

BUDGET MONITOR

The FY 2006 Budget: Senate Floor Action and Conference Differences

Overview

With the completion of Senate budget debate before Memorial Day and the appointment of a Conference Committee on Tuesday, May 31st, the Legislature is entering its final phase of budget deliberations before presenting its FY 2006 budget to the Governor.

The Conference Committee will do its work in a fiscal environment significantly different from when the budget process began in January. Several months of stronger than expected revenue growth have reduced the Commonwealth’s structural budget problems, and allow for some very modest restorations of funding for basic services, like education and health care, that were cut deeply during the fiscal crisis.

The first challenge for the Conference Committee is to decide how much revenue is available to spend. While both the House and Senate budgets officially accept the low tax revenue estimate decided in January (before the strong revenue growth of the past several months), the Senate uses reserve funds and accounting devices to fund a spending level that more closely reflects those recent revenue trends. This strategy may be sustainable, but if the economy and

revenue growth begin to slow, new fiscal pressures will emerge.

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The Senate also relies on \$100 million in revenue from closing some of the \$170 million in tax loopholes identified by the Department of Revenue in January. If the Legislature ultimately chooses to close the remaining \$70 million in loopholes, additional permanent revenue would be available to strengthen the fiscal foundation on which the budget is built, and possibly allow for the further restoration of some of the cuts adopted over the past few years.

While the Senate budget takes some positive steps, comparing its spending levels to those of five years ago shows how difficult it would be to reverse the painful budget cuts of the past four years without reversing some of the \$3 billion in tax cuts that caused those spending cuts. For example, the Senate increases funding for higher education by \$43 million, significantly more than the House or the Governor proposed. Even with this increase, though, funding for higher education, adjusted for inflation, would be 23 percent less than in 2001.

This *Budget Monitor* describes the final Senate budget, reviewing the amendments adopted during the floor debate and highlighting important issues that the Conference Committee will have to resolve. It also examines whether the budget is structurally balanced and puts some of its recommendations in context by comparing them to funding levels before the fiscal crisis began.¹

For more on House 21, legislation to close tax loopholes, see the MBPC publication:

Questions Answered

Available at:

www.massbudget.org/questionsanswered.pdf

¹ Budget figures for FY 2005 reflect amounts authorized by the General Appropriation Act and supplemental budgets.

Local Aid

The Senate budget provides a total of \$1.2 billion for unrestricted local aid – \$28.1 million more than current appropriations and \$1.0 million more than the House.

FY 2005	\$1,131,646,098
FY 2006 Senate	\$1,159,746,098

Increase (decrease)	\$ 28,100,000
Percentage Change	2.5%

The Senate is aligned with the House in the amounts proposed for additional assistance and the lottery distributions to cities and towns. Both proposals for FY 2006 provide level-funding for additional assistance (\$379.8 million). The Senate, like the House, also budgets \$761.4 million for lottery distributions to cities and towns, which is \$100.0 million more than the initial FY 2005 level, and \$25.0 million higher than current appropriations, after adjusting for \$75.0 million in supplemental funding.

Compared to the House, the Senate offers a larger increase in funding for Payments in Lieu of Taxes (PILOT). The current appropriation of \$13.0 million would grow to \$16.1 million under the Senate’s proposal. The House increases funding to \$15.1 million in its budget. Funding for this program for FY 2006 will be resolved by the Conference Committee.

K-12 Education

The Senate proposes \$3.820 billion for K-12 education while the House offers \$3.764 billion. Much of this difference in funding for K-12 education results from a \$55.0 million reserve for Chapter 70 Aid which is included in the Senate’s proposal but not in the House’s. This reserve, however, cannot

be spent unless another law is passed detailing how money is to be distributed.

Total K-12 Education Spending

FY 2005	\$3,646,485,481
FY 2006 Senate	\$3,819,590,138
Increase (decrease)	\$ 173,104,657
Percentage Change	4.7%

Note: The numbers in this section do not include appropriations or debt service for the School Building Assistance program. Figures for grants and reimbursements include support for the Office of Educational Quality, and deduct the amounts which would be transferred to the Department of Early Education and Care under the proposed budget.

