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## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Tuesday, July 28, 2009.*

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, the President introduced Jim MacConnell and Tom Masciulli, cable workers from Comcast. They had just finished a job in the Woods Hole area of Cape Cod when they were approached by a neighbor yelling that his house was on fire and that his wife was trapped inside. Jim and Tom ran into the burning home and rushed inside to save the elderly woman and carried her to safety. The Senate applauded their heroic efforts and they withdrew from the Chamber.

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

##### *Bills*

To establish a sick leave bank for Michele Merenda, an employee of the Department of Transitional Assistance (House, No. 1149,— on petition); and

To establish a sick leave bank for a Amy S. Fein, an employee of the Department of Public Health (House, No. 1888,— on petition);

**Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

##### *Reports*

Of the committee on Transportation, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 1889) of Steven M. Brewer and Todd M. Smola for legislation relative to recreational vehicles;

Of the petition (accompanied by bill, House, No. 3224) of Anne M. Gobi to regulate the use of recreational vehicles;

Of the petition (accompanied by bill, House, No. 3297) of Angelo Puppolo that the registry of motor vehicles be directed to establish an educational safety program for recreational vehicles;

Of the petition (accompanied by bill, House, No. 3330) of Frank Smizik, William Brownsberger and others for legislation to further regulate snow and recreational vehicles; and

Of the petition (accompanied by bill, House, No. 3368) of Stephen H. Kaiser, William Brownsberger and another for legislation to further regulate the operation of off road vehicles;

**And recommending that the same severally be referred to the committee on Public Safety and Homeland Security.**

**Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

##### *Recess.*

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at twenty-five minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:— Resolutions (filed by Mr. Brown) “congratulating Courtney Buchanan of Wrentham on receiving the Gold Award of the Girls Scouts of America”;

Resolutions (filed by Mr. Brown) “congratulating Faye Charpentier of Wrentham on receiving the Gold Award of the Girls Scouts of America”; and

Resolutions (filed by Mr. Brown) “congratulating Caitlyn Doucette of Plainville on receiving the Gold Award of the Girls Scouts of America.”

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

##### *Emergency Preambles Adopted.*

An engrossed Bill establishing a sick leave bank for Kathleen Ginn, an employee of the Department of Developmental Services (see Senate, No. 2089), 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.**

An engrossed Bill establishing a sick leave bank for Mary F. Keeler, an employee of the Trial Court (see House, No. 1138), 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.**

An engrossed Bill establishing a sick leave bank for Gayle Tickel, an employee of the Department of Correction (see House, No. 1155, 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.**

##### *Engrossed Bills.*

The following engrossed bills (both 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 President and laid before the Governor for his approbation, to wit:

Relative to the naming of the Joseph P. O’Loughlin Pond (see House, No. 717); and

Establishing a sick leave bank for Michelle Nocera, an employee of the Middlesex Sheriff’s Office (see House, No. 1150).

An engrossed Bill validating a certain vote taken by the town of Foxborough (see House Bill, printed in House, No. 4161) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, two-thirds of the members present having voted in the affirmative, **was passed to be enacted and signed by the President and laid before the Governor for his approbation.**

##### *Matter Taken Out of the Notice Section of the Calendar.*

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered, as follows: The House Bill relative to a certain alcoholic beverages license in the town of Dracut (House, No. 3800),— **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 further regulating a certain license for the sale of all alcoholic beverages not to be drunk on the premises in the town of Dracut”.**

##### *Report of a Committee.*

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill updating the animal control laws of Massachusetts (Senate, No. 406),— ought to pass, with an amendment substituting a new draft entitled “An Act further regulating animal control” (Senate, No. 2120).

Ms. Jehlen moved that the rules be suspended so that the matter may be considered forthwith; but objection was made thereto by Mr. Tisei.

**Referred, under Senate Rule 26, to the committee on Ethics and Rules.**

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

A petition (accompanied by bill, House, No. 4180) of Vincent A. Pedone relative to the issuance of licenses to individuals engaged as photovoltaic installers,— **was referred, in concurrence, under suspension of Joint Rule 12, to committee on Consumer Protection and Professional Licensure.**

*Message from the Governor — Disapproval General Appropriations 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 2010 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. 4129), which on Friday, June 19, 2009, had been laid before the Governor for his approbation,— **came from the House, in part, a section having been passed by the House notwithstanding the disapproval of the Governor.**

The message (House, No. 4139) was read; and the Senate proceeded to reconsider one item, which had been disapproved in accordance with the provisions of the Constitution.

Section 89 (Middlesex Probate Judicial Case Managers) was considered as follows:

“SECTION 89. Section 23D of chapter 217 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the figure ‘6’ and inserting in place thereof the following figure:— 8.”

[The Governor disapproved this section.]

After debate, the question on passing section 89, 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-one minutes before three o’clock P.M., as follows, to wit (*yeas 32 — nays 5*) [**Yeas and Nays No. 98**]:

YEAS.

Baddour, Steven A. McGee, Thomas M.  
Berry, Frederick E. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia O’Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petrucci, Anthony  
Flanagan, Jennifer L. Rosenberg, Stanley C.  
Galluccio, Anthony D. Spilka, Karen E.  
Hart, John A., Jr. Timilty, James E.  
Jehlen, Patricia D. Tolman, Steven A.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian— 32.

NAYS.

Brown, Scott P. Tarr, Bruce E.  
Hedlund, Robert L. Tisei, Richard R. — 5.  
Knapik, Michael R.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Fargo, Susan C.— 2.

**The yeas and nays having been completed at a quarter before three o’clock P.M., section 89 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 Returned with Recommendation of Amendment.*

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill establishing a regionalization advisory commission (see House, No. 4154) [being the text of section 146 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment Q of House, No. 4139],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment:

“By striking out the figure ‘17’ and inserting in place thereof the following figure:— ‘19’; and by inserting after the word ‘designee;’ the words ‘; the minority leader of the senate or his designee; the minority leader of the house of representatives or his designee’.

**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 rules were suspended, on motion of Mr. Panagiotakos.**

**The Governor's amendment was then rejected.  
The House amendment was considered; and it was adopted, in concurrence (as corrected BTR).  
Sent to the House for re-enactment.**

*Orders of the Day.*

The Orders of the Day were considered, as follows:

The House Bill relative to public utility companies (House, No. 4126, amended),— was read a third time.

Pending the main question on passing the bill to be engrossed, in concurrence, with the amendment, after remarks, Mr. Downing moved that the text (Senate, No. 2115) be amended in section 1, by striking out, in line 12, the word “records” and inserting in place thereof the following word:— “documents”; in said section 1, by inserting after the word “emergency”, in line 12, the following words:— “; provided, however, that documents and information provided to the chairman during such state of emergency shall be subject to the exemption provided by subclause (n) of clause Twenty-sixth of section 7 of chapter 4, to the extent necessary to protect the public safety”; and, in section 5, in proposed section 85B, in subsection (a), in the last paragraph, by adding the following sentence:—

“The department shall accord protected treatment under section 5D of chapter 25 to confidential, competitively-sensitive or other proprietary information contained in an emergency response plan and shall also confirm the application of subclause (n) of clause Twenty-sixth of section 7 of chapter 4 so as not to jeopardize public safety.”

**After further remarks, the amendment was adopted.**

Messrs. Tarr and Baddour moved that the bill be amended by striking out section 3 and inserting in place thereof the following section:—

“SECTION 3. Section 1F of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in line 238, the words ‘\$1,000,000 for any related series of violations’ and inserting in place thereof the following words:— \$5,000,000 for any related series of violations; provided further, that if the department determines that a person, firm, electric or generation company, supplier, or other corporation has committed an exceptional breach of public duty with respect to a related series of violations, the \$5,000,000 maximum civil penalty shall not apply.”

**Pending the question on adoption of the amendment, and pending the main question on passing the bill to be engrossed, in concurrence, with the amendment, at the request of Senators Tarr and Brown, the bill was laid over until the next session, under the provisions of Senate Rule 31, with the amendment pending.**

The engrossed Bill authorizing the transfer of certain funds within the Trial Court (see House, No. 4148),— was considered, the main question being on rejecting the Governor's amendment.

The pending motion, previously moved by Mr. Tisei, to lay the matter on the table was considered; and, after remarks, the motion was negatived.

Mr. Rosenberg in the Chair, after debate, the question on rejecting the Governor's amendment was determined by a call of the yeas and nays, at twenty-five minutes past three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 29 — nays 7*)

**[Yeas and Nays No. 99]:**

YEAS.

