

**NOTICE:** - While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **not** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



*Friday, July 30, 2004.*

Met at thirteen minutes past eleven o'clock A.M.

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

### *Reports.*

A report of the Division of Unemployment Assistance (under the provisions of Section 14F of Chapter 151A of the General Laws as most recently amended by Section 6 of Chapter 142 of the Acts of 2003) relative to the condition of the Unemployment Insurance Trust Fund for June 2004 (received Tuesday, July 27, 2004), **was placed on file.**

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Middlesex County House of Correction and Jail (Billerica) (received Thursday, July 22, 2004), **was read and sent to the House for its information.**

### *Petitions.*

Mr. O'Leary presented a petition (accompanied by bill, Senate, No. 2473) of Robert A. O'Leary and Eric Turkington (by vote of the town) for legislation to authorize the Dukes County contributory retirement system to grant certain retirement benefits to Joann DeBettencourt [Local approval received], **and the same was referred, under Senate Rule 20, to the committee on Public Service. Sent to the House for concurrence.**

**Petitions were presented and referred, as follows:**

**By Mr. Hart, a petition (subject to Joint Rule 12) of John A. Hart, Jr. for legislation relative to civil service and the fire department of the city of Boston;**

By Mr. Hedlund, a petition (subject to Joint Rule 12) of Robert L. Hedlund, Scott P. Brown, Philip Travis, Reed V. Hillman and other members of the General Court for legislation relative to motor vehicle liability for motorcycles;

By Mr. O'Leary, a petition (subject to Joint Rule 12) of Robert A. O'Leary for legislation to establish the Massachusetts catastrophic event fund; and

By Mr. O'Leary, a petition (subject to Joint Rule 12) of Robert A. O'Leary and Eric Turkington for legislation relative to dual agency;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

*Reports of Committees.*

Mr. Glodis, for the committee on Insurance, that the recommitted Senate Bill relative to the Viatical and Life Settlements Act (Senate, No. 2186), ought to pass;

Referred, under Senate Rule 27, to the committee on Ways and Means.

Mr. Magnani, for the committee on Steering and Policy, reported that the following matters be placed in the Orders of the Day for the next session:

The Senate bill further regulating trade (Senate, No. 2110); and

*The House bills*

Relative to the eligibility for health insurance for school employees (House, No. 241);

Further regulating certain consumer products pricing practices (House, No. 490);

Relative to cooking facilities in lodging houses (House, No. 815); and

Relative to fees charged for the sending of bills and invoices by postal mail (House, No. 4398).

*Committee Discharged.*

Ms. Chandler, for the committee on Housing and Urban Development, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2453) of Susan C. Fargo and Susan W. Pope (by vote of the town) for legislation relative to certain housing in the town of Lincoln, and recommending that the same be referred to the Senate committee on Ethics and Rules.

Under Senate Rule 36, the report was considered forthwith and accepted.

Sent to the House for concurrence in the discharge of the joint committee.

**PAPERS FROM THE HOUSE.**

Messages were referred, in concurrence, as follows:

Message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) relative to authorizing the State Secretary to place an election in the town of Dracut on the state ballot (House, No. 5025); and

Message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the results of the annual town election held in the town of Falmouth on May 18, 2004 (House, No. 5026);

Severally to the committee on Election Laws.

**Message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) relative to validating the action taken at a town meeting held by the town of Leverett (House, No. 5027); and**

**Message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the actions taken by the town of Webster open town meeting (House, No. 5028);  
Severally to the committee on Local Affairs.**

**Message from His Excellency the Governor recommending legislation relative to providing for the construction of a special facility for the Department of Youth Services (House, No. 5029);  
To the committee on State Administration.**

*Emergency Preambles Adopted.*

**An engrossed Bill authorizing the Department of Conservation and Recreation and the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (see Senate, No. 1229, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, ♦ was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 6 to 0.  
The bill was signed by the President and sent to the House for enactment.**

**An engrossed Bill relative to oil spill prevention and response in Buzzards Bay and other harbors and bays in the Commonwealth (see House, No. 4831, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, ♦ was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 5 to 0.  
The bill was signed by the President and sent to the House for enactment.**

*Report of a Committee.*

**By Mr. Brewer, for the committee on Ethics and Rules, on Senate, No. 2288, in part, a ♦ Bill improving the child support collection process ♦ (Senate, No. 1117);**

**There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time.**

**Pending the question on ordering the bill to a third reading, Mr. Shannon offered an amendment, substituting a new draft with the same title (Senate, No. 2474).**

**This amendment was adopted.**

**The bill (Senate, No. 2474) was then ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

*Matters Taken Out of the Orders of the Day.*

**There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:**

**The Senate Bill to authorize the city of Quincy to establish interest rates payable on deferred property taxes and water charges (Senate, No. 2259),** was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: **An Act authorizing the city of Quincy to establish interest rates payable on deferred property taxes and water charges.**

**The Senate Bill relative to the appointment of retired police officers in the town of Wakefield (Senate, No. 2375),** was read a third time and passed to be engrossed.

**The Senate Bill relative to the charter of the town of Rockland (Senate, No. 2435),** was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: **An Act establishing a capital planning committee in the town of Rockland.**

**The Senate Bill relative to the charter of the town of Rockland (Senate, No. 2436),** was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: **An Act relative to the town collector of the town of Rockland.**

**The Senate Bill relative to the charter of the town of Rockland (Senate, No. 2437),** was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: **An Act relative to the town administrator of the town of Rockland.**

**The Senate Bill relative to the charter of the town of Rockland (Senate, No. 2438),** was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: **An Act relative to the finance committee of the town of Rockland.**

**Severally sent to the House for concurrence.**

**The House Bill placing certain school department positions in the city of Gardner under the civil service law (House, No. 4204, amended),** was read a third time and passed to be engrossed, in concurrence.

#### **PAPERS FROM THE HOUSE.**

**A Bill authorizing the town of Marshfield to reduce sewer fee liability and betterment charge in exchange for volunteer services by persons over the age of sixty (House, No. 4532, on petition) [Local approval received],** was read.

**There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: An Act authorizing the town of Marshfield to reduce sewer fee liability and betterment charge in exchange for seniors volunteer services.**

A Bill authorizing the town of Swansea to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4742, ♦ on House, No. 4680) [Local approval received on House, No. 4680], ♦ was read.

There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: ♦ An Act authorizing the town of Swansea to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises. ♦

*Report of Committees.*

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Marian Walsh and Michael F. Rush for legislation relative to the Veteran Status of Michael L. Buckley.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

*Engrossed Bills.*

The following engrossed bills (the first two of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Further regulating meetings of municipal boards (see Senate, No. 2247);

Providing for a strong town manager form of government in the town of Abington (see Senate, No. 2345);

Establishing a one trial system for civil cases (see House, No. 732, amended); and

Relative to a certain parcel of land in the town of Hinsdale (see House, No. 4199, amended).

*Engrossed Bill Returned by Governor With His Objections Thereto.*

The engrossed Bill relative to special elections to fill vacancies for Senator and Representative in Congress (see Senate, No. 2404), which, on Wednesday, July 14, 2004, had been laid before His Excellency the Governor for his approbation, ♦ was returned to the Senate Clerk by His Excellency the Governor on Friday, July 23, 2004, at twelve minutes before five o ♦ clock P.M., with his objections thereto in writing [for message, see Senate, No. 2472].

The message (Senate, No. 2472) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution.

The question on passing the bill, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes past eleven o ♦ clock A.M., as follows, to wit (yeas 30 ♦ nays 6) [Yeas and Nays No. 718]:

YEAS.	
Antonioni, Robert A.	Montigny, Mark C.

Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tisei, Richard R.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 30.
<b>NAYS.</b>	
Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 6.
<b>ABSENT OR NOT VOTING.</b>	
Berry, Frederick E.	Resor, Pamela — 3.
Creedon, Robert S., Jr.	

The yeas and nays having been completed at twenty-seven minutes before twelve o'clock noon, the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same. Sent to the House for its action.

#### PAPERS FROM THE HOUSE.

##### *Emergency Preambles Adopted.*

An engrossed Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey easements for the transmission of natural gas over lands formerly under the control of the county of Essex in the town of Middleton and the cities of Peabody and Salem to Maritimes & Northeast Pipeline, L.L.C. (see Senate, No. 1678, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 10 to 0.

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill authorizing the University of Massachusetts to convey a certain parcel of land and

buildings in the town of Nantucket to the Nantucket Conservation Foundation (see Senate, No. 2442, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, ♦ was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 12 to 0.

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Holden (see House, No. 4987), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, ♦ was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 9 to 0.

The bill was signed by the President and sent to the House for enactment.

### PAPERS FROM THE HOUSE.

#### *Engrossed Bill Returned by Governor With His Objections Thereto.*

The engrossed Bill establishing a speed limit for Sassaquin Avenue in the city of New Bedford (see House, No. 3741), which, on Thursday, December 4, 2003, had been laid before His Excellency the Governor for his approbation, ♦ came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing, [for message, see House, No. 4386] and having passed that branch, notwithstanding said objections.

The message (House, No. 4865) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

The question on passing the bill, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes before twelve o ♦ clock noon, as follows, to wit (yeas 30 ♦ nays 7) [Yeas and Nays No. 719]:

#### YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S. Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tisei, Richard R.

Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 31.
Menard, Joan M.	

**NAYS.**

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

**ABSENT OR NOT VOTING.**

Berry, Frederick E.	Resor, Pamela — 2.
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The yeas and nays having been completed at twenty-one minutes before twelve o'clock noon, the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

**Message from the Governor ♦ Disapproval and Reductions in General Appropriation Bill.**

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation, ♦ came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 7007-0515 (Regional Economic Development Projects) was considered as follows:

♦7007-0515 For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998 ..... 550,000 ♦.

