to the proposed effective date of the carrier's rate. If the commissioner fails to issue a written decision 60 prior to the proposed effective date of the rate, the carrier's proposed base rates shall be deemed approved. If the carrier's proposed based rate has been disapproved, the carrier may submit a request for hearing with the division of insurance within 10 days of such notice of disapproval. The division must schedule a hearing within 10 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing."

The amendment was adopted.

Ms. Gobi of Spencer and other members of the House then moved that the bill be amended by adding the following section:

"SECTION 173. Section 139 of chapter 164 of the General Laws is hereby amended by striking subsection (f) and inserting in place thereof, the following:—

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(f) The aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity or an agricultural entity shall not exceed 1 per cent of the distribution company's peak load. The aggregate net metering capacity of net metering facilities of a municipality or other governmental entity shall not exceed 2 per cent of the distribution company's peak load. The maximum amount of generating capacity eligible for net metering by a municipality or other governmental entity shall be 10 megawatts. The aggregate net metering capacity of net metering facilities of an agricultural entity shall not exceed 1 per cent of the distribution company's peak load. The maximum amount of generating capacity eligible for net metering by an agricultural entity shall be 5 megawatts. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility's direct current rating at standard test conditions and the capacity of a wind net metering facility shall be the nameplate rating."

The amendment was adopted.

Representative Atsalis of Barnstable then moved to amend the bill in section 2E, in item 1595-5819, in line 18, by inserting after the word "Fund" the following: "; provided further that for the purpose of this line item, Massachusetts nonprofit disproportionate share hospitals with a Medicare payer mix percentage greater than 45% of Total Gross Patient Service Revenue using FY09 403 cost report data shall be defined as a public service hospital; further provided public service hospitals qualifying under this line item shall receive an equal payment of the amount of surplus public service hospital safety net care payment monies from public service hospitals qualifying under 114.1 CMR 36.02; further provided that these funds may only be disbursed if allowed by the Commonwealth's 1115 Medicaid waiver".

Quorum.

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

Quorum.— yea and nay No. 66.

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 Yea and Nay No. 66 in Supplement.]

Therefore a quorum was present.

Subsequently a statement of Mr. Lewis of Winchester was spread upon the records of the House, as follows:

Statement of Mr. Lewis of Winchester.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was absent from the House Chamber for the early portion of today's session because I was in my district joining Governor Patrick for a visit to Stoneham High School, where we addressed the students about the importance of civic engagement. My missing of the first quorum roll call today was due entirely to the reason stated.

The amendment offered by Mr. Atsalis of Barnstable then was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, Mr. Swan of Springfield moved to amend the bill by adding the following section:

"SECTION 174. Notwithstanding any general or special law to the contrary, upon passage of the bill, the "Senator Charles E. Shannon, Jr.

Community Safety Initiative,' shall include the following language in line 35, inserting after the word 'police' the following words:— nor municipal police departments within staff consisting of more than 25; provided further, that said funds shall not be used for police overtime; provided further, that funds shall be expended as a priority to community-based organizations; provided further, that the executive office of public safety and security shall as part of its published guidelines, establish oversight and transparency requirements."

Pending the question on adoption of the amendment, the same member moved to amend it by striking out proposed section 174 and inserting in place thereof the following section:

"SECTION 174. The executive office of public safety and security shall evaluate and report on the current status of the Senator Charles E. Shannon Community Safety Initiative. The report shall include, but not be limited to, an assessment of the current disbursement process of funds and the feasibility of prioritizing community-based organizations in addition to precluding such funds from being used for police overtime. The executive office of public safety and security shall file said report with the joint committee on public safety along with any necessary recommendations on or before December 31, 2011."

The further amendment was adopted, thus precluding a vote on the pending amendment.

After remarks on the question on passing the bill, as amended, to be engrossed (Mr. Mariano of Quincy being in the Chair), Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), 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 (the Speaker being in the Chair) 145 members were recorded as being in attendance.

Quorum.— yea and nay No. 67.

[See Yea and Nay No. 67 in Supplement.]

Therefore a quorum was present.