Baddour, Steven A. Montigny, Mark C.  
Berry, Frederick E. Moore, Michael O.  
Brewer, Stephen M. Moore, Richard T.  
Buoniconti, Stephen J. Morrissey, Michael W.  
Chandler, Harriette L. O'Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petruccelli, Anthony  
Flanagan, Jennifer L. Rosenberg, Stanley C.  
Galluccio, Anthony D. Spilka, Karen E.  
Jehlen, Patricia D. Timilty, James E.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
McGee, Thomas M. Walsh, Marian— 29.  
Menard, Joan M.

NAYS.

Brown, Scott P. Knapik, Michael R.  
Candaras, Gale D. Tarr, Bruce E.  
Chang-Diaz, Sonia Tisei, Richard R. — 7.  
Hedlund, Robert L.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr. — 3  
Fargo, Susan C.

**The yeas and nays having been completed at twenty-eight minutes past three o'clock P.M., the Governor's amendment was rejected.  
Sent to the House for re-enactment.**

#### PAPERS FROM THE HOUSE.

*Message from the Governor — Objections and Disapprovals General Appropriations 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 2010 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. 4129), which on Thursday, June 19, 2009, 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 objections or disapproval of the Governor.

The message (House, No. 4139) was read; and the Senate proceeded to reconsider items, which had been disapproved in accordance with the provisions of the Constitution.

Item 1000-0001 (State Comptroller Administration) was considered as follows:

“1000-0001 For the office of the state comptroller; provided, that the amount of any federal funds and grant receipts credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services and the full-year estimate of revenues and revenues collected; provided further, that notwithstanding any general or special law to the contrary, the comptroller shall deduct \$1,000 from any item of appropriation in section 2 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts deducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted; provided further, that notwithstanding any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for such purpose; provided further, that 60 days before entering into any interdepartmental service agreement the comptroller shall notify the house and senate committees on ways and means; provided further, that the notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this item; and provided further, that the comptroller shall submit a report on such projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws 8,056,789.”

**[The Governor struck out the following wording “; provided further, that notwithstanding any general or special law to the contrary, the comptroller shall deduct \$1,000 from any item of appropriation in section 2 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts deducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted”.]**

After debate, the question on passing item 1000-0001, 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-two minutes before four o'clock P.M., as follows, to wit (*yeas 32 — nays 4*) **[Yeas and Nays No. 100]:**

YEAS.

Baddour, Steven A. Menard, Joan M.  
Berry, Frederick E. Montigny, Mark C.  
Brewer, Stephen M. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. O'Leary, Robert A.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.

Downing, Benjamin B. Petruccelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Jehlen, Patricia D. Timilty, James E.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
McGee, Thomas M. Walsh, Marian— 32.

NAYS.

Brown, Scott P. Knapik, Michael R.  
Hedlund, Robert L. Tisei, Richard R. — 4.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr.— 3.  
Fargo, Susan C.

**The yeas and nays having been completed at seventeen minutes before four o'clock P.M., item 1000-0001, 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.**

Section 145 (Water Infrastructure Commission) was considered as follows:

“SECTION 145. (a) There shall be a special water infrastructure finance commission to develop a comprehensive, long-range water infrastructure finance plan for the commonwealth and municipalities.

(b) The commission shall consist of the commissioner of environmental protection or his designee; the state treasurer or his designee; 2 people to be appointed by the president of the senate, 1 of whom shall be a member of the senate and 1 of whom shall be a representative of a planning organization, environmental consumer organization or other public interest organization; 2 people to be appointed by the speaker of the house of representatives, 1 of whom shall be a member of the house of representatives and 1 of whom shall be a representative of a planning organization, environmental consumer organization or other public interest organization; 1 person to be appointed by the minority leader of the senate and 1 person to be appointed by the minority leader of the house of representatives, each of whom shall be from different geographic regions of the commonwealth and who shall be representatives of the business community; a representative of the Boston Water and Sewer Commission; and 9 persons to be appointed by the governor who shall not be employees of the executive branch and who shall reside in different geographic regions of the commonwealth, 1 of whom shall be a representative of the American Council of Engineering Companies of Massachusetts, 1 of whom shall be a representative of the Utility Contractors' Association of New England, 1 of whom shall be a representative of the Massachusetts Waterworks Association, 1 of whom shall be a representative of the Massachusetts Municipal Association, 1 of whom shall be a representative of Clean Water Action, 1 of whom shall be a representative of Associated Industries of Massachusetts, 1 of whom shall be a representative of the Environmental League of Massachusetts, 1 of whom shall be a representative of the Conservation Law Foundation and 1 of whom shall be a representative of the Massachusetts Water Pollution Control Association. Each of those organizations shall provide a list of at least 3 but not more than 5 candidates for consideration by the governor. Each of the members shall be an expert or shall have experience in the field of law or public policy, water, wastewater or storm water planning, design and construction of water, wastewater or storm water projects, utility management, management consulting or organizational finance; provided, however, that at least 1 member shall have expertise in organizational finance. The governor shall designate a member to serve as the chairperson of the commission but the chairperson shall not be the commissioner of environmental protection, the state treasurer or their designees. The members of the commission shall be appointed not later 90 days after the effective date of this act and shall serve until the completion of the long-range infrastructure finance plan.

(c) In the course of its deliberations, the commission shall make it a priority to examine the technical and financial feasibility of sustaining, integrating and expanding public water systems, conservation and efficiency programs, wastewater systems and storm water systems of municipalities and the commonwealth, including regional or district systems. Further, the commission shall: (1) examine the water infrastructure needs of the commonwealth for the next 25 years as they relate to the funding gap between the water infrastructure needs of the commonwealth and the existing, available sources of funding; (2) develop mechanisms for additional funding for water infrastructure by increasing investment in critical water, wastewater, storm water and water conservation infrastructure; (3) provide mechanisms for improvements in the handling and management of water programs; (4) examine the potential threats to public health and public safety from the existing shortfalls in funding for water infrastructure; (5) examine and develop recommendations on ways in which the commonwealth and its municipalities may meet operation and maintenance and capital improvement and reconstruction needs for the next 25 years including, without limitation, recommendations regarding debt reduction, enhancing existing sources of revenues, developing new sources of revenues, establishing new incentives for public-private partnerships in the development of real property resources and funding resources; and (6) examine the expanded use of full accounting systems and enterprise funding, asset management systems and best management practices, compliance with chapter 21G of the General Laws, the Massachusetts water policy and current federal and state funding programs.

- (d) The commission shall examine the finances of the various municipalities and regional water districts, including state and federal aid levels, and make recommendations for improvements to financial policies and procedures. The commission shall identify areas where cost savings can be achieved across water agencies by consolidation, coordination and reorganization. The commission shall examine the projected federal funding, projected state funding, projected local funding, projected fee-based funding, debt financing and any other sources of projected funding to finance water infrastructure needs identified by the commission.
- (e) The commission shall develop recommendations as to what funding or finance measures the commonwealth or municipalities may pursue to satisfy any unmet funding needs identified by the commission. The recommendations shall also include any recommendation for interagency agreements, intermunicipal agreements, consolidations or mergers to enable the commonwealth and municipalities to make the most effective use of water funding resources. The recommendations shall identify fair and equitable means of financing water infrastructure investments through taxes, fees, user charges or other sources.
- (f) The commission may hold public hearings to assist in the collection and evaluation of data and testimony.
- (g) The commission shall prepare a written report detailing its financials relative to identified funding sources and its recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect. The commission shall submit its initial report to the governor, the secretary of the executive office of energy and environmental affairs, the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the joint committee on environment, natural resources and agriculture not later than 2 years after the effective date of this act.
- (h) Any research, analysis or other staff support that the commission reasonably requires shall be provided by the executive office of energy and environmental affairs and its agencies, with assistance from the Massachusetts Water Resources Authority.”.

[The Governor disapproved this section.]

After debate, the question on passing section 145, in concurrence, the disapproval 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 four o'clock P.M., as follows, to wit (yeas 33 — nays 3) [Yeas and Nays No. 101]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
 Berry, Frederick E. Montigny, Mark C.  
 Brewer, Stephen M. Moore, Michael O.  
 Buoniconti, Stephen J. Moore, Richard T.  
 Candaras, Gale D. Morrissey, Michael W.  
 Chandler, Harriette L. O'Leary, Robert A.  
 Chang-Diaz, Sonia Pacheco, Marc R.  
 Donnelly, Kenneth J. Panagiotakos, Steven C.  
 Downing, Benjamin B. Petruccelli, Anthony  
 Eldridge, James B. Rosenberg, Stanley C.  
 Flanagan, Jennifer L. Spilka, Karen E.  
 Galluccio, Anthony D. Tarr, Bruce E.  
 Hedlund, Robert L. Timilty, James E.  
 Jehlen, Patricia D. Tolman, Steven A.  
 Joyce, Brian A. Tucker, Susan C.  
 Kennedy, Thomas P. Walsh, Marian— 33.  
 McGee, Thomas M.