[The Governor reduced this item by \$350,000 and disapproved certain wording as follows: ♦; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be



operated by the Cape Cod Chamber of Commerce and ; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998.]

The question on passing item 7007-0515, contained in section 2, in concurrence, the reductions and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at nineteen minutes before twelve o'clock noon, as follows, to wit (yeas 33 nays 4) [Yeas and Nays No. 720]:

**YEAS.**

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

**NAYS.**

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

**ABSENT OR NOT VOTING.**

Berry, Frederick E.	Resor, Pamela — 2.
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The yeas and nays having been completed at seventeen minutes before twelve o'clock noon, item 7007-0515, contained in section 2, stands, in concurrence, notwithstanding the reductions and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 294 (Registry of Motor vehicles ♦ safe driver study) was considered as follows:

♦SECTION 294. To increase further a sense of responsibility on the part of inexperienced drivers and to increase the safety of all legitimate users of the roadway system, including but not limited to, motorists, pedestrians, the disabled, bicyclists, and motorcyclists, the Registry of Motor Vehicles is hereby directed to undertake a study of their policies, programs, curricula, testing materials and publications to ensure that education requirements encompass the safety of all roadway users and such efforts to promote safety are integrated across all such policies, programs, curricula, testing materials and publications. The Registrar shall convene a study commission by September 1, 2004 whose membership shall include the following: the Registrar or her designee who shall serve as chair and as a non-voting member; a representative of the Governor♦s Highway Safety Bureau appointed by the Sec. of Public Safety; one of three persons recommended by the Mass. Bicycle Coalition and appointed by the Secretary of Public Safety; one of three persons recommended by Walk Boston and appointed by the Secretary of Public Safety; a representative of the insurance industry appointed by the Registrar; one of three persons recommended by the motorcycle interests and appointed by the Secretary of Public Safety; the chairs of the House and Senate Committees on Public Safety or their designees; a representative of the driver education industry appointed by the Registrar. The Study Commission shall report to the Secretary of Public Safety, the Registrar of Motor Vehicles, the joint Committee on Public Safety and the House and Senate Committees on Ways and Means June 1, 2005.♦  
[The Governor disapproved this section.]

The question on passing section 294, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at sixteen minutes before twelve o♦clock noon, as follows, to wit (yeas 33 ♦ nays 4) [Yeas and Nays No. 721]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian

Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

**NAYS.**

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

**ABSENT OR NOT VOTING.**

Berry, Frederick E.	Resor, Pamela — 2.
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The yeas and nays having been completed at thirteen minutes before twelve o'clock noon, section 294 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 304 (Public Health Access Program Report) was considered as follows:

**SECTION 304.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall annually prepare a public health access program beneficiary employer report. For the purposes of this section, a public health access program beneficiary shall mean a person who receives medical assistance or medical benefits under chapter 118E of the General Laws or a person who receives health care services that qualifies as free care pursuant to chapter 118G of the General Laws. The report shall provide the following information for each employer of 50 or more public health access beneficiaries: (1) The name and address of the employer; (2) the number of public health access program beneficiaries who are employees of the employer; (3) the number of public health access program beneficiaries who are spouses or dependents of employees of the employer; (4) whether the employer offers health benefits to its employees; and (5) the cost to the Commonwealth of providing public health access program benefits for their employees and enrolled dependents. The report shall not include the names of any individual public health access program beneficiaries and shall be subject to privacy standards pursuant to Public Law 104-191, and the Health Insurance Portability and Accountability Act of 1996. The report shall be submitted annually on February 1 to the Joint Committee on Health Care and the House and Senate Committees on Ways and Means. [The Governor disapproved this section.]

The question on passing section 304, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twelve minutes before twelve o'clock noon, as follows, to wit (yeas 33 nays 5) [Yeas and Nays No. 722]:

**YEAS.**

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese

Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

**NAYS.**

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann — 5.
Knapik, Michael R.	

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

**Ms. Melconian in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), the yeas and nays having been completed at nine minutes before twelve o'clock noon, Section 304 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Section 306 (Neighborhood Health Plan IGT) was considered as follows:**

**♦SECTION 306. Notwithstanding the provisions of any general or special law or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the medical assistance intergovernmental uncompensated care trust fund for Title XIX payments to Neighborhood Health Plan. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless Neighborhood Health Plan has executed a managed care contract with the division of medical assistance and makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and**

administered in accordance with the provisions of paragraph (o) of section 18 of chapter 118G of the General Laws. ♦

[The Governor disapproved this section.]

The question on passing section 306, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before twelve o'clock noon, as follows, to wit (yeas 34 ♦ nays 4) [Yeas and Nays No. 723]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 34.

**NAYS.**

Hedlund, Robert L.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at six minutes before twelve o'clock noon, section 306 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 329 (Commission on a Medical Malpractice Claims Court) was considered as follows:

◆SECTION 329. There is hereby established a special commission, to consist of three members of the senate including minority representation, four members of the house of representatives including minority representation, the chief justice for administration and management of the trial court or his designee, and five persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Bar Association, one of whom shall be a representative of the Massachusetts Medical Society, one of whom shall be a member of the Massachusetts Academy of Trial Attorneys and one of whom shall be a consumer of health care who is not a doctor or lawyer. Said commission is hereby authorized and directed to conduct an investigation into the feasibility of creating a specialized court for purposes of administering medical malpractice claims. Said commission shall, in the course of its investigation and study, consider, among other things it considers relevant, specialty courts within Massachusetts, efficiencies to be gained, expertise and training needed by jurors and jurists, use of information technology, the use of medical legal advisory panels, use of regional sites, court staffing needs and such other matters as the commission may deem relevant. Appointed members of the commission shall not be considered special state employees for the purpose of compliance with Chapter 268A. The special commission shall submit a report to the governor, the speaker of the house of representatives, the senate president, and the chief justice of the supreme judicial court setting forth the special commission's findings, along with its recommendations and specific legislative proposals, no later than February 1, 2005. The special commission shall dissolve upon completion of its duties and obligations, as indicated by submission of its findings and recommendations.◆

[The Governor disapproved this section.]

The question on passing section 329, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before twelve o'clock noon, as follows, to wit (yeas 38 ◆ nays 0) [Yeas and Nays No. 724]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Fargo, Susan C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.

Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

**NAYS ♦ 0.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at three minutes before twelve o'clock noon, section 329 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 349 (Westborough State Hospital Land) was considered as follows:

♦SECTION 349. Notwithstanding any law to the contrary, the Massachusetts Department of Mental Health and the Division of Capital Asset Management are hereby authorized to enter into an agreement with the Town of Northborough regarding the sale, lease or conveyance of certain parcels of land located in said town, adjacent to the Westborough State Hospital for the purpose of passive recreational use by said town of Northborough.♦

[The Governor disapproved this section.]

The question on passing section 349, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before twelve o'clock noon, as follows, to wit (yeas 35 ♦ nays 3) [Yeas and Nays No. 725]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Fargo, Susan C.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.

Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 35.
Melconian, Linda J.	

**NAYS.**

Knapiak, Michael R.	Sprague, Jo Ann — 3.
Lees, Brian P.	

**ABSENT OR NOT VOTING.****Resor, Pamela ♦ 1.**

The yeas and nays having been completed at twelve o'clock noon, section 349 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 363 (Magic in the Middle Commission) was considered as follows:

♦SECTION 363. There shall be a special commission to investigate and study middle education in the commonwealth, including but not limited to the following: a study of progress on implementation of the recommendations included in the 1993 Department of Education ♦Magic in the Middle♦ report; a review of the pertinent research and effective best practice; and recommendations to improve standards based middle level teaching and learning, including review and analysis, and recommendations of middle level education as related to curriculum frameworks, teacher licensure, high standards and achievement articulation between elementary and high school levels, and department of education middle level support services.

The commission shall consist of the house and senate chairs of the joint committee on education, arts and humanities, who shall serve as co-chairs of the commission, 3 members of the senate appointed by the senate president, 5 members of the house of representatives appointed by the speaker, the commissioner of education or his designee, and 10 persons to be appointed by the governor. The governor shall choose from recommendations made by the appropriate organizations representing members of each of the following categories: not less than 1 superintendent, not less than 1 middle school principal recommended by the Massachusetts Secondary School Administrators Association, not less than 1 member of a school committee, not less than 1 member of the New England League of Middle Schools, not less than 1 parent of a middle school child and not less than 3 middle school teachers, 2 to be recommended by the Massachusetts Teacher Association and 1 by the Massachusetts Federation of Teachers.

The commission may accept and expend any appropriations, grants of money, professional, consultant, clerical and other services and supplies for the commonwealth in the course of its investigation and study.

The commission shall submit a report and its recommendations, if any, together with any drafts of



legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives, and the joint committee on education, arts and humanities, not later than November 24, 2004. ♦

[The Governor disapproved this section.]

The question on passing section 363, in concurrence the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I Article II, of the Constitution, at one minute past twelve o'clock noon, as follows, to wit (yeas 34 ♦ nays 4) [Yeas and Nays No. 726]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Fargo, Susan C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 38.

**NAYS.**

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at three minutes past twelve o'clock noon, section 363 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 394 (Substance Abuse Study) was considered as follows:

◆SECTION 394. In order to enhance care for individuals, families, and communities in need of substance abuse prevention, treatment and supportive services, the secretary of health and human services shall develop a policy for substance abuse services and submit a report relative to the state of alcohol and other drug addiction, prevention and treatment services in the commonwealth.