After remarks, Mr. Dempsey of Haverhill and other members of the House moved (consolidated labor and workforce development) to amend the bill in section 2

In item 4401-1000, in line 10, by inserting after the word "SAFE" (inserted by amendment) the following: "; provided further, that the department may expend funds for vocational specialists staffed by the university of Massachusetts; provided further, that the department shall expend no less than \$3,000,000 for providers with whom the department entered into service agreements with in fiscal year 2011 as procured under the Competitive Integrated Employment Services program"; and in said item by striking out the figures "\$3,689,934" and inserting in place thereof, the figures "\$6,689,934";

By inserting after item 7002-0010 the following item:

"7002-0012 For a youth-at-risk program targeted at reducing juvenile delinquency in high risk areas; provided, that these funds may be expended for the development and implementation of a year-round employment program for at-risk youth as well as existing year-round employment programs; provided further, that \$500,000 of these funds shall

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be matched by private organizations; and provided further, that funds shall be available for expenditure through September 1, 2012 \$2,000,000”;

By striking out item 7003-0702 and inserting in place thereof the following item:

“7003-0702 For the Massachusetts Service Alliance to administer State Service Corps grants and provide training and support to volunteer and service organizations; provided, that not less than \$250,000 shall be expended for the New England Farm Workers Council; provided further, that not less than \$250,000 shall be expended for the Urban League of Eastern Massachusetts; provided further, that programs that develop, promote and protect Latino businesses and communities in Massachusetts that were funded in the fiscal year 2010 general appropriations act shall receive the same level of funding as appropriated to said program in item 7003-0702 in chapter 27 of the acts of 2009; and provided further, that programs supporting and promoting cultural heritage and diversity in the city of Boston that were funded in the fiscal year 2009 general appropriations act shall receive 50 per cent of the amount appropriated to said program in item 7003-0702 in the chapter 182 of the acts of 2008 \$1,350,000”;

By inserting after item 7007-0800 the following item:

“7007-0801 For microlending grants of up to \$100,000 to be issued to established Community Development Financial Institutions making direct microenterprise and small business loans to borrowers on a regional basis, as well as providing technical assistance to applicants and borrowers in order to foster business establishment and success; provided, that the funds will be used to support the eligible organization’s lending and technical assistance activities \$200,000”;

By striking out items 7008-0900 and 7008-0901 and inserting in place thereof the following item:

“7008-0900 For the operation of the Massachusetts office of travel and tourism; provided, that the office shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth; provided further, that the office shall be the official and lead agency to facilitate motion picture production and development within the commonwealth; provided further, that funds appropriated within this item shall also be used for financial assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; and provided further, that not less than \$200,000 shall be expended as grants for the Bay State Games \$1,988,167
Massachusetts Tourism
Fund 100%”;

In item 7008-1000 by striking out the figures “\$1,000,000” and inserting in place thereof the figures “\$6,000,000”;

By striking out item 7008-1300 and inserting in place thereof the following item:

“7008-1300 For the operation of the Massachusetts International Trade Office \$100,000
Massachusetts Tourism
Fund 100%”;

In section 53 (as published), in line 521, in section 54 (as published), in line 533, in section 55 (as published), in line 545, in section 56 (as published), in line 557, and in section 57 (as published), in line 569, by striking out the word “may” and inserting in place thereof, in each instance, the word: “shall”;

In section 59, in line 622, by striking the figure “1” and inserting in place thereof the following word “one”; and in line 670, by striking out the following: “(b) and (c)” and inserting in place thereof the following: “(b), (c), and (d)”; and in line 679, by striking out the following “(c)” and inserting in place thereof the following: “(d)”.

After debate on the question on adoption of the amendments (Mr. Mariano of Quincy being in the Chair), the sense of the House was taken by yeas and nays at the request of Mr. Wagner of Chicopee; and on the roll call 151 members voted in the affirmative and 5 in the negative.

[See Ye and Nay No. 68 in Supplement.]

Therefore the amendments were adopted.

On the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), 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 153 members were recorded as being in attendance.

[See Ye and Nay No. 69 in Supplement.]

Therefore a quorum was present.