NAYS.

Brown, Scott P. Tisei, Richard R. — 3.  
 Knapik, Michael R.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr.— 3.  
 Fargo, Susan C.

The yeas and nays having been completed at three minutes past four o'clock P.M., section 145, stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4408-1000 (Emergency Aid to the Elderly, Disabled and Children) was considered as follows:

“4408-1000 For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for the aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the individual shall not be a subject to sponsor income deeming or related restrictions; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General

Laws, to persons suffering from a medically-determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates such individuals' capacity to support themselves and which has been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that no person incarcerated in a correctional institution shall be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall adopt emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted in this item at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated in this item; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing in this item shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency aid to the elderly, disabled and children program or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available in this item shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available in this item; and provided further, that, notwithstanding any general or special law to the contrary, 60 days before implementing any eligibility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes 84,658,966.”.

[The Governor struck out the following wording: “; and provided further, that, notwithstanding any general or special law to the contrary, 60 days before implementing any eligibility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes”.]

After remarks, the question on passing item 4408-1000, 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 four minutes past four o'clock P.M., as follows, to wit (yeas 31 — nays 5) [Yeas and Nays No. 102]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Berry, Frederick E. Montigny, Mark C.  
Brewer, Stephen M. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. O'Leary, Robert A.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petruccelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Timilty, James E..  
Jehlen, Patricia D. Tolman, Steven A.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian— 31.  
McGee, Thomas M.

NAYS.

Brown, Scott P. Tarr, Bruce E.  
Hedlund, Robert L. Tisei, Richard R. — 5.  
Knapik, Michael R.



ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr.— 3.  
Fargo, Susan C.

The yeas and nays having been completed at six minutes past four o'clock P.M., item 4408-1000, 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 4403-2000 (TAFDC Grant Payments) was considered as follows:

“4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2009 unless the department determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the amounts appropriated in this item; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under subsection (e) of section 110 of chapter 5 of the acts of 1995, or any successor statute, shall be 2.75 per cent below the otherwise applicable payment standard, in fiscal year 2010, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify parents under the age of 20 receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5 of the acts of 1995, or any successor statute; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September 2009; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September 2009; provided further, that benefits under this program shall not be available to those families in which a child has been removed from the household pursuant to a court order after a care and protection hearing under chapter 119 of the General Laws, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of children and families in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month the payments are to be made or within the 3 month period after the month of payment, and who, if the child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for the loss; provided further, that the department shall review its disability standards to determine the extent to which they reflect the current medical and vocational criteria and report on the proposed revisions by December 1, 2009, to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the results of that review before any changes to the standards are proposed; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits at the time of application and on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits and transitional benefits; provided further, that the notice shall further advise recipients of the availability of supplemental nutrition assistance program benefits; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families. 308,076,608.”

[The Governor struck out the following wording: “; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families.”.]  
After remarks, the question on passing item 4403-2000, 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 seven minutes past four o'clock P.M., as follows, to wit (yeas 31 — nays 5) [Yeas and Nays No. 103]:

YEAS.

Baddour, Steven A. Flanagan, Jennifer L.  
Berry, Frederick E. Galluccio, Anthony D.  
Brewer, Stephen M. Jehlen, Patricia D.  
Buoniconti, Stephen J. Joyce, Brian A.  
Candaras, Gale D. Kennedy, Thomas P.  
Chandler, Harriette L. McGee, Thomas M.  
Chang-Diaz, Sonia Menard, Joan M.  
Donnelly, Kenneth J. Montigny, Mark C.  
Downing, Benjamin B. Moore, Michael O.  
Eldridge, James B. Moore, Richard T.  
Morrissy, Michael W. Spilka, Karen E.  
O'Leary, Robert A. Timilty, James E..  
Pacheco, Marc R. Tolman, Steven A.  
Panagiotakos, Steven C. Tucker, Susan C.  
Petruccelli, Anthony Walsh, Marian— 31.  
Rosenberg, Stanley C.

NAYS.

Brown, Scott P. Tarr, Bruce E.  
Hedlund, Robert L. Tisei, Richard R. — 5.  
Knapik, Michael R.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr.— 3.  
Fargo, Susan C.

The yeas and nays having been completed at ten minutes past four o'clock P.M., item 4403-2000, 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 service 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 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 section 3B of chapter 7 of the General Laws, the department shall establish or renegotiate fees, licenses, permits, rents and leases, and adjust or develop other revenue sources to fund the maintenance, operation and administration of the 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 15, 2010; provided further, that notwithstanding any general or special law to the contrary, the department shall continue to fund a maintenance contract pursuant to item 2440-2014 of section 2 and section 29 of chapter 236 of the acts of 2002; 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 provide the house and senate committees on ways and means with a 30 day notice before any inter-subsidiary transfers or interagency service agreements and the reason for said transfer; provided further, that the amount transferred pursuant to interagency service agreements shall not increase from fiscal year 2009; and provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation 4,740,855.”

[The Governor struck out the following wording: “; provided further, that the amount transferred pursuant to interagency service agreements shall not increase from fiscal year 2009; and provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation.”.]

After debate, 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 sixteen minutes past four o'clock P.M., as follows, to wit (yeas 30 — nays 6) [Yeas and Nays No. 104]:

YEAS.

Baddour, Steven A. McGee, Thomas M.  
Berry, Frederick E. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia O'Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petruccelli, Anthony  
Flanagan, Jennifer L. Rosenberg, Stanley C.  
Galluccio, Anthony D. Spilka, Karen E.  
Jehlen, Patricia D. Timilty, James E.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.— 30.

NAYS.

Brown, Scott P. Tarr, Bruce E.  
Hedlund, Robert L. Tisei, Richard R.  
Knapik, Michael R. Walsh, Marian — 6.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr.— 3.  
Fargo, Susan C.

The yeas and nays having been completed at nineteen minutes past four 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 1790-0100 (Division of Information Technology Administration) was considered as follows:

"1790-0100 For the operation of the information technology division; provided, that the division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall develop a formula to determine the cost that will be charged to each agency for its use of the human resources and compensation management system; provided further, that the division may coordinate with any state agency or state authority which administers a grant program to develop a statewide grant information page on the commonwealth's official world wide web site, that shall include all necessary application forms and a grant program reference in a format that is retrievable and printable; provided further, that the division shall continue conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communications lines; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May 31, 2010, with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2010; provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item; provided further, that any planned information technology development project or purchase by any agency under the authority of the governor for which the total projected cost exceeds \$200,000, including the cost of any related hardware, software, or consulting fees, and regardless of fiscal year or source of funds, shall be reviewed and approved by the chief information officer before such agency may obligate funds for the project or purchase; provided further, that the chief information officer may establish rules and procedures necessary to implement this item; and provided further, that the division shall file a report by secretariat with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following: (a) financial statements detailing savings realized from the consolidation of information technology services within each executive office; (b) the number of personnel assigned to the information technology services within each executive office; and (c) efficiencies that have been

achieved from the sharing of resources 4,690,244."

[The Governor struck out the following wording: "; and provided further, that the division shall file a report by secretariat with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following:

(a) financial statements detailing savings realized from the consolidation of information technology services within each executive office;

(b) the number of personnel assigned to the information technology services within each executive office; and

(c) efficiencies that have been achieved from the sharing of resources".]

After debate, the question on passing item 1790-0100, 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 twenty-seven minutes past four o'clock P.M., as follows, to wit (yeas 32 — nays 3) [Yeas and Nays No. 105]:

YEAS.

Baddour, Steven A. McGee, Thomas M.  
Brewer, Stephen M. Menard, Joan M.  
Brown, Scott P. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia O'Leary, Robert A.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petruccelli, Anthony  
Flanagan, Jennifer L. Rosenberg, Stanley C.  
Galluccio, Anthony D. Spilka, Karen E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tolman, Steven A.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian— 32.

NAYS.

Knapik, Michael R. Tisei, Richard R. — 3.  
Tarr, Bruce E.