The report shall include, but not be limited to, identification, of all alcohol and drug addiction, prevention and treatment services currently available across all state agencies and departments, including services for incarcerated individuals and individuals released from prisons and jails, the availability and accessibility of services, the status of a continuum of care for seamless transition for recovery, the availability and coordination of services for people with mental health and addiction disorders, the availability of services for culturally competent and culturally specific populations, the reimbursement of substance abuse recovery and treatment services, so as to reflect the reasonable cost of delivering care to individuals in the most appropriate, least restrictive settings, and the viability of third party insurance payors that will ensure that services paid for by state and federal funds remain the payor of last resort for the uninsured. The secretary shall solicit input from the public, including from individuals and families in recovery, organizations representing individuals in recovery, prevention and treatment service providers, and provider organizations. The report shall also detail all substance abuse spending by all the various agencies of the commonwealth, including but not limited to, payroll, contracts, testing, supplies, treatment and services and shall include recommendations for maximizing federal reimbursements from the Substance Abuse Prevention and Treatment Block Grant and any other federal grants. The report shall include the results of its investigation and study, together with a list of its findings and a list of prioritized legislative, and regulatory recommendations, if any, to effect coordinated statewide policy and administrative structure for substance abuse prevention and treatment services. The report shall be submitted to the joint committee on health care, the joint committee on human services, the joint committee on insurance and the house and senate committees on ways and means no later than February 1, 2005.◆

[The Governor disapproved this section.]

The question on passing section 394, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at four minutes past twelve o'clock noon, as follows, to wit (yeas 33 ◆ nays 5) [Yeas and Nays No. 727]:

#### YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.

Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

**NAYS.**

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann — 5.
Knapik, Michael R.	

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at six minutes past twelve o'clock noon, section 394 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 410 (Civil Process Technology Pilot) was considered as follows:

♦SECTION 410. There is hereby established a separate fund to be known as the Civil Process Technology Improvement Fund. There shall be credited to said fund all revenue from the transfer of 20 percent of the funds collected and transmitted to the General Fund of the commonwealth during fiscal year 2005 pursuant to section 639 of chapter 26 of the acts of 2003, from gifts, grants, contributions from any entity public or private and any revenue derived from the investment of amounts credited to said fund. Said fund shall be used solely for a program to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth. The president of the Massachusetts sheriffs association (hereinafter referred to as ♦the president♦) shall expend, without further appropriation, all revenues credited to said fund. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year. Notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the president may incur expenses and the comptroller may certify for payment, the amounts not to exceed the lower of said 20 percent or the most recent revenue estimate therefor as reported in the state accounting system.

The president shall develop and implement a pilot program that is designed to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth by identifying technological resources that would enable a transition from a paper based system of civil process delivery and tracking to an electronic or web based system of civil process delivery and tracking. The president shall develop and advertise a request for proposals to so develop and implement said pilot program and shall enter into a contract with the responding vendor that most closely satisfies the specifications and terms as set forth in said request. The president shall also identify civil process

divisions within county or state sheriffs offices in 4 counties that are willing to participate in said pilot program and shall enter into inter-agency service agreements with said sheriffs offices using the funds authorized by this section so as to develop, implement and monitor new technological resources within the 4 counties that participate. Said inter-agency service agreements shall include provisions that authorize the president to require any county or state sheriff's office participating in said pilot program to contribute a portion of the increased fees collected and retained by said offices pursuant to said section 639, not exceeding 20 percent of said fees, to the Civil Process Technology Improvement Fund for the pilot program if he deems that such contribution is necessary to ensure the complete success of the pilot program.

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

[The Governor disapproved this section.]

The question on passing section 410, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seven minutes past twelve o'clock noon, as follows, to wit (yeas 35 nays 3) [Yeas and Nays No. 728]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.

**Havern, Robert A. Tarr, Bruce E.**

**Joyce, Brian A. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 35.

**Melconian, Linda J.**

**NAYS.**

**Brown, Scott P. Sprague, Jo Ann** ♦ 3.

**Hedlund, Robert L.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

The yeas and nays having been completed at ten minutes past twelve o'clock noon, section 410 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

*Engrossed Bill.*

An engrossed Bill relative to oil spill prevention and response in Buzzards Bay and other harbors and bays in the Commonwealth (see House, No. 4831, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Ms. Melconian) and laid before the Governor for his approbation.

*Resolutions.*

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

**Resolutions (filed by Ms. Melconian) honoring Harold Grinspoon for his outstanding contributions to the Commonwealth; and**

**Resolutions (filed by Mr. Pacheco) on the retirement of Joseph Cahill, Jr. Sacramento, Inc.**

#### **PAPERS FROM THE HOUSE.**

**Petitions were referred, in concurrence, as follows:**

**Petition (accompanied by bill, House, No. 5031) of Vincent P. Ciampa and Paul J. Donato for legislation to establish a sick leave bank for Linda J. Magno, an employee of the Department of Mental Retardation;**

**Under suspension of Joint Rule 12, to the committee on Public Service.**

**Petition (accompanied by bill, House, No. 5032) of Thomas J. O'Brien, Viriato Manuel deMacedo and Therese Murray (by vote of the town) for legislation to authorize the Division of Capital Asset Management and Maintenance to release certain land in the town of Plymouth from the operation of agricultural preservation restrictions;**

**Under suspension of Joint Rule 12, to the committee on State Administration.**

**The House Bill prohibiting certain practices in home mortgage lending (House, No. 4880, amended), came from the House with the endorsement that the House had NON-concurred in the still further Senate amendment in section 6 (as corrected BTR), by striking out, in lines 173 and 174, the words greater than 5 per cent of the total loan amount or \$800 and inserting in place thereof the following words in excess of 2 per cent of the total loan amount or \$200.**

**On motion of Mr. Nuciforo, the Senate receded from its further amendment.**

#### *Recess.*

**At thirteen minutes past twelve o'clock noon, at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Ms. Melconian), declared a recess; and ten minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.**

#### *Matter Taken Out of the Orders of the Day.*

**There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:**

**The Senate Bill directing the Division of Capital Asset Management and Maintenance to convey certain**

parcels of land in the towns of Hopkinton and Westborough (Senate, No. 2462), was considered.

Pending the question on passing the bill to be engrossed, Mr. Panagiotakos moved that the bill be amended in section 1, by striking out the last sentence and inserting in place thereof the following sentence: The department of environmental protection shall make the results of the annual groundwater and surface water testing available to the board of health of the town of Hopkinton or the town of Westborough upon request.

This amendment was adopted.

The bill (Senate, No 2462, amended) was then passed to be engrossed.

Sent to the House for concurrence.

#### *Reports of a Committee.*

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill authorizing a tax abatement filing for Old Colony Stationary (Senate, No. 1786), ought to pass.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: An Act directing the Commissioner of Revenue to accept certain applications for abatement.

Sent to the House for concurrence.

By Ms. Murray, for the committee on Ways and Means, that the House Bill providing for an exemption for water charges of certain elderly persons (House, No. 3001), ought to pass, with amendments by inserting after the word for, in line 15, the following words: at least; by inserting after the word for, in lines 17 and 20, in each instance, the following words: at least; by striking out, in line 22, the figure \$6,000 and inserting in place thereof the following figure: \$16,000; by striking out, in line 23, the figure \$7,000 and inserting in place thereof the following figure: \$24,000; by striking out, in line 48, the figure \$40,000 and inserting in place thereof the following figure: \$60,000; by striking out, in line 49, the figure \$45,000 and inserting in place thereof the following figure: \$80,000; by striking out, in line 58, the figure \$6,000 and inserting in place thereof the following figure: \$16,000; and by striking out, in line 60, the figure \$7,000 and inserting in place thereof the following figure: \$24,000.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

**By Ms. Murray, for the committee on Ways and Means, that the House Bill authorizing the Department of Revenue to make a certain refund (House, No. 3101), ought to pass.**

**There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: An Act directing the Department of Revenue to accept certain applications for abatement.**

**By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to the authority of the Bureau of Special Investigations (House, No. 4737), ought to pass, with amendments in section 1, by striking out the words division of medical assistance and inserting in place thereof the following words: executive office of health and human services, in its capacity as the single state agency for the purposes of Title XIX of the Social Security Act; and in section 8, by striking out the words division of medical assistance and inserting in place thereof the following words: executive office of health and human services, in the capacity as the single state agency for the purposes of Title XIX of the Social Security Act.**

**The rules were suspended, on motion of Mr. Havern, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.**

**Sent to the House for concurrence in the amendment.**

**By Ms. Murray, for the committee on Ways and Means, that the House Bill establishing a spinal cord injury trust fund (House, No. 4738), ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2475.**

**There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.**

**Sent to the House for concurrence in the amendment.**

*Matter Taken Out of the Orders of the Day.*

**There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:**

**The House Bill authorizing the town of Edgartown to enter into a certain lease (House, No. 4339),**



was read a third time and passed to be engrossed, in concurrence.

## PAPERS FROM THE HOUSE.

### *Bills Returned With Recommendation of Amendment.*

Mr. Rosenberg in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), message from His Excellency the Governor, returning with recommendation of amendment the engrossed bill relative to appropriations for fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4906) as relates to section 68 of the General Appropriation Bill [for message, see Attachment G of House, No. 4901], came from the House with the endorsement that the House had adopted the amendment (as approved by committee on Bills in the Third Reading).