Ms. Khan of Newton and other members of the House then moved to amend the bill by adding the following section:

“SECTION 175. All state agencies which use the ASAP, Assessment for Safe and Appropriate Placement, instrument will: 1) consult with relevant experts to revise the assessment instrument based on evidence-based practice; 2) create a process for keeping the instrument current with evolving best practice standards; and, 3) ensure that all relevant staff are informed about the ASAP and have appropriate training in how to make referrals and incorporate ASAP results into their case management and treatment planning.”

Pending the question on adoption of the amendment, Ms. Khan moved to amend it by striking out proposed section 175 and inserting in place thereof the following section:

“SECTION 175. Section 33B of chapter 119 of the General Laws, as so appearing, is hereby amended by adding at the end thereof, the following:— All state agencies that use the Assessment for Safe and Appropriate Placement (ASAP) instrument shall 1) consult with relevant experts to revise the assessment instrument based on evidence-

Amendments (labor and workforce development) adopted,—yea and nay No. 68.

Quorum.

Quorum,—yea and nay No. 69.

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based practice; 2) create a process for keeping the instrument current with evolving best practice standards; and, 3) ensure that all relevant staff are informed about the ASAP and have appropriate training in how to make referrals and incorporate ASAP results into their case management and treatment planning. The Massachusetts Adolescent Sex Offender Coalition (MASOC) shall provide training staff in partnership with the department on the revised and updated ASAP Referral Form.”

The further amendment was adopted, thus precluding a vote on the pending amendment.

Quorum.

On the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—yea and nay No. 70.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 70 in Supplement.]

Therefore a quorum was present.

After further debate on the question on passing the bill, as amended, to be engrossed, Mr. Webster of Pembroke and other members of the House moved to amend the bill by adding the following section:

“[A] SECTION 176. The General Laws, as appearing in the 2008 Official Edition, are hereby amended by inserting after chapter 117A the following new chapter:—

CHAPTER 117B. Restrictions on Public Benefits.

Section 1. Definitions. As used in this chapter the following terms shall have the following meanings unless the context clearly requires otherwise:—

‘Emergency Medical Condition,’ the same meaning as provided in section 1396b (v) (3) of Title 42 of the United States Code.

‘Federal Public Benefits,’ the same meaning as provided in section 1611 of Title 8 of the United States Code.

‘State Public Benefits,’ the same meaning as provided in section 1621 of Title 8 of the United States Code.

Section 2. (a) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, on and after January 1, 2011, each agency or political subdivision of the commonwealth shall verify the lawful presence in the United States of every natural person eighteen years of age or older who applies for state public benefits or for federal public benefits which are for the benefit of the applicant. (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin. (c) Verification of lawful presences in the United States shall not be required: For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule; For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure; For short-term, non-cash, in-kind emergency disaster relief; For public

health assistance for immunization with respect to diseases and for testing and treatment of symptoms of communicable diseases; For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by Federal laws or regulations that: Deliver in-kind services at the community level, including services through public or private nonprofit agencies; Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and Are necessary for the protection of life or safety or; For parental care. (d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state public benefits by requiring the applicant to: (1) Produce: A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR) 2.06 (3) (b); A United States military card or military dependent’s identification card; or A United States Coast Guard Merchant Mariner card; or A Native American tribal document. (2) If such documentation as required in subparagraph (1) of subsection (d) of this section cannot be lawfully produced, execute a notarized affidavit stating: That he or she is a United States citizen or legal permanent resident; or That he or she is otherwise lawfully present in the United States pursuant to federal law. (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the Commissioner of the Department of Revenue may issue emergency rule, to be effective until July 1, 2010, providing for additional forms of identification or a waiver process to ensure that an individual seeking benefits pursuant to this section proves lawful presence in the United States. This subsection and all emergency rules authorized hereunder shall cease to be effective as of July 1, 2010. (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6 months nor more than 1 year in the House of Corrections. Each time that a person receives a public benefit based upon such a statement or representation they make shall constitute a separate violation of this section. (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the Federal Systematic Alien Verification for Entitlement program, referred to in this section as the “SAVE program”, operated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section. (2) The secretary of each executive office of the commonwealth shall promulgate regulations to ensure that each agency or political subdivision has access to the SAVE program by way of the executive office under which it is organized. Each executive office shall be responsible for the verification through the SAVE program of all its sub agencies. Each executive office shall enter into a memorandum of understanding or any other requirement pursuant to the SAFE