Chapter 70 Aid

Chapter 70 Aid is provided to cities and towns for public education. The Senate budget provides \$3.344 billion for Chapter 70 Aid in FY 2006, which includes the \$55.0 million reserve account mentioned above. This reserve is intended to address perceived inequities in the current formula determining the distribution of Chapter 70 Aid and to fund targeted initiatives associated with educational quality and accountability. Since the House does not include funding for this purpose in its budget, this will be a significant issue for the Conference Committee to decide. The tables below compare the Senate budget for Chapter 70 Aid with FY 2005.

Including reserve account:

FY 2005	\$ 3,183,282,601
FY 2006 Senate	\$ 3,343,931,062
Increase (decrease)	\$ 160,648,461
Percentage Change	5.0%

Excluding reserve account:

FY 2005	\$ 3,183,282,601
FY 2006 Senate	\$ 3,288,931,062
Increase (decrease)	\$ 105,648,461
Percentage Change	3.3%

Although the Senate budget for Chapter 70 Aid is higher than the current level of funding, the total amount, in real terms, is still five percent below its FY 2002 level.

Grants and Reimbursements

FY 2005	\$463,202,880
FY 2006 Senate	\$475,559,076
Increase (decrease)	\$ 12,356,196
Percentage Change	2.7%

The Senate budget provides \$475.6 million for the Department of Education’s grants and reimbursement programs, \$12.5 million more than in FY 2005 and \$3.5 million more than the Senate Ways and Means recommendation. The following summarizes a few areas where funding was added during floor debate:

- The Senate doubled the \$250,000 sum recommended by Senate Ways and Means to fund programs for gifted and talented children. The \$500,000 appropriation for FY 2006, which matches that of the House, will provide a \$400,000 increase over the current level of funding.
- The Senate approved an additional \$500,000 to fund targeted intervention for schools and districts that are at risk of or are determined to be underperforming. The \$5.5 million budget account is higher than the House’s \$5.0 million appropriation.

- The Senate also voted to boost funding for regional school transportation to \$45.0 million, \$2.5 million more than the House budget.

The Conference Committee will also have to settle differences in the following areas:

- The Senate level-funds kindergarten expansion grants at \$23.0 million, while the House proposes \$25.0 million.
- The Senate provides a higher level of funding for the foundation budget reserve, a pool of money which is used to help school districts meet their local contribution toward the foundation budget and with other local education needs. The Senate proposes \$6.9 million, and the House offers \$2.5 million.
- The Senate also provides \$2.6 million to increase the salaries of the Department of Youth Services' teachers, while the House does not include funding for this purpose in its budget.

Although there are differences between the House and Senate budgets, they are alike in that they would only begin to restore budget cuts of the past few years. In real terms, the Senate's budget for the Department of Education's grants and reimbursements, which is slightly higher than the House's, is 14 percent below the fiscal year 2001 level.

Higher Education

The Senate budget includes \$947.8 million for public higher education, a \$900,000 increase over the recommendation by the Senate Ways and Means Committee.

Directly comparing the Senate budget for higher education to current appropriations shows a relatively small increase – \$1.6 million or 0.2 percent. However, comparing this proposal with current appropriations after removing both supplemental funding provided in FY 2005 to pay costs in FY 2004 and other one-time funding for FY 2005 reveals a \$43.5 million or 4.8 percent increase.

Including one-time funding in FY 2005²

FY 2005	\$946,058,046
FY 2006 Senate	\$947,761,933
Increase (decrease)	\$ 1,606,299
Percentage Change	0.2%

Excluding one-time funding from FY 2005

FY 2005	\$904,212,307
FY 2006 Senate	\$947,761,933
Increase (decrease)	\$ 43,549,626
Percentage Change	4.8%

Under the Senate's proposal, funding for state and community colleges would increase by seven and six percent, respectively. The Senate also includes a four percent increase for UMass campuses.