ABSENT OR NOT VOTING.

Berry, Frederick E. Fargo, Susan C.  
Creem, Cynthia Stone Hart, John A., Jr.— 4.

The yeas and nays having been completed at nineteen minutes past four o'clock P.M., item 1790-0100, 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 7004-0101 (Emergency Assistance — Family Shelters and Services) was considered as follows:

“7004-0101 For certain expenses of the emergency assistance program as follows: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes, Hampden and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers; and (vi) voucher shelters; provided, that eligibility shall be limited to families with income at or below 115 per cent of the federal poverty level; provided further, that families with income greater than 115 per cent but not exceeding 130 per cent of the federal poverty level that received services on or before June 30, 2009 from this item shall remain eligible for services in fiscal year 2010; provided further, however, that any family whose income exceeds 115 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 115 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow a portion of their income; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further, that the family may withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that eligible households shall be placed in shelters as close as possible to their home community unless a household requests otherwise; provided further, that if the closest available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date unless the household requests otherwise; provided further, that eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any non-shelter benefit; provided further, that the department shall make every effort to ensure that children receiving services from this item shall continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that notwithstanding any other general or special law to the contrary, the department shall immediately provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department; provided further, that shelter benefits received under the preceding proviso shall not render a family ineligible under any regulation providing that a family who previously received shelter is ineligible for shelter benefits for a period of 12 months; provided further, that families receiving such shelter benefits who are found not to be eligible for continuing shelter benefits shall be eligible for aid pending a timely appeal pursuant to chapter 23B of the General Laws; provided further, that the department shall

not impose unreasonable requirements for third-party verification and shall accept verifications from the family whenever reasonable; provided further, that in promulgating, amending or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated in this item; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of the executive office of housing and economic development that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the emergency assistance family shelter program; and provided further, that the report shall contain the same data required in item 4403-2120 of section 2 of chapter 139 of the acts of 2006. 91,605,510.”.

[The Governor struck out the following wording: “; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of the executive office of housing and economic development that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes.”.]

After remarks, the question on passing item 7004-0101, 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-eight minutes before five o’clock P.M., as follows, to wit (yeas 35 — nays 0) [Yeas and Nays No. 106]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. O’Leary, Robert A.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petrucci, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 35.  
McGee, Thomas M.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Fargo, Susan C.  
Creem, Cynthia Stone Hart, John A., Jr.— 4.

The yeas and nays having been completed at twenty-five minutes before five o’clock P.M., item 7004-0101, 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.

Engrossed Bills Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the district local technical assistance fund (see House, No. 4151) [being the text of section 132 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment N of House, No. 4139],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor.

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 rules were suspended, on motion of Mr. Panagiotakos, and the Governor’s amendment was then rejected.

Mr. Richard T. Moore moved that the bill be amended by inserting the following new section:

“SECTION X. Section 2 of Chapter 182 of the acts of 2008 is hereby amended in item 7027-0016 by inserting at the end thereof

the following:— prior appropriation continued.”

The amendment was considered; and it was adopted.

Sent to the House for concurrence in the amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill providing for the issuance of certain veterans’ plates by the registrar of motor vehicles (see House, No. 4144) [being the text of section 66 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment G of House, No. 4139],— came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows: by striking out section 1 and inserting in place thereof the following section:

“SECTION 1. Section 2 of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fifteenth paragraph and inserting in place thereof the following paragraph:—

The registrar shall furnish, upon application, to owners of private passenger motor vehicles and motorcycles who are veterans, as defined in clause Forty-third of section 7 of chapter 4 and upon presentation of evidence deemed satisfactory by the registrar, distinctive registration plates bearing on the left side the word ‘VETERAN’. These plates shall also include a distinctive emblem or decal for those individuals who have been awarded the Iraq Freedom Campaign Ribbon or who served in Operation Enduring Freedom. There shall be an annual \$20 fee for such ‘VETERAN’ plates in addition to the established registration fee for private passenger motor vehicles and motorcycles. For the purposes of this paragraph, the word ‘motorcycles’ shall not include motorized bicycles.”

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 rules were suspended, on motion of Mr. Panagiotakos, and the Governor’s amendment was considered forthwith and 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 prohibiting health care facilities from charging for certain services (see House, No. 4145) [being the text of section 76 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment H of House, No. 4139],— came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows: by striking out section 2 (as printed) and inserting in place thereof the following 2 sections:

“SECTION 1. Chapter 27 of the Acts of 2009 is hereby amended by inserting after section 76 the following section:

Section 76A. Said section 51H of said chapter 111 is hereby further amended by striking out subsection (d), as appearing in section 9 of chapter 305 of the acts of 2008, and inserting in place thereof the following subsection:—

(d) The department shall adopt regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a health-care associated infection or serious reportable event. A health care facility shall not charge or seek reimbursement for a health-care associated infection or serious reportable event that the facility has determined, through a documental review process, and under regulations adopted by the department, was: (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 2. This act shall take effect as of July 1, 2009.”

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 rules were suspended, on motion of Mr. Panagiotakos, and the Governor’s amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill providing for the transfer of certain funds to the General Fund (see House, No. 4150) [being the text of section 130 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment M of House, No. 4139],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment:

“SECTION 1. Notwithstanding any general or special law to the contrary, the comptroller shall transfer the following amounts to the General Fund after notice from the secretary of administration and finance that sufficient funds are available:

(a) \$1,963,761 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established in section 35FF of chapter 10 of the General Laws;

(b) \$7,000,000 from the Smart Growth Housing Trust Fund established in section 35AA of chapter 10 of the General Laws;

(c) \$3,000,000 from the County Registers Technological Fund established in section 2KKK of chapter 29 of the General Laws;

(d) \$2,000,000 from the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund established in section 2MMM of chapter 29 of the General Laws;

(e) \$3,392,263 from the Commonwealth Covenant Fund established in section 35EE of chapter 10 of the General Laws; and

(f) \$1,859,744 from the Massachusetts Board of Higher Education Scholar-Internship Match Fund established in section 2UUU of chapter 29 of the General Laws”.

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 rules were suspended, on motion of Mr. Panagiotakos.  
The Governor's amendment was then rejected.  
The House amendment was considered; and it was adopted, in concurrence (as corrected BTR).  
Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the Massachusetts Life Sciences Investment Fund (see House, No. 4152) [being the text of section 133 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment O of House, No. 4139],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor.  
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 rules were suspended, on motion of Mr. Panagiotakos, and the Governor's amendment was considered forthwith and rejected, 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 development in the towns of Monson and Templeton (see House, No. 4153) [being the text of section 144 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment P of House, No. 4139],— came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows: by striking out section 1 and inserting in place thereof the following 7 sections:  
“SECTION 1. As used in this act the following words shall, unless the context clearly indicates otherwise, have the following meanings:—  
‘Commissioner’, the commissioner of capital asset management and maintenance.  
‘Department’, the department of developmental services.  
‘Developer’, a person, entity or governmental body that acquires an ownership or leasehold interest in the site or any portion thereof pursuant to this section.  
‘Division’, the division of capital asset management and maintenance.  
‘MDC committee’, the Monson Developmental Center Reuse committee, which shall include 3 representatives of the town of Monson, 1 of whom shall be a member of the Monson board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Monson planning board or his designee, and 1 of whom shall be chosen by the Monson board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; and 1 representative of Parents and Friend. Such members, other than the representatives of the state agencies, shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.  
‘MDC site’, the area of state-owned land located in the town of Monson known as the Monson Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.  
‘Plan’, a reuse plan prepared by the division in consultation with the MDC committee and the TDC committee which shall be approved by the commissioner and filed in accordance with section 2; provided, however that the plan may be enhanced, refined or amended from time to time as provided in this section and shall include uses for department programs, uses that promote environmental preservation, open space and any other use found to be appropriate by the commissioner, town and committee.  
‘Selection committee’, the proposal selection committee established to review proposals and make recommendations to the commissioner, which shall include 1 representative of the respective town chosen by the board of selectmen to be appointed annually; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; 1 representative from the MDC committee; and 1 representative from the TDC committee.  
‘TDC Committee’, the Templeton Developmental Center Reuse Committee, which shall include 3 representatives of the town of Templeton, 1 of whom shall be a member of the Templeton board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Templeton planning board or his designee, and 1 of whom shall be chosen by the Templeton board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; and 1 representative of the legal guardians of the clients currently housed at the Templeton Developmental Center. Such members, other than the representatives of the state agencies, shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.  
‘TDC site’, the area of state-owned land located in the town of Templeton known as the Templeton Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.  
SECTION 2. The commissioner shall undertake planning, studies and preparation of plans and specifications necessary to carry out the provisions of this section consistent with the plan. The TDC committee and MDC committee shall submit their recommendations for the reuse plans with the commissioner within 180 days after the effective date of this act. The commissioner shall consult with the TDC committee and the MDC committee on any amendment to the plan and shall develop issue and advertise requests for proposals consistent with the plan within 90 days of receipt of the plan. Upon receipt of proposals the commissioner shall convene the selection committees for the purpose of reviewing and making recommendations regarding selection to the commissioner. The respective town's governing authority shall be encouraged to submit proposals for uses consistent with the plan for some or all of the property. Should proposals from the municipalities be among those recommended

to the commissioner, the commissioner shall reasonably accommodate the schedule required for town meeting votes, should said vote be required to complete or approve a proposal, prior to making any final decisions on the proposals. In regard o TDC, any re-use must be consistent with chapter 504 of the acts of 2002 which limits some uses on the TDC site. Further, any reuse shall be consistent with restrictions resulting from the TDC and MDC sites being listed on the National Historic Register.