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program in order to streamline the verification process. Each executive office shall keep account of all applications submitted through its subdivisions and transfer back to its subdivisions any costs on an annual basis. (h) Agencies or political subdivisions of the commonwealth may adopt variations of the requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individuals circumstances in which the verification procedures in the section would impose unusual hardship on a legal resident of the commonwealth; provided, that the variations shall be no less stringent than the requirements of this section, including provisions to timely execute notarized affidavits. (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a federal public benefit or state or local public benefit in violation of this section. Each agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the auditor and to the House and Senate chairs of the joint committee on state administration and regulatory oversight. (j) Errors and significant delays by the SAVE program shall be reported to the United States Department of Homeland Security which monitors the SAVE program and its verification application errors and significant delays and report yearly on such errors and delays, to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of the State.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable.”

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out proposed section 176 [at “A”] and inserting in place thereof the following six sections:

“SECTION 176. (a) Notwithstanding any general or special law to the contrary, the MassHealth program within the executive office of health and human services shall: (i) continue to implement the state option provided by section 1902(ee) of the Social Security Act, 42 U.S.C. section 1396a(ee), to verify the citizenship or nationality of individuals declaring to be United States citizens or nationals; and (ii) register for the federal Systematic Alien Verification for Entitlements, or SAVE system, to verify the immigration status of applicants presenting an alien admission number or alien file number.

Consistent with federal and state law and notwithstanding (a)(ii) of this section, the registration of the MassHealth program for the SAVE system may be incorporated into a system for the executive office of health and human services and all agencies organized therein, to determine common eligibility standards for applicants, provided that such system shall include registration for the SAVE system. Nothing in this section shall be construed to prevent the development of a system of common eligibility standards that includes additional agencies outside the executive office of health and human services, provided that such system shall include registration for the SAVE system.

(b) Annually, on or before February 1, or as further developments warrant, the executive office of health and human services or the executive office of administration and finance shall report to the senate and house committees on ways and means the status of efforts to implement a system to determine common eligibility standards for applicants.

(c) Annually, on or before February 1, the executive office of health and human services shall report to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered from recipients, providers or other vendors who fraudulently received benefits or payments under chapter 118E of the General Laws.

SECTION 177. Notwithstanding any general or special law to the contrary, to prevent fraud and misuse of public assistance benefits, the department of transitional assistance shall continue to:

(1) consistent with federal and state law, require all applicants for benefits to declare in writing under penalty of perjury whether the individual is a citizen of the United States and if not whether the individual meets applicable immigration status requirements; provided, however, that noncitizens shall be required to provide documentation from the United States Department of Homeland Security or such other documents as the department determines constitutes reasonable evidence of required immigration status; provided further, that consistent with federal and state law, the state shall provide a reasonable opportunity to submit evidence of required immigration status and will not delay, deny, reduce or terminate benefits on the basis of immigration status until such verification is provided; provided further, that the department of transitional assistance shall use the federal Systematic Alien Verification for Entitlements or SAVE system to verify the immigration status of any noncitizen whose documentation includes an alien registration number to determine whether the individual meets noncitizen requirements for benefit eligibility purposes and shall verify the social security number of each individual seeking benefits, citizens as well as noncitizens, in accordance with procedures established by the Social Security Administration;

(2) implement data matching with the department of revenue, the department of children and families, the division of unemployment assistance and any other relevant state agencies to verify financial and categorical eligibility criteria;

(3) cooperate fully with the food and nutrition service of the United States Department of Agriculture in pursuing and prosecuting vendor fraud;

(4) refer all credible reports of fraud received from its fraud hotline or any other source to the bureau of special investigations for investigation in accordance with protocols for prioritizing cases;

(5) pursue, to the fullest extent possible, consistent with protocols for prioritizing cases, administrative disqualification penalties for instances of Supplemental Nutrition Assistance Program and cash assistance fraud; and

(6) report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department from those who

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received benefits fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 178. Consistent with federal and state law, and to prevent fraud and misuse of unemployment benefits, the division of unemployment assistance shall continue to:

(1) maintain interagency agreements with the United States Social Security Administration and the United States Citizenship and Immigration Service within the Department of Homeland Security to utilize a primary verification system to determine citizenship or work authorization at the time of new claim filings through the SAVE system;

(2) require noncitizen claimants to provide their alien registration number; provided, however, that the division of unemployment assistance shall verify claimant information and alien registration number with the United States Citizenship and Immigration Service within the Department of Homeland Security;

(3) require noncitizen claimants who cannot provide an alien registration number during the new claim process to send copies of any official documents they have that authorize them to work in the United States to the division of unemployment assistance;

(4) institute a secondary verification process for claims for which a non-citizen does not have an alien registration number or if primary verification does not establish satisfactory status, using division staff to review the documents and transmit pertinent information from the documents for verification with the United States Citizenship and Immigration Service within the Department of Homeland Security;

(5) flag expiration dates of work authorizations or in the unemployment insurance system if such dates exist; and

(6) report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the division of unemployment assistance from those who received benefits fraudulently as well as the numbers of recipients who were issued disqualifications.

SECTION 179. (a) Notwithstanding any general or special law to the contrary, an applicant for the MassGrant program administered by the department of higher education office of grant assistance shall complete the Free Application for Federal Student Aid or other federal student loan program that verifies both financial and citizenship eligibility.

(b) The secretary of education shall continue to report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department of education from those who received assistance fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 180. (a)(1) Notwithstanding any general or special law to the contrary, the department of housing and economic development shall continue to direct local housing authorities to:

(i) require an applicant to provide the local housing authority with access to reliable and reasonably obtainable documentation verifying the accuracy of information provided by an applicant on an application form or otherwise necessary at the time of determining final eligibility and qualification; provided, however, that income of applicants shall

be verified by the procedure set forth in paragraph (2); provided further, that if the local housing authority has verified any information when making a preliminary determination of eligibility for the applicant, the local housing authority shall reverify that information on its final determination of eligibility and qualification; and provided further, that nonreceipt of requested documentation, without good cause established by the applicant, shall be cause for determining that the applicant is unqualified;

(ii) require an applicant to provide the names and current addresses of all landlords or housing providers for the applicant and the applicant's household members during the 5 years immediately preceding the application to the date of the final determination; provided, however, that if after request the local housing authority has failed to receive a reference from a landlord or a housing provider, it shall notify the applicant of nonreceipt and the local housing authority shall request that the applicant use his best efforts to cause his landlord or housing provider to submit the reference to the local housing authority; provided further, that in the event that the applicant uses his best efforts but is unsuccessful, the applicant shall cooperate with the local housing authority in securing information from other sources relative to the tenancy; and provided further, that nonreceipt of a reference from a landlord or housing provider shall be cause for determining an applicant unqualified unless the applicant can show that he has used best efforts to secure the reference and that he has complied with reasonable requests for cooperation in securing other information;

(iii) obtain criminal offender record information for each applicant and, if necessary, check public records, credit reports, other sources of public information and other reliable sources; provided, however, that the local housing authority may conduct a home visit, which shall be scheduled reasonably in advance; and provided further, that observations by the person making such a visit shall be promptly reduced to writing and placed in the applicant's file; and

(iv) obtain information regarding eligibility or qualification from interviews with the applicant and with others from telephone conversations, letters or other documents and from other oral or written materials; provided, however, that all such information received shall be recorded in the applicant's file, including the date of its receipt, the identity of the source and the person receiving the information.

(2) The local housing authority shall assess financial eligibility by reviewing the applicant's net household income. In reviewing the applicant's financial status, the local housing authority shall assess net household income pursuant to regulations and guidelines promulgated by the department of housing and community development.

(b) The secretary of housing and economic development shall report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department from those who received assistance fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 181. (a) Notwithstanding any general or special law to the contrary, the house and senate committees on post audit and oversight shall conduct a joint hearing during each session of the General

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Court to consider the operation of, and compliance with, citizenship verification measures for the receipt of public assistance benefits. The committees may invite the secretaries of health and human services, administration and finance, education, labor and workforce development and housing and economic development, and any other relevant agency representative, to testify as to the agency's activity, including, but not limited to, (1) compliance with the federal Systematic Alien Verification for Entitlements, or SAVE system; (2) development of a system of common eligibility standards; (3) prevention of fraud and misuse of public benefits, including the amount of money recovered from those who received benefits fraudulently and the number of recipients who were issued disqualifications; (5) the status of inter-agency agreements; (6) and areas of difficulty in enforcing citizenship verification measures, including the net cost of such measures. The committee shall inform the membership of the General Court of the findings of the hearing by filing a report with the clerks of the house and senate.