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The Senate then adopted the amendment recommended by His Excellency the Governor, as changed by the committee on Bills in the Third Reading to read as follows:

SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition of Accumulated additional deductions the following definition:

Accumulated buyback deductions, the sum of the amount of the regular deductions and the buyback interest thereon that would have been credited to a member's account in the annuity savings fund of a system had buyback interest been credited rather than regular interest.

SECTION 2. Section 3 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 408, 474 and 475, and 535, the words accumulated regular deductions and inserting in place thereof the following words: accumulated buyback deductions.

SECTION 3. This act shall take effect on July 1, 2005.

The House amendment was then considered and it was adopted, in concurrence.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to appropriations for fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4907 as relates to section 69 of the General Appropriation Bill [for message, see Attachment H of House, No. 4901], came from the House with the endorsement that the House had adopted the amendment (as approved by committee on Bills in the Third Reading).

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The Senate then adopted the amendment recommended by His Excellency the Governor, as changed by the committee on Bills in the Third Reading to read as follows:

◆SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition of ◆Board◆ the following definition:◆

◆Buyback interest◆, one-half of actuarial assumed interest.

SECTION 2. Section 3 of said chapter 32, as so appearing, is hereby amended by inserting after the word ◆him◆, in line 93, the following words:◆ ◆together with buyback interest to the date or re-employment◆.

SECTION 3. Said section 3 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 334, 342, 344, 406, 472 and 473, 533, 576 and 577, 580, 591, 601, 609, 612, 768, 781, 790, and 792 and 793, the words ◆regular interest◆ and inserting in place thereof the following words:◆ buyback interest.

SECTION 4. This act shall take effect on July 1, 2005.◆

The House amendment was then considered and it was adopted, in concurrence.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to appropriations for fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4908) as relates to section 69A of the General Appropriation Bill [for message, see Attachment I of House, No. 4901],◆ came from the House with the endorsement that the House had adopted the amendment (as approved by committee on Bills in the Third Reading).

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The Senate then considered the amendment recommended by His Excellency the Governor, as changed by the committee on Bills in the Third Reading to read as follows:

◆SECTION 1. Section 4 of chapter 32, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 181, 191, 200, 223, 234, 242, 251, 267, 332, 451, 456 and 457, and 459, the word ◆regular◆ and inserting in place thereof, in each instance, the word:◆ buyback.

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

Pending the question on adoption of the amendment, Ms. Murray moved to amend the House amendment by striking out, in section 2, the figure ◆2004◆ and inserting in place thereof the

following figure: ♦ ♦ 2005 ♦.

The amendment was adopted.

The amendment recommended by His Excellency the Governor was then adopted, as amended.

The House amendment, as amended, was then considered; and it was adopted, in concurrence, as amended.

Sent to the House for concurrence in the amendment.

*Report of a Committee.*

By Mr. Brewer, for the committee on Ethics and Rules, on petition, a Bill relative to certain housing in the town of Lincoln (Senate, No. 2453) [Local approval received];

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

**PAPER FROM THE HOUSE.**

The House Bill authorizing water submetering in residential tenancies (House, No. 5001, amended), ♦ came from the House amended as follows:

Striking out the sentence appearing in lines 244 to 248, inclusive, and inserting in place thereof the following sentence:

♦ In the event of a repair of a leak in the water supply system to a dwelling unit, the landlord shall determine as accurately as possible the amount of water that was measured on the submeter for the dwelling unit as a result of such leak, after a review of the billing records for the dwelling unit and consultation with the licensed plumber repairing the leak. ♦.

The rules were suspended, on motion of Mr. Havern, and the House amendment was considered forthwith and adopted, in concurrence.

*Report of a Committee.*

The following report was considered, the time within which the said committee was required to report having expired: ♦

Of the committee on Human Services and Elderly Affairs, ought NOT to pass (under Joint Rule 10) on the petition (accompanied by bill, Senate, No. 2371) of Marian Walsh for legislation concerning the

definition of World War Two veteran.

Pending the question of accepting the report, on motion of Ms. Walsh, the petition was recommitted to the committee on Human Services and Elderly Affairs.

#### PAPERS FROM THE HOUSE.

##### *Message from the Governor ♦ Disapproval and Reductions in General Appropriation Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation, ♦ came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 197 (Milford District Court ♦ Assistant Clerk) was considered as follows:

♦SECTION 197. Section 10 of Chapter 218 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after line 24 the following: ♦ third district court of Southern Worcester, provided, that said position shall only be designated to a trial court employee in said court currently performing the duties and functions of an assistant clerk and shall not be construed as adding any additional positions to the trial court. ♦

[The Governor disapproved this item.]

The question on passing section 197 in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-four minutes past two o ♦ clock P.M., as follows, to wit (yeas 30 ♦ nays 8) [Yeas and Nays No. 729]:

YEAS.

Antonioni, Robert A. Menard, Joan M.

Baddour, Steven A. Montigny, Mark C.

Barrios, Jarrett T. Moore, Richard T.

**Berry, Frederick E. Morrissey, Michael W.**

**Brewer, Stephen M. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Tolman, Steven A.**

**Magnani, David P. Tucker, Susan C.**

**McGee, Thomas M. Walsh, Marian**

**Melconian, Linda J. Wilkerson, Dianne 30.**

**NAYS.**

**Brown, Scott P. Lees, Brian P.**

**Hedlund, Robert L. Sprague, Jo Ann**

**Joyce, Brian A. Tarr, Bruce E.**

**Knapik, Michael R. Tisei, Richard R. 8.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela 1.**

**The yeas and nays having been completed at twenty-nine minutes past two o'clock P.M., section 197, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Item 7007-0900 (Office of Travel and Tourism) was considered as follows:**

◆7007-0900 For the operation and administration of the office of travel and tourism and for grants to public and private nonprofit local and regional organizations to be awarded by the Massachusetts office of travel and tourism for tourism promotion; provided, that performance-based standards shall be incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided, that the organizations shall be required, as a condition of receiving a grant, to submit a total operating budget which identifies each source and use of operating and capital funds; provided further, that said grants shall not replace or supplant funding otherwise available to said centers from local chambers of commerce, regional tourist councils, and other public or private funding sources; provided further, that not less than \$2,000,000 of the amount appropriated herein shall be expended to implement the strategic plan developed by the business entity that is awarded the contract pursuant to section 60 of chapter 141 of the acts of 2003 to recover the Commonwealth's lost international tourism market share; provided further, that not less than \$60,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$200,000 shall be expended for the Bay State Games; provided further, that not less than \$185,000 shall be expended for the Belchertown Economic Development Corporation; provided further, that not less than \$500,000 shall be expended for the Berkshire Museum subject to a 100 percent funding match; provided further, that not less than \$30,000 shall be expended for the Blackstone Valley Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for an economic development project in the town of Braintree, provided further, that not less than \$100,000 shall be expended for a Business Location Information Project operated by the Greater Haverhill Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for an economic development project on Buzzards Bay Main Street; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council; provided further, that not less than \$100,000 shall be expended for a matching grant to the proposed Cape Cod Maritime Museum in Hyannis; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$75,000 shall be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for a the Central Quabbin Tourism Association; provided further, that not less than \$30,000 shall be expended for an economic development project at Chestnut Hill Reservoir in the city of Boston; provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$1,000,000 shall be expended for the Colonial Theater, subject to a 100 percent funding match; provided further, that not less than \$100,000 shall be expended for an economic development project at the historic Corkin building in the town of Randolph; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$15,000 shall be expended for an education and science grant for the city of Worcester; provided further, that not less than \$200,000 shall be provided for an economic development project at the Elco Dress Factory in New Bedford; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$300,000 shall be expended for a grant for the From the Top Inc.; provided further, that not less than \$100,000 shall be expended for a tourism promotion project at the Grandview Farm in Burlington; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2005 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that not less than \$100,000 shall be expended for the I-495 Technology Corridor

Initiative; provided further, that not less than \$165,000 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitor Center; provided further, that not less than \$500,000 shall be expended for the Mahaiwe Theater subject to a 100 percent funding match; provided further, that not less than \$5,000 shall be expended for the Massachusetts Film Bureau and said agency shall be the primary service provider for film production and development in the commonwealth; provided further, that \$250,000 shall be expended for a grant to the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$200,000 shall be expended for the Memorial Auditorium in the city of Lynn; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that notwithstanding any general or special law to the contrary, a grant of not less than \$250,000 shall be transferred from this item to the Massachusetts office of business development for regional tourism and economic development in Southeastern Massachusetts including the Southcoast Development Project; provided further, that not less than \$500,000 shall be expended for the Mohawk Theater, subject to a 100 percent funding match; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum; provided further, that not less than \$60,000 shall be expended for the New England Puerto Rican association; provided further, that not less than \$75,000 shall be expended for an economic development project in North Attleboro; provided further, that not less than \$50,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Planning Commission for the purposes of a study of tourism promotion within Southampton and Montgomery; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$35,000 shall be expended for the Pittsfield Office of Cultural Development; provided further, that not less than \$100,000 shall be expended for a portico surrounding Plymouth Rock; provided further, that not less than \$75,000 shall be expended for the Puerto Rican Cuatro Project; provided further, that not less than \$50,000 shall be expended for the Riverside Theater Works in Hyde Park in the City of Boston; provided further, that funds shall be expended for an economic development project on Rt. 110 in Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for the September 11th memorial at Battleship Cove in Fall River; provided further, that not less than \$75,000 shall be expended for a Shrewsbury Business District economic development project; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$100,000 shall be expended for the city of Springfield's Office of Economic Development to develop a walking tour of the city of Springfield; provided further, that not less than \$100,000 shall be expended for the U.S. Women's Open; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$30,000 shall be expended for the Water Farms Preservation, Inc.; provided further, that not less than \$103,000 shall be expended for an historic redevelopment project at the West School in the Town of Wilmington; provided further, that not less than \$50,000 shall be expended for a tourism promotion project in Westborough; provided further, that not less than \$100,000 shall be expended for the Western Massachusetts Economic Development Council; provided further, that expenditures on international and domestic promotion and administration shall be separately accounted for in the Massachusetts Management Accounting and Reporting System; provided further, that said office shall be required to make travel arrangements for all international travel not less than 7 days before departure; provided further, that the office shall

dedicate 1 full-time equivalent employee to the advisory commission on travel and tourism; and provided further, that the office shall make every effort to develop tourism in under-visited regions of the

commonwealth 17,053,305.