SECTION 3. The commissioner may, subject to sections 40E to section 40J, inclusive, of chapter 7 of the General Laws, and in accordance with this act and the plan and subject to such terms and conditions as the commissioner may, from time to time, prescribe, solicit, evaluate and select development proposals, enter into land disposition agreements, enter into agricultural leases for up to 5 years, sell, lease for terms of up to 99 years including extensions or otherwise grant, convey or transfer to a developer, any interest in the site or portions thereof and any facilities, associated improvements or appurtenances thereon, on such terms and conditions as the commissioner deems appropriate provided the end use meets the guidelines developed by the MDC committee and the TDC committee as set forth in the reuse plan. The amount of consideration for the sale, lease or other disposition of any interest in the sites or portion thereof shall be the full and fair market value for the highest and best value of the property determined by independent appraisal. Additionally, the respective towns may collect property taxes or payments in lieu of taxes if land is leased or sold for taxable uses. The inspector general shall review and comment on the appraisal and the review shall include an examination of the methodology used for the appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and the joint committee on state administration. No less than 2 public comment sessions shall take place. The developer shall be responsible for any costs of appraisals, surveys and other expenses relating to the transfer of the parcel or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel. The commissioner shall ensure that any deed, lease or other disposition agreement conveying surplus real property provides for effective remedies on behalf of the commonwealth as deemed appropriate by the commissioner, which remedies may include, without limitation, that the title or lesser interest conveyed may revert to the commonwealth upon the recording of a notice in the appropriate registry of deeds, in the event of a failure to comply with any use restrictions established by the commissioner. The commissioner shall 30 days before the execution of any agreement or amendment thereto authorized by this act submit the agreement or amendment and a report thereon to the inspector general for review and comment. No less than 2 public comment sessions shall take place. The inspector general shall issue his review and comment within 30 days after receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration at least 30 days before execution.

SECTION 4. The affected town's board of selectmen shall have the right of first refusal before any decision is made as to the reuse or sale of either the land or facilities in each town. This right of first refusal must be exercised, if at all, by the affected town giving written notice of the town's intention to acquire the property to the division within 180 days after the effective date of this act. If the affected town does give such written notice, the affected town shall have until the date which is 180 days after the later of (i) the town's written notice to the commissioner or (ii) written notice from the commissioner to the town that some or all of the land and facilities in such town is available for disposition, to close on the purchase or lease of the property on such terms, conditions and restrictions as offered by the commissioner; provided, however, that the commissioner may grant an affected town additional time to close on the purchase or lease of the property. If an affected town has held a vote for debt exclusion under section 21C of chapter 59 to finance the surplus real property purchase, the date by which the affected town shall exercise its option to purchase shall be extended until 7 days after the vote, but the vote shall take place at the next municipal election after the affected town voted to put the debt exclusion on the ballot. If the affected town fails to close on the purchase of the property within the allowed time, the sole remedy of the commonwealth against the affected town for such failure is to proceed with the disposition of the property without further right of purchase by the affected town.

SECTION 5. Notwithstanding any general or special law to the contrary, the commissioner may, subject to appropriation, and subject to sections 40E to 40G, inclusive, 40I and 40J of chapter 7 of the General Laws retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of the General Laws, or otherwise, grant by deed, transfer, lease, eminent domain, pursuant to said chapter 79, or otherwise, or grant by deed, transfer, lease, or otherwise, any rights-of-way or easements, in, over and beneath the site or portions thereof or other property in the commonwealth contiguous to the site for drainage, access, egress, utilities and other purposes, as the commissioner deems necessary and appropriate to carry out the purposes of this section. The commissioner shall seek advice from the appropriate reuse committee prior to the implementation of any action.

SECTION 6. The department of developmental services, with the approval of the commissioner, may enter into contracts for the provision of building management services for buildings and facilities located on the site as deemed by the commissioner and the reuse committee.

SECTION 7. Notwithstanding any general or special law to the contrary, the commissioner may employ designers who prepare studies or programs or other design services for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion or repair of buildings on the MDC site and the TDC site to prepare plans and specifications and provide any other design services deemed necessary by the commissioner for such projects."

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 rules were suspended, on motion of Mr. Panagiotakos, and, after remarks, the Governor's amendment was considered forthwith and adopted, in concurrence.

Sent to the House for re-enactment.



Report of a Committee.

Mr. Berry, for the committee on Ethics and Rules, reported, that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill establishing disability history month (Senate, No. 1469).

The rules were suspended, on motion of Mr. Tolman, and the bill was read a second time, ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at seven minutes before five o'clock P.M., on motion of Mr. Tolman, as follows, to wit (yeas 35 – nays 0) [Yeas and Nays No. 107]:

YEAS.

Baddour, Steven A. McGee, Thomas M.

Berry, Frederick E. Menard, Joan M.

Brewer, Stephen M. Montigny, Mark C.

Brown, Scott P. Moore, Michael O.

Buoniconti, Stephen J. Moore, Richard T.

Candaras, Gale D. Morrissey, Michael W.

Chandler, Harriette L. Pacheco, Marc R.

Chang-Diaz, Sonia Panagiotakos, Steven C.

Donnelly, Kenneth J. Petrucci, Anthony

Downing, Benjamin B. Rosenberg, Stanley C.

Eldridge, James B. Spilka, Karen E.

Flanagan, Jennifer L. Tarr, Bruce E.

Galluccio, Anthony D. Timilty, James E.

Hedlund, Robert L. Tisei, Richard R.

Jehlen, Patricia D. Tolman, Steven A.

Joyce, Brian A. Tucker, Susan C.

Kennedy, Thomas P. Walsh, Marian — 35.

Knapik, Michael R.

NAYS — 0.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone Hart, John A., Jr

Fargo, Susan C. O'Leary, Robert A.— 4.

The yeas and nays having been completed at four minutes before five o'clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Message from the Governor — Disapproval and Objections General Appropriations 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 2010 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. 4129), which on Thursday, June 19, 2009, 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. 4139) was read; and the Senate proceeded to reconsider items, which had been disapproved in accordance with the provisions of the Constitution.

Item 1100-1100 (Executive Office of Administration and Finance) was considered as follows:

“1100-1100 For the office of the secretary and the administration of the fiscal affairs division; provided, that the secretary shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report her resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on labor and workforce development on or before December 1, 2009; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements. 3,153,173.”

[The Governor struck out the following wording “that the secretary shall conduct an ongoing review of affirmative action steps

taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report her resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on labor and workforce development on or before December 1, 2009; and provided further,“.]

The question on passing item 1100-1100, 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 one minute before five o'clock P.M., as follows, to wit (yeas 31 — nays 3) [Yeas and Nays No. 108]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petrucci, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Hedlund, Robert L.. Timilty, James E.  
Jehlen, Patricia D. Tolman, Steven A.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian — 31.  
McGee, Thomas M.

NAYS.

Brown, Scott P. Tisei, Richard R. — 3. Knapik, Michael R.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone O'Leary, Robert A. — 5.  
Fargo, Susan C.