(b) Notwithstanding any general or special law to the contrary, the house and senate committees on post audit and oversight shall, on or before July 31, 2011, conduct a joint hearing to consider the Commonwealth's participation in the Secure Communities program, as established by the U.S. Department of Homeland Security Immigration and Customs Enforcement. The committees shall invite testimony from the attorney general; the secretaries of administration and finance, public safety and security, and health and human services; the chief information officer of the Commonwealth; the director of the office for refugees and immigrants; the director of the division of local mandates within the office of the auditor; representatives of the Massachusetts Sheriff's Association; Massachusetts District Attorney's Association; the Massachusetts Office for Victim Assistance and other individuals or organizations with expertise in the administration of federal policies related to immigration, public safety and civil rights. The committees shall evaluate the potential impact on state and local governments of participation in the Secure Communities program on (1) costs associated with participation in the program, including but not limited to, potential costs related to personnel, equipment, training, detention, and community education (2) administration and functioning of the law enforcement and criminal justice systems (3) outreach and communications strategies between law enforcement and local communities (4) access to public services for impacted populations, including but not limited to, children, victims of domestic and sexual violence, seniors and persons with disabilities. The committees shall inform the membership of the General Court of the findings of the hearing by filing a report with the clerks of the house and senate no later than August 31, 2011."

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 Ms. Walz of Boston; and on the roll call 91 members voted in the affirmative and 66 in the negative.

[See Yeas and Nays No. 71 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment. Subsequently Mr. Rushing of Boston

moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Webster of Pembroke and other members of the House then moved to amend the bill by adding the following section:

"SECTION 182. Chapter 149 of the General Laws is hereby amended by striking Section 19C in its entirety and inserting in its place the following:—

Section 19C. It shall be unlawful for any employer knowingly to employ any alien in the commonwealth, who is a student or visitor or, who has not been admitted to the United States for permanent residence, except those who are admitted under a work permit, or unless the employment of such alien is authorized by the attorney general of the United States. An employer shall not be deemed to have violated this section if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence, or admitted under a work permit, or is authorized by the attorney general of the United States to accept employment.

An inquiry into the employment status and identity of an alien shall be deemed bona fide if an employer verifies the work eligibility status of each newly hired employee through the federal electronic employment authorization verification program known as E-Verify or any successor program created pursuant to 8 U.S.C. 1324a.

a) Each employer in Massachusetts shall apply to participate in the program for the purpose of verifying the work eligibility status of each of the employer's newly hired employees by the following dates:

(1) An employer with two hundred (200) or more employees shall apply to participate in the program no later than January 1, 2012;

(2) An employer with at least fifty (50) employees but fewer than two hundred (200) employees shall apply to participate in the program no later than July 1, 2012; and

(3) An employer with fewer than fifty (50) employees shall apply to participate in the program no later than January 1, 2013.

b) Any employer who violates any provision of this section shall be punished by a fine of not more than ten thousand nor less than five thousand dollars. An employer convicted of a second or subsequent offence shall be punished by imprisonment in state prison for not less than five years.

c) 'Employer' as used in this section shall include any person acting in the interest of an employer directly or indirectly."

After debate the amendment was rejected. Subsequently Mr. Rushing of Boston moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mrs. Poirier of North Attleborough and other members of the House then moved to amend the bill by adding the following section:

"SECTION 182. Notwithstanding any general or special law to the contrary, the governor shall designate an agency to act as the designated state identification bureau which shall enter into an agreement with the U.S. Department of Homeland Security on or before October 1, 2011, on the statewide activation and implementation of the Secure Communities strategy, as authorized by the Immigration and Nationality Act (INA) (8 USC §1105; 8 USC §1226(c); 8 USC §1226(d);

Further
amendment
adopted,—
yeas and nays
No. 71.