[The Governor reduced said item by \$6,884,531 and disapproved certain wording as follows: ; provided further, that not less than \$60,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$200,000 shall be expended for the Bay State Games and ; provided further, that not less than \$500,000 shall be expended for the Berkshire Museum subject to a 100 per cent funding match and ; provided further, that not less than \$100,000 shall be expended for an economic development project in the town of Braintree; provided further, that not less than \$100,000 shall be expended for a Business Location Information Project operated by the Greater Haverhill Chamber of Commerce and ; provided further, that not less than \$100,000 shall be expended for a matching grant to the proposed Cape Cod Maritime Museum in Hyannis; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$75,000 shall be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for a the Central Quabbin Tourism Association; provided further, that not less than \$30,000 shall be expended for an economic development project at Chestnut Hill Reservoir in the city of Boston; provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$1,000,000 shall be expended for the Colonial Theater, subject to a 100 per cent funding match; provided further, that not less than \$100,000 shall be expended for an economic development project at the historic Corkin building in the town of Randolph; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$15,000 shall be expended for an education and science grant for the city of Worcester; provided further, that not less than \$200,000 shall be provided for an economic development project at the Elco Dress Factory in New Bedford; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$300,000 shall be expended for a grant for the From the Top Inc.; provided further, that not less than \$100,000 shall be expended for a tourism promotion project at the Grandview Farm in Burlington; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2005 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that not less than \$100,000 shall be expended for the I-495 Technology Corridor Initiative; provided further, that not less than \$165,000 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitor's Center; provided further, that not less than \$500,000 shall be expended for the Mahaiwe Theater subject to a 100 per cent funding match and ; provided further, that not less than \$200,000 shall be expended for the Memorial Auditorium in the city of Lynn; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council and ; provided further, that not less than \$500,000 shall be expended for the Mohawk Theater, subject to a 100 per cent funding match; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum and ; provided further, that not less than



**\$50,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Planning Commission for the purposes of a study of tourism promotion within Southampton and Montgomery; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$35,000 shall be expended for the Pittsfield Office of Cultural Development; provided further, that not less than \$100,000 shall be expended for a portico surrounding Plymouth Rock; provided further, that not less than \$75,000 shall be expended for the Puerto Rican Cuatro Project; provided further, that not less than \$50,000 shall be expended for the Riverside Theater Works in Hyde Park in the City of Boston; provided further, that funds shall be expended for an economic development project on Rt. 110 in Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce and ; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$100,000 shall be expended for the city of Springfield's Office of Economic Development to develop a walking tour of the city of Springfield; provided further, that not less than \$100,000 shall be expended for the U.S. Women's Open; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$30,000 shall be expended for the Water Farms Preservation, Inc. and ; provided further, that not less than \$50,000 shall be expended for a tourism promotion project in Westborough.]**

**The question on passing item 7007-0900, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty minutes before three o'clock P.M., as follows, to wit (yeas 36 and nays 2) [Yeas and Nays No. 730]:**

#### **YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O'Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Tarr, Bruce E.**

**Hedlund, Robert L. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 36.

**NAYS.**

**Joyce, Brian A. Sprague, Jo Ann** ♦ 2.

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

The yeas and nays having been completed at a quarter before three o'clock P.M., item 7007-0900, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

*Communication.*

The Clerk read the following communication:

**Commonwealth of Massachusetts**

**MASSACHUSETTS SENATE**

**State House, Boston 02133-1053**

**William Welch, Senate Clerk**

**Room 335**

**State House**

**Boston, MA 02133**

**Dear Mr. Clerk:**

**I was recorded as voting against overriding the governor's veto of line item 7007-0900 of the Fiscal Year 2005 budget. I would like the record to reflect my support of the override and I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for Friday, July 30, 2004.**

**Thank you for your assistance in this matter.**

**Sincerely,**

**BRIAN A. JOYCE,**

*State Senator.*

**On motion of Mr. Moore, the above communication was ordered printed in the Journal of the Senate.**

*Engrossed Bills ♦ Land Taking for Conservation, Etc.*

**An engrossed Bill relative to agricultural land at Danvers State Hospital (see House, No. 1594, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, ♦ was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at thirteen minutes before three o'clock P.M., as follows, to wit (yeas 37 ♦ nays 1)[Yeas and Nays No. 731]:**

**YEAS.**

**Antonioni, Robert A. Berry, Frederick E.**

**Baddour, Steven A. Brewer, Stephen M.**

**Barrios, Jarrett T. Brown, Scott P.**  
**Chandler, Harriette L. Morrissey, Michael W.**  
**Creedon, Robert S., Jr. Murray, Therese**  
**Creem, Cynthia Stone Nuciforo, Andrea F., Jr.**  
**Fargo, Susan C. O'Leary, Robert A.**  
**Glodis, Guy W. Pacheco, Marc R.**  
**Hart, John A., Jr. Panagiotakos, Steven C.**  
**Havern, Robert A. Rosenberg, Stanley C.**  
**Hedlund, Robert L. Shannon, Charles E.**  
**Joyce, Brian A. Sprague, Jo Ann**  
**Knapik, Michael R. Tarr, Bruce E.**  
**Magnani, David P. Tisei, Richard R.**  
**McGee, Thomas M. Tolman, Steven A.**  
**Melconian, Linda J. Tucker, Susan C.**  
**Menard, Joan M. Walsh, Marian**  
**Montigny, Mark C. Wilkerson, Dianne** ♦ 37.  
**Moore, Richard T.**

**NAY.**

**Lees, Brian P.** ♦ 1.

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

**The yeas and nays having been completed at eleven minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.**

**An engrossed Bill authorizing the University of Massachusetts to convey a certain parcel of land and buildings in the town of Nantucket to the Nantucket Conservation Foundation (see Senate, No. 2442, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, ♦ was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at ten minutes before three o ♦ clock P.M., as follows, to wit (yeas 38 ♦ nays 0) [Yeas and Nays No. 732]:**

**YEAS.**

**Antonioni, Robert A. Glodis, Guy W.**  
**Baddour, Steven A. Hart, John A., Jr.**  
**Barrios, Jarrett T. Havern, Robert A.**  
**Berry, Frederick E. Hedlund, Robert L.**  
**Brewer, Stephen M. Joyce, Brian A.**  
**Brown, Scott P. Knapik, Michael R.**  
**Chandler, Harriette L. Lees, Brian P.**  
**Creedon, Robert S., Jr. Magnani, David P.**  
**Creem, Cynthia Stone McGee, Thomas M.**  
**Fargo, Susan C. Melconian, Linda J.**  
**Menard, Joan M. Rosenberg, Stanley C.**  
**Montigny, Mark C. Shannon, Charles E.**  
**Moore, Richard T. Sprague, Jo Ann**  
**Morrissey, Michael W. Tarr, Bruce E.**  
**Murray, Therese Tisei, Richard R.**  
**Nuciforo, Andrea F., Jr. Tolman, Steven A.**  
**O ♦ Leary, Robert A. Tucker, Susan C.**  
**Pacheco, Marc R. Walsh, Marian**  
**Panagiotakos, Steven C. Wilkerson, Dianne ♦ 38.**

**NAYS ♦ 0.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at seven minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Holden (see House, No. 4987) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, ♦ was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at six minutes before three o'clock P.M., as follows, to wit (yeas 38 ♦ nays 0) [Yeas and Nays No. 733]:

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O ♦ Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Sprague, Jo Ann**

**Hedlund, Robert L. Tarr, Bruce E.**

**Joyce, Brian A. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 38.

**NAYS** ♦ 0.

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

The yeas and nays having been completed at three minutes before three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

An engrossed Bill authorizing the Department of Conservation and Recreation and the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (see Senate, No. 1229, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, ♦ was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at two minutes before three o'clock P.M., as follows, to wit (yeas 38 ♦ nays 0) [Yeas and Nays No. 734]:

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Sprague, Jo Ann**

**Hedlund, Robert L. Tarr, Bruce E.**

**Joyce, Brian A. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne 38.**

**NAYS 0.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela 1.**

**The yeas and nays having been completed at three o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.**

***Engrossed Bill.***

**An engrossed Bill relative to consumer and merchant protection (see House, No. 492) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.**



*Message from the Governor ♦ Disapproval and Reductions in General Appropriation Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation, ♦ came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 4513-1026 (Suicide Prevention) was considered as follows:

♦4513-1026 For the provision of statewide and community-based suicide prevention, intervention, post-vention and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that the department, in coordination with the department of mental health, shall provide grant funds for locally targeted suicide prevention, intervention and postvention activities; provided further, that any department, group or institution applying for these grants shall state the program's goals, feasibility and effectiveness, such that other communities may replicate this program, document how the program replicates or builds upon relevant evidence-based strategies or tests new strategies, describe the activities to be undertaken and include an evaluation component in the program; provided further, that prevention and intervention activities shall be targeted toward identifying and assisting those at risk; provided further, that prevention and intervention activities shall include, but not be limited to, training programs about the recognition and treatment of suicidal behavior for professionals who are in regular contact with at-risk individuals, collaborative work with emergency rooms and doctors to disseminate information regarding follow-up services for known attempters and efforts to increase public knowledge of suicide prevention; provided further, that postvention activities shall be targeted toward family and friends of individuals who have attempted or completed suicide; provided further, that postvention activities shall include, but not be limited to, training for first-responders about sensitive and responsible ways of interacting with the families of suicide victims, efforts to increase survivors' access to mental health services and to decrease the stigma associated with their roles as survivors and the development of comprehensive support programs to facilitate positive coping among survivors; provided further, that surveillance activities shall be targeted toward increasing the accuracy of statistics on suicide morbidity and the availability of information on suicide attempts and ideation; provided further, that surveillance activities shall include, but not be limited to, efforts to increase both the quantity and quality of suicide data collected by first responders, hospital staff and the department and the development of a system for accessing and collecting data from suicide survivors; provided further, that funds from this item shall not be transferred to any other program or item; provided further, that the departments shall, in consultation with the commissioner of education, report to the house and senate committees on ways and means on

**the status of statewide and community-based suicide prevention, intervention, postvention, and surveillance activities**

**not later than June 30, 2005 250,000**.

**[The Governor disapproved this item.]**

**The question on passing item 4513-1026, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past three o'clock P.M., as follows, to wit (yeas 38 nays 0) [Yeas and Nays No. 735]:**

**YEAS.**

**Antonioni, Robert A. Hart, John A., Jr.**

**Baddour, Steven A. Havern, Robert A.**

**Barrios, Jarrett T. Hedlund, Robert L.**

**Berry, Frederick E. Joyce, Brian A.**

**Brewer, Stephen M. Knapik, Michael R.**

**Brown, Scott P. Lees, Brian P.**

**Chandler, Harriette L. Magnani, David P.**

**Creedon, Robert S., Jr. McGee, Thomas M.**

**Creem, Cynthia Stone Melconian, Linda J.**

**Fargo, Susan C. Menard, Joan M.**

**Glodis, Guy W. Montigny, Mark C.**

**Moore, Richard T. Shannon, Charles E.**

**Morrissey, Michael W. Sprague, Jo Ann**

**Murray, Therese Tarr, Bruce E.**

**Nuciforo, Andrea F., Jr. Tisei, Richard R.**

**O'Leary, Robert A. Tolman, Steven A.**

**Pacheco, Marc R. Tucker, Susan C.**

**Panagiotakos, Steven C. Walsh, Marian**

**Rosenberg, Stanley C. Wilkerson, Dianne ♦ 38.**

**NAYS ♦ 0.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

**The yeas and nays having been completed at eleven minutes past three o'clock P.M., item 4513-1026, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Item 7007-1300 (International Trade Council Expenses) was considered as follows:**

**♦7007-1300 For the operation of the Massachusetts international trade council 960,000♦.**

**[The Governor reduced this item by \$460,000.]**

**The question on passing item 7007-1300, contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twelve minutes past three o'clock P.M., as follows, to wit (yeas 36 ♦ nays 2) [Yeas and Nays No. 736]:**

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O♦Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Tarr, Bruce E.**

**Joyce, Brian A. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 36.

**NAYS.**

**Hedlund, Robert L. Sprague, Jo Ann** ♦ 2.

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

The yeas and nays having been completed at fourteen minutes past three o'clock P.M., item 7007-1300, contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

**Item 8900-0001 (Department of Correction) was considered as follows:**

♦8900-0001 For the operation of the commonwealth's department of correction; provided, that the department shall expend not less than \$1,008,500 to cities and towns hosting facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster; provided further, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety shall report to the committees on ways and means and public safety 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 shall report to the committees on ways and means and public safety before January 1 of each year the point score compiled by the department of correction's objective classification system for all

prisoners confined in each prison operated by the department; provided further, that not less than \$875,000 shall be provided for emergency safety equipment grants; provided further, that not less than \$40,000 shall be provided for the Dismas House, so called; provided further, that not less \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction; provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the military division, the Massachusetts parole board and the sex offender registry board; provided further, that not less than \$75,000 shall be expended for the 5-A program in the Springfield; provided further, that funds shall be expended on the Neil Houston House; and provided further, that the department may expend up to \$1,000,000 for the Commissioner of Probation to implement a global positioning system utilizing tamper free ankle bracelets to track level 3 sex

offenders actively on parole 429,624,325.

[The Governor reduced said item by \$2,658,500 and disapproved certain wording as follows: ; provided, that the department shall expend not less than \$1,008,500 to cities and towns hosting facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster and ; provided further, that not less than \$875,000 shall be provided for emergency safety equipment grants and ; provided further, that not less \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction and ; provided further, that not less than \$75,000 shall be expended for the 5-A program in the Springfield.]

The question on passing item 8900-0001, contained in section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at sixteen minutes past three o'clock P.M., as follows, to wit (yeas 38 nays 0) [Yeas and Nays No. 737]:

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. OLeary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Sprague, Jo Ann**

**Hedlund, Robert L. Tarr, Bruce E.**

**Joyce, Brian A. Tisei, Richard R.**

**Knapik, Michael R. Tolman, Steven A.**

**Lees, Brian P. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 38.

**NAYS** ♦ 0.

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

The yeas and nays having been completed at eighteen minutes past three o'clock P.M., item 8900-0001, contained in section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

*Engrossed Bills.*

The following engrossed bills (both of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation, to wit:

Relative to the powers of trust companies (see Senate, No. 15); and

Further regulating the rates of pilotage for the Port of Boston (see Senate, No. 2406).

*Emergency Preamble Adopted.*

An engrossed Bill relative to the home and community-based service waiver (see House, No. 4922), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, ♦ was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 5 to 0.

The bill was signed by the Acting President (Mr. Rosenberg) and sent to the House for enactment.

*Matter Taken Out of the Orders of the Day.*

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill validating the special town election held in the town of Goshen (printed in House, No. 4244), ♦ was read a third time and passed to be engrossed, in concurrence.

A Bill authorizing the town of North Andover to grant certain utility easements (House, No. 4789, ♦ on petition and also based on House, No. 4788) [Local approval received on House, Nos. 4788 and 4789], ♦ was read.

There being no objection, the rules were suspended, on motion of Ms. Tucker, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

At twenty-two minutes past three o ♦ clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Mr. Rosenberg), declared a recess; and at twenty-eight minutes past four o ♦ clock P.M., the Senate reassembled, the Ms. Menard in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The House Bill relative to veteran ♦s retirement benefits (printed as Senate, No. 1576, amended), ♦ came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2355 *with a further amendment* in section 2, in line 8, by striking out the words ♦ effective date ♦ and inserting in place thereof the word ♦ acceptance ♦; and in section 1 by adding the following 3 sentences: ♦ ♦ Any system may accept this paragraph by majority vote of the board of the system, subject to the approval of the legislative body. For the purposes of this paragraph, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of a county or region the county or regional retirement board advisory council in the case of a district the district members, and in the case of an authority the

governing body. The state employees and teachers retirement systems shall be deemed to have accepted this paragraph.

The rules were suspended, on motion of Mr. Lees, and the House amendment was considered forthwith and adopted, in concurrence.

*Matters Taken Out of the Orders of the Day.*

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:

The House bills

Relative to municipal lighting plant cooperatives (House, No. 2425); and

Providing for recall elections in the town of Blandford (House, No. 4280);

Were severally read a third time and passed to be engrossed, in concurrence.

*Report of a Committee.*

By Ms. Murray, for the committee on Ways and Means, that the House Bill requiring continuing education for licensed plumbers and gas fitters (House, No. 4750), ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

**PAPERS FROM THE HOUSE.**

A Bill relative to Joseph Fernandes (House, No. 5020, on petition) [Local approval received], was read.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

*Engrossed Bills.*

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation, to wit:

Establishing a retirement benefit for employees of the Massachusetts Port Authority (see House, No. 2149);



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

**Authorizing the town of Swansea to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 4742).**

*Engrossed Bill* ♦ *Land Taking for Conservation, Etc.*

**An engrossed Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey easements for the transmission of natural gas over lands formerly under the control of the county of Essex in the town of Middleton and the cities of Peabody and Salem to Maritimes & Northeast Pipeline, L.L.C. (see Senate, No. 1678, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, ♦ was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-three minutes before five o'clock P.M., as follows, to wit (yeas 38 ♦ nays 0) [Yeas and Nays No 738]:**

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O ♦ Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Sprague, Jo Ann**

Hedlund, Robert L. Tarr, Bruce E.

Joyce, Brian A. Tisei, Richard R.

Knapik, Michael R. Tolman, Steven A.

Lees, Brian P. Tucker, Susan C.

Magnani, David P. Walsh, Marian

McGee, Thomas M. Wilkerson, Dianne ♦ 38.

NAYS ♦ 0.

ABSENT OR NOT VOTING.

Resor, Pamela ♦ 1.

The yeas and nays having been completed at a quarter before five o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation.

*Message from the Governor ♦ Disapproval and Reductions in General Appropriation Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation, ♦ came from the House, in part, an item having been passed by the House notwithstanding the reduction of the Governor.

The message (House, No. 4900) was read; and the Senate proceeded to reconsider an item, which had been reduced in accordance with the provisions of the Constitution.