The yeas and nays having been completed at three minutes past five o'clock P.M., item 1100-1100, 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 1201-0100 (Department of Revenue Administration) was considered as follows:

“1201-0100 For the operation of the department of revenue, including tax collection administration and audits of certain foreign corporations; provided, that the department may allocate funds to the office of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement unit, from this item to item 1201-0160, consistent with the costs attributable to said unit; provided further, that the department shall provide to the general court access to the municipal data bank; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30; provided further, that seasonal positions funded by this account may not be filled by an incumbent for more than 10 months within a 12 month period; provided further, that the department may conduct a public awareness and education outreach campaign about state and local tax credits, deductions, deferrals and exemptions and other tax information available to persons age 65 and over including, but not limited to, section 6 of chapter 62 and section 5 of chapter 59 of the General Laws; provided further, that the department may work in conjunction with the executive office of elder affairs in disseminating information and conducting the campaign; provided further, that the department may conduct the campaign from July 1, 2009, to April 15, 2010, inclusive, and shall report their efforts to the house and senate committee on ways and means and the joint committee on elder affairs not later than May 31, 2010; and provided further, that the department shall also file an interim report to the house and senate committee on ways and means and the joint committee on elder affairs not later than January 1, 2010 88,539,813.”.

[The Governor struck out the following wording: “; provided further, that the department may conduct a public awareness and

education outreach campaign about state and local tax credits, deductions, deferrals and exemptions and other tax information available to persons age 65 and over including, but not limited to, section 6 of chapter 62 and section 5 of chapter 59 of the General Laws; provided further, that the department may work in conjunction with the executive office of elder affairs in disseminating information and conducting the campaign; provided further, that the department may conduct the campaign from July 1, 2009, to April 15, 2010, inclusive, and shall report their efforts to the house and senate committee on ways and means and the joint committee on elder affairs not later than May 31, 2010; and provided further, that the department shall also file an interim report to the house and senate committee on ways and means and the joint committee on elder affairs not later than January 1, 2010".]

After remarks, the question on passing item 1201-0100, 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 six minutes past five o'clock P.M., as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 109]:

YEAS.

Baddour, Steven A. Candaras, Gale D.  
Brewer, Stephen M. Chandler, Harriette L.  
Brown, Scott P. Chang-Diaz, Sonia  
Buoniconti, Stephen J. Donnelly, Kenneth J.  
Downing, Benjamin B. Moore, Richard T.  
Eldridge, James B. Morrissey, Michael W.  
Flanagan, Jennifer L. Pacheco, Marc R.  
Galluccio, Anthony D. Panagiotakos, Steven C.  
Hedlund, Robert L. Petrucci, Anthony  
Jehlen, Patricia D. Rosenberg, Stanley C.  
Joyce, Brian A. Spilka, Karen E.  
Kennedy, Thomas P. Tarr, Bruce E.  
Knapik, Michael R. Timilty, James E.  
McGee, Thomas M. Tisei, Richard R.  
Menard, Joan M. Tolman, Steven A.  
Montigny, Mark C. Tucker, Susan C.  
Moore, Michael O. Walsh, Marian — 34.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. O'Leary, Robert A.— 5.  
Fargo, Susan C.

The yeas and nays having been completed at eight minutes past five o'clock P.M., item 1201-0100, 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 4800-0015 (Central and Area Office Administration) was considered as follows:

"4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA and DD object class costs are paid from item 4800-1100 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit 8 employees; provided further, that the department shall not place a child or adolescent referred by, or discharged from, the care of the department of mental health until the latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is more appropriate for group care; provided further, that if placement of a child with someone other than a parent becomes necessary, the department shall place the highest priority on identifying a family resource within the child's kinship or family circle and shall provide services and support to partner with the family resource in meeting the child's needs; provided further, that the department, in consultation with the department of mental health, shall assist the latter department in making such assessments and recommendations; provided further, that unless otherwise authorized, all funds, including federal reimbursements received by the department, shall be credited to the General Fund; provided further, that the department and the department of early education and care shall provide standards for early education and care placements made through the supportive child care program; provided further, that the department of children and families, in collaboration with the department of early education and care, shall maintain a centralized list detailing the number of children eligible for supportive child care services, the number of supportive slots filled and the number of supportive slots available; provided further, that no waiting list for the services shall exist; provided further, that all children eligible for services under item 3000-3050 shall receive said services; provided further, that notwithstanding any general or special law to the contrary, the department shall not reduce recoupment amounts recommended by the state auditor; provided further, that the department shall employ not less than 1 full-time board-certified physician; provided further, that the department shall employ four to five full-time board certified or board eligible child psychiatrists to serve the area offices; provided further, that hiring and supervision shall be done

in conjunction with the department of mental health; provided further, that such physicians shall collaborate with the department's social workers; provided further, that not later than February 15 of the current fiscal year, the department shall provide to the house and senate committees on ways and means and the joint committee on children and families a report detailing the number of medical and psychiatric personnel currently employed by or under contract with the department; provided further, that the report shall include the number of foster care reviews conducted by the department and the average length of time in which each review is completed; provided further, that the report shall contain the number of the department's contracts reviewed by the state auditor and the number of corrective action plans issued; provided further, that the report shall also include the number of corrective action plans entered into by the department; provided further, that the report shall include the number of social workers and supervisors who have earned a bachelors' or masters' degree in social work; provided further, that the report shall include the total number of social workers and the total number of social workers holding licensure, by level; provided further, that the comptroller shall act in accordance with item 1000-0001 if the report, with all of its components, is not filed within 10 days of the stated due date; provided further, that the department shall file a report on the first business day of each month to the senate and house committees on ways and means and the joint committee on children and families on the caseload of the department; provided further, that caseloads provided in this report shall include: residential placements, group care, foster care, therapeutic foster care, adoption, guardianship, 51A reports, substantiated 51A reports, the number of children who die in the care and custody of the department, the number of children currently eligible for supportive child care and the number of children presently receiving supportive child care, and the number of medical and psychiatric consultation requests made by the department's social workers; provided further, that the report shall include the number of approved foster care placements; provided further, that the report shall also include the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically-necessary; provided further, that the report shall include the number of children under the department of children and families care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; provided further, that the report shall also contain the number of children served by supervised visitation centers and the number of those children who are reunified with their families; provided further, that the report shall contain information on the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; provided further, that the report shall also contain, for each area office, the number of kinship guardianship subsidies that it provided for the calendar quarters ending on March 31, 2009 and June 30, 2009, the number of kinship guardianship subsidies provided in the month covered by the report, and the number of kinship guardianship subsidies provided in that month for which federal reimbursement was received; provided further, that the report shall also contain, for each area office, the total spending on services other than case management services provided to families for the purposes of keeping a child with his parents or reunifying the child with his parents, spending by type of the service, and the unduplicated number of families that receive the services; provided further, that the report shall also contain for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where the families are sheltered, the total cost and average cost per family of those shelters, and a description of how the department determines who does or does not qualify for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities; provided further, that the report shall also contain the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then re-enter an out-of-home placement within 6 months; provided further, that not later than November 2, 2009, the department shall submit a report to the house and senate committees on ways and means and the chairs of the joint committee on children and families that includes any rules, regulations, or guidelines established by the department to carry out its duties pursuant to chapter 119, including, but not limited to (a) criteria used to determine whether a child has been abused or neglected; (b) guidelines for removal of a child from the home; and (c) standards to determine what reasonable efforts are made to keep a child in the home; provided further, that the commissioner of the department of children and families may transfer funds between items 4800-0030, 4800-0038, and 4800-0041, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; and provided further, that not more than 5 per cent of any item shall be transferred in fiscal year 2010 69,880,096.”.

[The Governor struck out the following wording: “; provided further, that the report shall also contain, for each area office, the total spending on services other than case management services provided to families for the purposes of keeping a child with his parents or reunifying the child with his parents, spending by type of the service, and the unduplicated number of families that receive the services; provided further, that the report shall also contain for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where the families are sheltered, the total cost and average cost per family of those shelters, and a description of how the department determines who does or does not qualify for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities”.]

The question on passing item 4800-0015, 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 nine minutes past five o'clock P.M., as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 110]:

YEAS.

Baddour, Steven A. McGee, Thomas M.  
Brewer, Stephen M. Menard, Joan M.  
Brown, Scott P. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petrucelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 34.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. O'Leary, Robert A.— 5.  
Fargo, Susan C.