8 USC §1226(e); 8 USC §1227(a)(2); and 8 USC §1228); and FY 2008 DHS Appropriations Act (Pub. L. No. 110-161, 121 Stat. 1844, 2365 (2007)).”

Quorum.— After debate on the question on adoption of the amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano of Quincy), 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 155 members were recorded as being in attendance.

[See Yea and Nay No. 72 in Supplement.]

Therefore a quorum was present.

Amendment rejected.— After remarks on the question on adoption of the amendment (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Mrs. Poirier; and on the roll call 73 members voted in the affirmative and 84 in the negative.

[See Yea and Nay No. 73 in Supplement.]

[Mr. Linsky of Natick answered “Present” in response to his name.] Therefore the amendment was rejected. Subsequently Mr. Rushing of Boston moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Donato of Medford being in the Chair,—

Mr. Dempsey of Haverhill then moved to amend the bill in section 2 In item 0339-1001, in lines 1 to 6, inclusive, by striking out the words “; provided, that notwithstanding any general or special law, rule or regulation to the contrary, the commissioner, subject to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers”;

In item 2330-0101 by striking out said item number “2330-0101” and inserting in place thereof the following item number: “2330-0150”;

By adding at the end of item 4000-0300 (inserted by amendment), the following “; provided further, that funds shall be provided in an amount not less than the total appropriated in item 1599-2009 in section 2 of chapter 182 in the acts of 2008”;

In item 7003-0702 (inserted by amendment), in line 15, by inserting after the word “diversity” the words “and education, career development and employment service programs in the city of Boston”;

In item 7004-0108, in lines 74 to 77, inclusive, by striking out the following “; provided further, that successful individual service providers shall continue to receive stabilization sub-contract from the regional service providers in an amount equivalent to that in FY11”;

In item 7511-0100, in lines 3 and 4, by striking out the words: “; provided, that this appropriation assumes out of state tuition retained by the college”; and

In item 8900-0001 (inserted by amendment), in lines 13 to 16, inclusive, by striking out the following: “allocated to the program in fiscal year 2012; provided further, that the department shall report to the house and senate committees on ways and means on or before January 1, 2012 relative to the feasibility of the department to be”;

In section 2D by inserting after item 0840-4620 the following item:

“MASSACHUSETTS DEVELOPMENTAL DISABILITIES COUNCIL.

1100-1703 For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities..... \$1,840,016”.

By striking out sections 18 to 23, inclusive; In section 72, in line 997, by striking out the following: “, in line 2,”; and in said line by striking out the following: “; inserted by section 115 of chapter 131 of the acts of 2010.”;

In section 92, in lines 1145 and 1146, by striking out the following: “July 1, 2011, and issue a final report on or before September 1, 2011” and inserting in place thereof the following: “October 1, 2011, and issue a final report on or before March 1, 2012”;

In section 104, in line 1452, by inserting after the word “services” the words “provided at all institutions”; and

By adding the following section: “SECTION 182. Sections 64, 65 and 66 of chapter 131 of the acts of 2010 are hereby repealed.”.

The amendments were adopted.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the lease of certain property at Conomo Point in the town of Essex (see Senate, No. 1058) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Essex— Conomo Point.

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

Bill enacted (land taking),— yeas and nays No. 74.

[See Yea and Nay No. 74 in Supplement.]

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

Orders of the Day.

The Speaker being in the Chair,—

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended), was considered.

General Appropriation Bill.

After debate 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. Dempsey of Haverhill; and on the roll call 157 members voted in the affirmative and 1 in the negative.

Bill passed to be engrossed,— yeas and nays No. 75.

[See Yea and Nay No. 75 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed. Mr. Kulik of Worthington moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 3401, printed as amended) then was sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next
sitting.

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Speaker DeLeo of Winthrop and Representative Keenan of Salem then moved that when the House adjourn today, it do so as a mark of respect to the memory of former Chief Justice of the District Court Department Samuel Edward Zoll, a member of the House from Salem from 1965 to 1969, inclusive; and the motion prevailed.

Accordingly, at nine minutes before six o'clock P.M. (Thursday, April 28), on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.