Item 4590-0300 (Tobacco Control Program) was considered as follows:

♦4590-0300 For smoking prevention and cessation programs; provided, that no funds shall be expended in the

AA subsidiary for any personnel-related costs 3,750,000♦.

**[The Governor reduced this item by \$1,215,000.]**

**The question on passing item 4590-0300, contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twelve minutes before five o'clock P.M., as follows, to wit (yeas 35 ♦ nays 3) [Yeas and Nays No. 739]:**

**YEAS.**

**Antonioni, Robert A. Fargo, Susan C.**  
**Baddour, Steven A. Glodis, Guy W.**  
**Barrios, Jarrett T. Hart, John A., Jr.**  
**Berry, Frederick E. Havern, Robert A.**  
**Brewer, Stephen M. Hedlund, Robert L.**  
**Brown, Scott P. Joyce, Brian A.**  
**Chandler, Harriette L. Magnani, David P.**  
**Creedon, Robert S., Jr. McGee, Thomas M.**  
**Creem, Cynthia Stone Melconian, Linda J.**  
**Menard, Joan M. Rosenberg, Stanley C.**  
**Montigny, Mark C. Shannon, Charles E.**  
**Moore, Richard T. Tarr, Bruce E.**  
**Morrissey, Michael W. Tisei, Richard R.**  
**Murray, Therese Tolman, Steven A.**  
**Nuciforo, Andrea F., Jr. Tucker, Susan C.**  
**O♦Leary, Robert A. Walsh, Marian**  
**Pacheco, Marc R. Wilkerson, Dianne ♦ 35.**  
**Panagiotakos, Steven C.**

**NAYS.**

**Knapik, Michael R. Sprague, Jo Ann ♦ 3.**

Lees, Brian P.

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

The yeas and nays having been completed at seven minutes before five o'clock P.M., item 4590-0300, contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

*Engrossed Bill.*

An engrossed Bill authorizing the town of Brookline to fix reasonable fees for permits granted by the chief of its fire department (see House, No. 4403) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation.

At five minutes before five o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the Chair (Ms. Menard), declared a recess; and nineteen minutes past seven o'clock P.M., the Senate reassembled, Mr. Panagiotakos in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

*Suspension of Senate Rule 38A.*

Ms. Chandler moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and, there being no objection, on further motion of the same Senator, the rule was suspended without a recorded yea and nay vote.

**PAPERS FROM THE HOUSE.**

A Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the Shrewsbury Housing Authority (House, No. 4988, ♦ on House, No. 4894), ♦ was read.

There being no objection, the rules were suspended, on motion of Ms. Wilkerson, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: ♦ An

**Act authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the Shrewsbury Housing Authority.** ♦

**A Bill authorizing the Division of Fisheries and Wildlife to take or acquire conservation restrictions in and to lands of the town of Clinton (House, No. 1208, ♦ on petition), ♦ was read.**

**There being no objection, the rules were suspended, on motion of Mr. Shannon, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

**A Bill authorizing the town of Sutton to lease certain conservation land (House, No. 4730, ♦ on petition) [Local approval received], ♦ was read.**

**There being no objection, the rules were suspended, on motion of Mr. Brown, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

**A Bill increasing the time in which real property owned by the Central Berkshire County Development Corporation may be exempt from taxation by the city or town in which it is located (House, No. 3749, ♦ on petition), ♦ was read.**

**There being no objection, the rules were suspended, on motion of Ms. Chandler, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: ♦ An Act increasing the time in which real property owned by the Central Berkshire County Development Corporation may be exempt from taxation. ♦**

**A Bill designating a certain portion of land at Draw 7 Park in the city of Somerville as the Patrick Sullivan Fishing Hole (House, No. 4948, ♦ on petition), ♦ was read.**

**There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

*Matter Taken Out of the Orders of the Day.*

**There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:**

**The House Bill relative to pension benefits for Sergeant Charles L. Byrne, Jr. (House, No. 4722), ♦ was read a third time and passed to be engrossed, in concurrence.**

**PAPER FROM THE HOUSE.**

**A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the city of North Adams (House, No. 4335, ♦ on petition) [Local approval received], ♦ was read.**

**There being no objection, the rules were suspended, on motion of Mr. Brown, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

**There being no objection, at twenty-seven minutes past seven o ♦ clock P.M., the Chair (Mr. Panagiotakos) declared a recess; and at eighteen minutes before eight o ♦ clock P.M., the Senate reassembled, Mr. Panagiotakos in the Chair.**

**PAPERS FROM THE HOUSE.***Engrossed Bill Returned by Governor**With His Objections Thereto.*

**The engrossed Bill directing the Department of Conservation and Recreation to repair certain culverts (see House, No. 4918), which, on Thursday, July 8, 2004, had been laid before His Excellency the Governor for his approbation, ♦ came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing, [for message, see House, No. 5008] and having passed that branch, notwithstanding said objections.**

**The message (House, No. 5008) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.**

**The question on passing the bill, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at seventeen minutes before eight o ♦ clock P.M., as follows, to wit (yeas 38 ♦ nays 0) [Yeas and Nays No. 740]:**

**YEAS.**

**Antonioni, Robert A. Lees, Brian P.**

**Baddour, Steven A. Magnani, David P.**

**Barrios, Jarrett T. McGee, Thomas M.**

**Berry, Frederick E. Melconian, Linda J.**

**Brewer, Stephen M. Menard, Joan M.**

**Brown, Scott P. Montigny, Mark C.**

**Chandler, Harriette L. Moore, Richard T.**  
**Creedon, Robert S., Jr. Morrissey, Michael W.**  
**Creem, Cynthia Stone Murray, Therese**  
**Fargo, Susan C. Nuciforo, Andrea F., Jr.**  
**Glodis, Guy W. O ♦ Leary, Robert A.**  
**Hart, John A., Jr. Pacheco, Marc R.**  
**Havern, Robert A. Panagiotakos, Steven C.**  
**Hedlund, Robert L. Rosenberg, Stanley C.**  
**Joyce, Brian A. Shannon, Charles E.**  
**Knapik, Michael R. Sprague, Jo Ann**  
**Tarr, Bruce E. Tucker, Susan C.**  
**Tisei, Richard R. Walsh, Marian**  
**Tolman, Steven A. Wilkerson, Dianne ♦ 38.**

**NAYS ♦ 0.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela ♦ 1.**

**The yeas and nays having been completed at twelve minutes before eight o ♦ clock P.M., the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

***Message from the Governor ♦ Disapproval and Reductions in General Appropriation Bill.***

**A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institution ♦ s and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4850), which on Wednesday, June 16, 2004, had been laid before the Governor for his approbation, ♦ came from the House, in part, several items and sections having been passed by the House notwithstanding the**

**reduction or disapproval of the Governor.**

**The message (House, No. 4900) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.**

**Item 1232-0200 (Underground Storage Tank Administrative Review Board) was considered as follows:**

**◆1232-0200 For the Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board pursuant to chapter 21J of the General Laws and for the administration of the underground storage tank program associated with the implementation of chapter 21J of the General Laws; provided, that notwithstanding section 4 of chapter 21J or any other general or special law to the contrary, appropriations made in this item shall be sufficient to cover said administrative expenses of the underground storage tank program; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2005,**

**prior appropriation continued 1,500,000◆.**

**[The Governor disapproved of the following language; ◆; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2005◆.]**

**The question on passing item 1232-0200, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes before eight o'clock P.M., as follows, to wit (yeas 32 ◆ nays 6) [Yeas and Nays No. 741]:**

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**



**Chandler, Harriette L. Murray, Therese**  
**Creedon, Robert S., Jr. Nuciforo, Andrea F., Jr.**  
**Creem, Cynthia Stone O'Leary, Robert A.**  
**Fargo, Susan C. Pacheco, Marc R.**  
**Glodis, Guy W. Panagiotakos, Steven C.**  
**Hart, John A., Jr. Rosenberg, Stanley C.**  
**Havern, Robert A. Shannon, Charles E.**  
**Hedlund, Robert L. Tolman, Steven A.**  
**Joyce, Brian A. Tucker, Susan C.**  
**Magnani, David P. Walsh, Marian**  
**McGee, Thomas M. Wilkerson, Dianne 32.**

**NAYS.**

**Brown, Scott P. Sprague, Jo Ann**  
**Knapik, Michael R. Tarr, Bruce E.**  
**Lees, Brian P. Tisei, Richard R. 6.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela 1.**

**The yeas and nays having been completed at nine minutes before eight o'clock P.M., item 1232-0200, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Item 1599-7092 (County Corrections Reserve) was considered as follows:**

**1599-7092 For a reserve for the county correctional programs; provided, that notwithstanding any general or special laws to the contrary, the sheriffs, in conjunction with the county government finance review board, shall maintain and continue to collaborate with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting and**

Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 unless the plan is in place; provided further, that the county government finance review board shall, by January 1, 2005, have developed a plan for the spending of all funds for fiscal year 2005, and developed a sound fiscal spending plan for fiscal year 2006; provided further, that the board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2005 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers' compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2005; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2005 and 2006; provided further, that the board shall release all funds from fiscal year 2005 quarterly; provided further, that any sheriff that spends more than the quarterly approved budget shall have the money allocated for the following quarter reduced by the excess amount overspent in the previous quarter; and provided further, that it is the intent of the General Court that funds shall not be spent from this item nor any funds be transferred from this item to another item until all of aforementioned restric-

tions and conditions have been satisfied 39,319,632.

[The Governor disapproved of the following language; ; provided further, that the county government finance review board shall, by January 1, 2005, have developed a plan for the spending of all funds for fiscal year 2005, and developed a sound fiscal spending plan for fiscal year 2006; provided further, that the board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2005 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers' compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2005; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2005 and 2006.]