The yeas and nays having been completed at twelve minutes past five o'clock P.M., item 4800-0015, 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 7010-0033 (Literacy Program) was considered as follows:

“7010-0033. For literacy and early literacy programs including, but not limited to, the Bay State Reading Institute program, the John Silber early literacy program, and the Reading Recovery program; provided, that said programs shall provide ongoing evaluation of the outcomes thereof and shall document said outcomes annually to the department and to the house and senate committees on ways and means; provided further, that the Bay State Reading Institute may be administered under contract to Middlesex Community College in programmatic collaboration with Framingham State College and Fitchburg State College; and provided further, that funds appropriated in this item for said Institute may be expended through June 30, 2011 4,175,489.”

[The Governor struck out the following wording: “; and provided further, that funds appropriated in this item for said Institute may be expended through June 30, 2011”.]

The question on passing item 7010-0033, 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 thirteen minutes past five o'clock P.M., as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 111]:

YEAS.

Baddour, Steven A. McGee, Thomas M.  
Brewer, Stephen M. Menard, Joan M.  
Brown, Scott P. Montigny, Mark C.  
Buoniconti, Stephen J. Moore, Michael O.  
Candaras, Gale D. Moore, Richard T.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petrucelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Flanagan, Jennifer L. Spilka, Karen E.  
Galluccio, Anthony D. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 34.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. O’Leary, Robert A.— 5.  
Fargo, Susan C.

The yeas and nays having been completed a quarter past five o’clock P.M., item 7010-0033, 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 8400-0001 (Registry of Motor Vehicles) was considered as follows:

“8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and including all rent and related parking and utility expenses of the registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar and the director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and under schedules by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of the computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, under section 183 of chapter 6 of the General Laws; provided further, that the registrar of motor vehicles shall report to the house and senate committees on ways and means and the joint committee on transportation 60 days prior to the closure of any registry branch; provided further, that said report shall include all cost savings associated with the closure; provided further, that the registry shall establish and maintain a record of all vehicles leased within the commonwealth for a period longer than 30 days; and provided further, that the record shall include, but not be limited to, the names and addresses of the lessor and the lessee 42,400,708.”.

[The Governor struck out the following wording: “; provided further, that the registrar of motor vehicles shall report to the house and senate committees on ways and means and the joint committee on transportation 60 days prior to the closure of any registry branch; provided further, that said report shall include all cost savings associated with the closure”.]

After debate, the question on passing item 8400-0001, 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-eight minutes past five o’clock P.M., as follows, to wit (yeas 31 — nays 1) [Yeas and Nays No. 112]:

YEAS.

Baddour, Steven A. Chandler, Harriette L.  
Brewer, Stephen M. Chang-Diaz, Sonia  
Brown, Scott P. Donnelly, Kenneth J.  
Buoniconti, Stephen J. Downing, Benjamin B.  
Candaras, Gale D. Eldridge, James B.  
Flanagan, Jennifer L. Panagiotakos, Steven C.  
Jehlen, Patricia D. Petruccelli, Anthony  
Joyce, Brian A. Rosenberg, Stanley C.  
Kennedy, Thomas P. Spilka, Karen E.  
Knapik, Michael R. Tarr, Bruce E.  
Menard, Joan M. Timilty, James E.  
Montigny, Mark C. Tisei, Richard R.  
Moore, Michael O. Tolman, Steven A.  
Moore, Richard T. Tucker, Susan C.  
Morrisey, Michael W.. Walsh, Marian — 31.  
Pacheco, Marc R.

NAY.

Hedlund, Robert L. — 1.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone McGee, Thomas M.  
Fargo, Susan C. O’Leary, Robert A. — 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at a half past five o'clock P.M., item 8400-0001, 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 8900-0001 (Department of Correction) was considered as follows:

“8900-0001 For the operation of the commonwealth’s department of correction; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate 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 and homeland security shall report to the house and senate 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, that the department shall expend not less than \$1,010,500 for cities and towns hosting facilities; and provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level 521,112,630.”

[The Governor struck out the following wording: “; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate 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”.]

The question on passing item 8900-0001, 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-six minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 113]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petruccelli, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O’Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at twenty-three minutes before six o'clock P.M., item 8900-0001, 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 8910-0102 (Hampden Sheriff’s Department) was considered as follows:

“8910-0102 For the operation of the Hampden sheriff’s department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B 66,350,440.”

[The Governor struck out the following wording: “; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B.”.]

The question on passing item 8910-0102, 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-two minutes before six o'clock P.M., as follows, to wit (yeas 31 — nays 1) [Yeas and Nays No. 114]:

YEAS.

Baddour, Steven A. Montigny, Mark C.  
Brewer, Stephen M. Moore, Michael O.  
Brown, Scott P. Moore, Richard T.  
Buoniconti, Stephen J. Morrissey, Michael W.  
Candaras, Gale D. Pacheco, Marc R.  
Chandler, Harriette L. Panagiotakos, Steven C.  
Chang-Diaz, Sonia Petruccelli, Anthony  
Donnelly, Kenneth J. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 31.  
Menard, Joan M.

NAY.

Downing, Benjamin B. — 1.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at twenty minutes before six o'clock P.M., item 8910-0102, 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 8910-0105 (Worcester Sheriff's Department) was considered as follows:

"8910-0105 For the operation of the Worcester sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services 40,135,460."

[The Governor struck out the following wording: "; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services".]

After remarks, the question on passing item 8910-0105, 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 eighteen minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 115]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petruccelli, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.



Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at sixteen minutes before six o'clock P.M., item 8910-0105, 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 8910-0107 (Middlesex Sheriff's Department) was considered as follows:

"8910-0107 For the operation of the Middlesex sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services ..... 60,831,296."

[The Governor struck out the following wording: "; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services".]

The question on passing item 8910-0107, 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 a quarter before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 116]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petrucci, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at thirteen minutes before six o'clock P.M., item 8910-0107, 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 8910-0108 (Franklin Sheriff's Department) was considered as follows:

“8910-0108 For the operation of the Franklin Sheriff's Department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108

of section 2B 8,878,719.”

[The Governor struck out the following wording: “; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B.”.]

The question on passing item 8910-0108, 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 twelve minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 117]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petrucci, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at ten minutes before six o'clock P.M., item 8910-0108, 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 8910-0110 (Hampshire Sheriff's Department) was considered as follows:

“8910-0110 For the operation of the Hampshire sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108

of section 2B. 11,876,291.”.

[The Governor struck out the following wording: “; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B”.]

The question on passing item 8910-0110, 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 nine minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 118]:

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.

Donnelly, Kenneth J. Petruccelli, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.  
Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at eight minutes before six o'clock P.M., item 8910-0110, 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 8910-0145 (Berkshire Sheriff's Department) was considered as follows:

“8910-0145 For the operation of the Berkshire sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services 14,584,616.”

[The Governor struck out the following wording: “; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services”.]

The question on passing item 8910-0145, 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 six minutes before six o'clock P.M., as follows, to wit (yeas 31 — nays 1) [Yeas and Nays No. 119]:

YEAS.

Baddour, Steven A. Eldridge, James B.  
Brewer, Stephen M. Flanagan, Jennifer L.  
Brown, Scott P. Hedlund, Robert L.  
Buoniconti, Stephen J. Jehlen, Patricia D.  
Candaras, Gale D. Joyce, Brian A.  
Chandler, Harriette L. Kennedy, Thomas P.  
Chang-Diaz, Sonia Knapik, Michael R.  
Donnelly, Kenneth J. Menard, Joan M.  
Montigny, Mark C. Spilka, Karen E.  
Moore, Michael O. Tarr, Bruce E.  
Moore, Richard T. Timilty, James E.  
Morrissey, Michael W. Tisei, Richard R.  
Pacheco, Marc R. Tolman, Steven A.  
Panagiotakos, Steven C. Tucker, Susan C.  
Petruccelli, Anthony Walsh, Marian — 31.  
Rosenberg, Stanley C.

NAY.

Downing, Benjamin B. — 1.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.

Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at five minutes before six o'clock P.M., item 8910-0145, 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 8910-0619 (Essex Sheriff's Department) was considered as follows:

“8910-0619 For the operation of the Essex sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B 45,140,720.”.

[The Governor struck out the following wording: “; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B”.]

The question on passing item 8910-0619, 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 four minutes before six o'clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 120]:

YEAS.

Baddour, Steven A. Chang-Diaz, Sonia  
Brewer, Stephen M. Donnelly, Kenneth J.  
Brown, Scott P. Downing, Benjamin B.  
Buoniconti, Stephen J. Eldridge, James B.  
Candaras, Gale D. Flanagan, Jennifer L.  
Chandler, Harriette L. Hedlund, Robert L.  
Jehlen, Patricia D. Panagiotakos, Steven C.  
Joyce, Brian A. Petruccelli, Anthony  
Kennedy, Thomas P. Rosenberg, Stanley C.  
Knapik, Michael R. Spilka, Karen E.  
Menard, Joan M. Tarr, Bruce E.  
Montigny, Mark C. Timilty, James E.  
Moore, Michael O. Tisei, Richard R.  
Moore, Richard T. Tolman, Steven A.  
Morrissett, Michael W. Tucker, Susan C.  
Pacheco, Marc R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at two minutes before six o'clock P.M., item 8910-0619, 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 4510-0108 (SOPS Chargeback) was considered as follows:

“4510-0108 For the costs of pharmaceutical drugs and services provided by the state office for pharmacy services, in this section called SOPS; provided, that SOPS shall notify in writing all agencies listed below of their obligations under this item by July 15, 2009; provided further, that SOPS shall continue to be the sole provider of pharmacy services for the following agencies currently under SOPS: the department of public health, the department of mental health, the department of developmental services, the department of correction, the department of youth services, the sheriff's departments of Bristol, Essex, Franklin, Hampden, Hampshire, and Plymouth, and the Soldiers' Homes in Holyoke and Chelsea; provided further, that SOPS shall become the sole provider of pharmacy services to the following agencies currently not being serviced by SOPS: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall be the sole provider of pharmacy services for all said agencies and all costs for pharmacy services shall be charged by this item; provided further, that said agencies shall not charge or contract with any other alternative vendor for pharmacy services other than SOPS; provided further, that SOPS shall develop an implementation plan to transition the following agencies within the current fiscal year: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall validate previously-submitted pharmacy expenditures including HIV Drug Assistance Program

drug reimbursements during fiscal year 2010; provided further, that SOPS shall continue to work to reduce medication costs, provide standardized policies and procedures in a clinically responsible manner, provide comprehensive data analysis and improve the quality of clinical services; provided further, that SOPS shall report to the house and senate committees on ways and means no later than April 15, 2010 detailing the projected savings realized by each transitioning agency in comparison to their pharmacy costs in fiscal year 2009 and their projected savings for fiscal year 2011; and provided further, that the report shall also provide recommendations for the inclusion of other entities that may realize cost savings by joining SOPS. 47,865,393.”.

[The Governor struck out the following wording: “; provided further, that SOPS shall become the sole provider of pharmacy services to the following agencies currently not being serviced by SOPS: the sheriff’s departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall be the sole provider of pharmacy services for all said agencies and all costs for pharmacy services shall be charged by this item; provided further, that said agencies shall not charge or contract with any other alternative vendor for pharmacy services other than SOPS; provided further, that SOPS shall develop an implementation plan to transition the following agencies within the current fiscal year: the sheriff’s departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes”.]

The question on passing item 4510-0108, contained in section 2B, 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 before six o’clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 121]:

YEAS.

Baddour, Steven A. Kennedy, Thomas P.  
Brewer, Stephen M. Knapik, Michael R.  
Brown, Scott P. Menard, Joan M.  
Buoniconti, Stephen J. Montigny, Mark C.  
Candaras, Gale D. Moore, Michael O.  
Chandler, Harriette L. Moore, Richard T.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Donnelly, Kenneth J. Pacheco, Marc R.  
Downing, Benjamin B. Panagiotakos, Steven C.  
Eldridge, James B. Petruccelli, Anthony  
Flanagan, Jennifer L. Rosenberg, Stanley C.  
Hedlund, Robert L. Spilka, Karen E.  
Jehlen, Patricia D. Tarr, Bruce E.  
Joyce, Brian A. Timilty, James E.  
Tisei, Richard R. Tucker, Susan C.  
Tolman, Steven A. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O’Leary, Robert A.— 7.  
Galluccio, Anthony D.

The yeas and nays having been completed at one minute past six o’clock P.M., item 4510-0108, contained in section 2B, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 4190-0100 (Holyoke Soldiers’ Home Maintenance) was considered as follows:

“4190-0100 For the maintenance and operation of the Soldiers’ Home in Holyoke, including the adult day care program, the Maguder House and the Chapin Mansion; provided, that no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services. 19,438,450.”.

[The Governor struck out the following wording: “; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services”.]

The question on passing item 4190-0100, 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 two minutes past six o’clock P.M., as follows, to wit (yeas 32 — nays 0) [Yeas and Nays No. 122]:

YEAS.

Baddour, Steven A. Chandler, Harriette L.  
Brewer, Stephen M. Chang-Diaz, Sonia  
Brown, Scott P. Donnelly, Kenneth J.  
Buoniconti, Stephen J. Downing, Benjamin B.  
Candaras, Gale D. Eldridge, James B.  
Flanagan, Jennifer L. Pacheco, Marc R.  
Hedlund, Robert L. Panagiotakos, Steven C.  
Jehlen, Patricia D. Petruccelli, Anthony  
Joyce, Brian A. Rosenberg, Stanley C.  
Kennedy, Thomas P. Spilka, Karen E.  
Knapik, Michael R. Tarr, Bruce E.  
Menard, Joan M. Timilty, James E.  
Montigny, Mark C. Tisei, Richard R.  
Moore, Michael O. Tolman, Steven A.  
Moore, Richard T. Tucker, Susan C.  
Morrissey, Michael W. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

**The yeas and nays having been completed at four minutes past six o'clock P.M., item 4190-0100, 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 4180-0100 (Chelsea Soldiers' Home Maintenance) was considered as follows:

"4180-0100 For the maintenance and operation of the Soldiers' Home in Massachusetts located in the city of Chelsea, including a specialized unit for the treatment of Alzheimer's disease patients; provided, that graduates from the LPN school of nursing shall work in state-operated facilities for at least 1 year; provided further, that no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services. 25,963,213."

**[The Governor struck out the following wording: “; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services”.]**

The question on passing item 4180-0100, 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 past six o'clock P.M., as follows, to wit (*yeas 32 — nays 0*) **[Yeas and Nays No. 123]:**

YEAS.

Baddour, Steven A. Menard, Joan M.  
Brewer, Stephen M. Montigny, Mark C.  
Brown, Scott P. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. Pacheco, Marc R.  
Chang-Diaz, Sonia Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petruccelli, Anthony  
Downing, Benjamin B. Rosenberg, Stanley C.  
Eldridge, James B. Spilka, Karen E.  
Flanagan, Jennifer L. Tarr, Bruce E.  
Hedlund, Robert L. Timilty, James E.  
Jehlen, Patricia D. Tisei, Richard R.  
Joyce, Brian A. Tolman, Steven A.

Kennedy, Thomas P. Tucker, Susan C.  
Knapik, Michael R. Walsh, Marian — 32.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E. Hart, John A., Jr.  
Creem, Cynthia Stone. McGee, Thomas M.  
Fargo, Susan C. O'Leary, Robert A.— 7.  
Galluccio, Anthony D.

**The yeas and nays having been completed at six minutes past six o'clock P.M., item 4180-0100, 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.**

*Emergency Preamble Adopted.*

An engrossed Bill providing for reporting dates for capital gains revenue and transferring certain funds (see House, No. 4142, 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.**

**Order Adopted.**

**On motion of Ms. Menard,—**

**Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at three o'clock P.M., in a full formal session.**

*Moment of Silence.*

At the request of the President, the members, guest and employees stood in a moment of silence and reflection to the memory of Marine Corporal Nicholas George Xiarhos of Yarmouth.

*Adjournment in Memory of Marine Corporal Nicholas George Xiarhos.*

The Senator from Cape and Islands, Mr. O'Leary, requested that when the Senate adjourns today, it adjourn in memory of Marine Corporal Nicholas George Xiarhos of Yarmouth.

Marine Corporal Nicholas George Xiarhos, of Yarmouth, was killed in action in southern Afghanistan on July 23, 2009. Nicholas was a 2006 graduate of the Dennis-Yarmouth Regional High School, and following his graduation, he enlisted with the Marines. Corporal Xiarhos had already completed a tour of duty in Iraq and was serving a tour in Afghanistan in the Marine Expeditionary Brigade when a roadside bomb exploded killing Corporal Xiarhos. He was 21 years old. He is survived by his father, Lt. Steven Xiarhos of the Yarmouth Police, his mother Lisa, his two younger twin sisters Elizabeth and Ashlynne and a younger brother Alex.

Accordingly, as a mark of respect to the memory of Marine Corporal Nicholas George Xiarhos, at eight minutes past six o'clock P.M., on motion of Mr. Brown, the Senate adjourned to meet again tomorrow at three o'clock P.M.