The question on passing item 1599-7092, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before eight o'clock P.M., as follows, to wit (yeas 33 nays 5) [Yeas and Nays No. 742]:

YEAS.

Antonioni, Robert A. Montigny, Mark C.

Baddour, Steven A. Moore, Richard T.

Barrios, Jarrett T. Morrissey, Michael W.

**Berry, Frederick E. Murray, Therese**  
**Brewer, Stephen M. Nuciforo, Andrea F., Jr.**  
**Chandler, Harriette L. O'Leary, Robert A.**  
**Creedon, Robert S., Jr. Pacheco, Marc R.**  
**Creem, Cynthia Stone Panagiotakos, Steven C.**  
**Fargo, Susan C. Rosenberg, Stanley C.**  
**Glodis, Guy W. Shannon, Charles E.**  
**Hart, John A., Jr. Tarr, Bruce E.**  
**Havern, Robert A. Tisei, Richard R.**  
**Joyce, Brian A. Tolman, Steven A.**  
**Magnani, David P. Tucker, Susan C.**  
**McGee, Thomas M. Walsh, Marian**  
**Melconian, Linda J. Wilkerson, Dianne** ♦ 33.  
**Menard, Joan M.**

**NAYS.**

**Brown, Scott P. Lees, Brian P.**  
**Hedlund, Robert L. Sprague, Jo Ann** ♦ 5.  
**Knapik, Michael R.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

**The yeas and nays having been completed at six minutes before eight o'clock P.M., item 1599-7092, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Item 2800-0100 (Conservation and Recreation Administration) was considered as follows:**

**◆2800-0100 For the operation of the department of conservation and recreation; provided, that said department shall enter into an interagency agreement with the department of state police to provide police coverage on department of conservation and recreation properties and parkways; provided further, that the department of state police shall reimburse said department of conservation and recreation for costs incurred by said department including, but not limited to vehicle maintenance and repairs, the operation of department of state police buildings and other related costs; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions of the division performing construction activities for the department of conservation and recreation shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that notwithstanding the provisions of section 3B of chapter 7 of the General Laws, the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of said department; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 14, 2005; provided further, that notwithstanding the provisions of any general or special law or administrative bulletin to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the operational services division; provided further, that no funds shall be expended from this item for personnel overtime costs; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and means no later than December 6, 2004 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, and the positions of all full time equivalent, so-called personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004 and August 1, 2004, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by subsidiary and object code of all expenditures or allocations from items of appropriations under the executive office of environmental affairs in fiscal year 2004 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, and their assigned duties, (5) the number of full time equivalent positions, so-called that have been eliminated due to said merger, (6) any efficiencies that have been achieved from said merger; provided further, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways and means no later than December 6, 2004, that shall include, but not be limited to, the following: (1) the number of full time equivalent positions so-called, delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2005 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2005 inclusive delineated by fiscal year, program and item of appropriation, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001; and provided further, that \$60,000 shall be expended for the Martha◆s**

**Vineyard Commission 5,023,416◆.**

**[The Governor disapproved of the following language; ◆; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and**

means no later than December 6, 2004 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, and the positions of all full time equivalent, so-called personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004 and August 1, 2004, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by subsidiary and object code of all expenditures or allocations from items of appropriations under the executive office of environmental affairs in fiscal year 2004 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, and their assigned duties, (5) the number of full time equivalent positions, so-called that have been eliminated due to said merger, (6) any efficiencies that have been achieved from said merger; provided further, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways and means no later than December 6, 2004, that shall include, but not be limited to, the following: (1) the number of full time equivalent positions so-called, delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2005 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2005 inclusive delineated by fiscal year, program and item of appropriation, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001 ♦.]

The question on passing item 2800-0100, contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before eight o ♦clock P.M., as follows, to wit (yeas 31 ♦ nays 7) [Yeas and Nays No. 743]:

#### YEAS.

Antonioni, Robert A. Menard, Joan M.  
Baddour, Steven A. Montigny, Mark C.  
Barrios, Jarrett T. Moore, Richard T.  
Berry, Frederick E. Morrissey, Michael W.  
Brewer, Stephen M. Murray, Therese  
Chandler, Harriette L. Nuciforo, Andrea F., Jr.  
Creedon, Robert S., Jr. O ♦Leary, Robert A.  
Creem, Cynthia Stone Pacheco, Marc R.  
Fargo, Susan C. Panagiotakos, Steven C.  
Glodis, Guy W. Rosenberg, Stanley C.

**Hart, John A., Jr. Shannon, Charles E.**

**Havern, Robert A. Tolman, Steven A.**

**Joyce, Brian A. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne** ♦ 31.

**Melconian, Linda J.**

**NAYS.**

**Brown, Scott P. Sprague, Jo Ann**

**Hedlund, Robert L. Tarr, Bruce E.**

**Knapik, Michael R. Tisei, Richard R.** ♦ 7.

**Lees, Brian P.**

**ABSENT OR NOT VOTING.**

**Resor, Pamela** ♦ 1.

**The yeas and nays having been completed at three minutes before eight o'clock P.M., item 2800-0100, contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.**

**Item 6005-0015 (Regional Transit Authorities Contract Assistance) was considered as follows:**

**♦6005-0015 For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program, and the inter-city bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 2004 and ending June 30, 2005, may enter into contracts with the authorities; provided further, that notwithstanding section 152A of chapter 161, and section 23 of chapter 161B of the General Laws, the amount shall be at least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in fiscal year 2004 shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon the cities and towns shall be at least 25 per cent of the net cost of service; provided further, that in the event that 25 per cent of the net cost of service of each**

authority exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service, for which the cities and towns have not previously been assessed, as allowed by chapter 580 of the acts of 1980, the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 2005 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2004; provided further, that for the purposes of this item, operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with Disabilities Act, or new services implemented after July 1, 1999 in an amount not to exceed a total of \$3,613,905 for the 15 regional transit authorities; provided further, that the new services must have first received approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of the new services shall be assessed to the cities and towns of the appropriate transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides the new services must file a report with the house and senate committees on ways and means and the joint committee on transportation, detailing the total costs and revenues associated with the new service; provided further, that the cost of the new services shall not annualize to more than \$3,613,905; provided further, that not later than January 1, 2005, each of the 15 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing any and all revenues collected as a result of services provided pursuant to item 4401-1000; provided further, that the executive office of transportation shall work cooperatively with the authorities and other public and private funding sources to maximize new revenues sources to expand transit services; provided further, that the authorities and the executive office of transportation shall develop processes and procedures for contracts for services with other state agencies; provided further, that the executive office of transportation and the authorities shall develop a five-year transit plan for operational and capital objectives that the parties may measure against and plan toward and shall file the plan with the house and senate committees on way and means no later than April 1, 2005; provided further, that the executive office of transportation and the authorities shall work cooperatively to implement multi-year contracting for regional transit authority capital projects, particularly for construction projects and other multi-year commitments of the authorities; provided further, that the regional transit authorities shall implement structural, managerial and administrative reforms in order to achieve cost savings in services provided by the authorities; provided further, that the reforms shall include, but not be limited to, improved financing procedures for capital needs, approved plans for short- and long-term service, a coordinated program of mass transportation for the regional transit authorities that provides standards of service for the authorities for types of service, passenger miles, hours of service, cost of service by route and mile and passenger, non-transportation revenue and system revenue generating options included, but not limited to, fare revenue and advertising revenue, assessments on member cities and towns, net operating investment per passenger-mile ratio and service quality standards; provided further, that the program shall involve an approach to service coordinated with the Massachusetts Bay Transportation Authority and other transit providers in order to achieve maximum efficiency of regional transit authority service routes; provided further, that all regional transit authorities shall achieve the fare and/or revenue recovery ratio of 40 per cent within 36 months from the effective date of this act; and provided further, that the Massachusetts Association of Regional Transit Authorities shall on or before November 15, 2004, report to the joint committee on transportation and the house and senate committees on ways and means on the operations of the authorities in the first half of fiscal year 2005, and focus the report on the reforms and

improvements 48,782,640

**General Fund 80.0%**

**Highway Fund 20.0%** ♦.

[The Governor reduced this item by \$1,000,000.]

The question on passing item 6005-0015, contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at two minutes before eight o'clock P.M., as follows, to wit (yeas 36 ♦ nays 2) [Yeas and Nays No. 744]:

**YEAS.**

**Antonioni, Robert A. Melconian, Linda J.**

**Baddour, Steven A. Menard, Joan M.**

**Barrios, Jarrett T. Montigny, Mark C.**

**Berry, Frederick E. Moore, Richard T.**

**Brewer, Stephen M. Morrissey, Michael W.**

**Brown, Scott P. Murray, Therese**

**Chandler, Harriette L. Nuciforo, Andrea F., Jr.**

**Creedon, Robert S., Jr. O♦Leary, Robert A.**

**Creem, Cynthia Stone Pacheco, Marc R.**

**Fargo, Susan C. Panagiotakos, Steven C.**

**Glodis, Guy W. Rosenberg, Stanley C.**

**Hart, John A., Jr. Sprague, Jo Ann**

**Havern, Robert A. Tarr, Bruce E.**

**Hedlund, Robert L. Tisei, Richard R.**

**Joyce, Brian A. Tolman, Steven A.**

**Knapik, Michael R. Tucker, Susan C.**

**Magnani, David P. Walsh, Marian**

**McGee, Thomas M. Wilkerson, Dianne ♦ 36.**