The House proposes smaller increases for higher education. The House budget would boost funding for state and community colleges by roughly four percent each; the budget for UMass would grow by nearly two percent. The following table compares appropriations in FY 2001 and FY 2005, budget proposals for FY 2006, and the

² To provide an "apples-to-apples" comparison, the FY 2005 total includes the appropriation for the Office of Dispute Resolution, which the Governor and House Ways and Means Committee propose to move to UMass Boston and fund through the operating budget for the UMass campuses.

Board of Higher Education's (BHE's) FY 2006 budget request.

Fiscal Year	UMass	State Colleges	Community Colleges
2001	552.6	219.5	265.7
2005	436.7	183.3	202.8
2006 - H. 1	416.0	183.2	203.2
2006 - House	435.7	185.7	206.0
2006 - Senate	445.8	191.3	210.0
2006 - BHE Request	431.9	193.3	211.9

* Totals include tuition revenue retained for out-of-state students at UMass Amherst and the Massachusetts College of Art, and deduct one-time funding included in the FY 2005 and FY 2006 House 1 budgets.

In addition to differences in allocations to campuses, the House and Senate differ in appropriations for financial aid. Both proposals increase funding for general financial aid, but the Senate's appropriation is higher than the House's. The main budget account that provides financial assistance to students currently totals \$82.4 million. The House would raise this amount to \$83.2 million; the Senate would boost it to \$83.7 million.

The Senate also provides a higher level of funding for financial aid that is awarded to children in the custody of the Department of Social Services. The \$850,000 appropriation would grow to \$1.2 million under the Senate's proposal. The House keeps funding level in its proposal.

While the House and Senate budgets offer higher appropriations for higher education for FY 2006, they still have a long way to go in restoring reductions made over the past few years. In real terms, the Senate budget – the more generous of the two branches – is 23 percent below the FY 2001 level.

Early Education and Care

The Senate budget includes \$480.7 million for early education and care, a \$30.8 million increase over FY 2005.

FY 2005	\$449,845,031
FY 2006 Senate	\$480,668,910

Increase (decrease)	\$ 30,823,879
Percentage Change	6.9%

During its floor debate, the Senate added \$2.5 million to the budget account designated for increased child care provider rates. Currently, the budget allocates \$5.0 million for this purpose; the Senate budget would grow this amount to \$12.5 million. The House budget includes \$7.0 million for this line item.

The Senate budget also provides a higher level of funding for subsidized child care. The budget account which funds child care subsidies for low-income families would increase from \$278.9 million to \$292.5 million, a \$13.5 million difference. The Senate sets aside an additional \$6.0 million for child care subsidies and referral services in a reserve account for the anticipated costs of increased demand for services created by imminent changes to the state's welfare program. The House budget also includes this reserve account, but provides a lower increase for the main budget account which funds subsidized child care. In its proposal, the House offers \$285.7 million for this purpose, a \$6.8 million increase over FY 2005.

The amount the Senate proposes for the Healthy Families Newborn Home Visiting Program is roughly level with FY 2005 and slightly more than the House. Although the amount is similar to that of the House, the Senate is aligned with the Governor's plan

to fund this program apart from the Department of Early Education and Care. This difference, as well as those listed above, will be resolved in conference.

Income Support Programs

Funding for income support programs totals \$598.2 million in the Senate budget, down slightly compared to FY 2005.

FY 2005	\$601,481,017
FY 2006 Senate	\$598,150,207
Increase (decrease)	(\$ 3,330,810)
Percentage Change	-0.6%

Transitional Aid to Families with Dependent Children (TAFDC) is the state’s main cash assistance program for low-income families. The Commonwealth currently operates this program under waivers from federal regulations, which enable the state to provide exemptions from time limits and work requirements for individuals with documented barriers to employment. These waivers expire on September 30, 2005, and federal regulations are likely to change before then. In light of these circumstances, the state must modify the TAFDC program to ensure that Massachusetts can meet federal work requirements and not risk the loss of federal funding. While the Governor proposes to implement time limits and work requirements for approximately 14,000 individuals who are disabled or face some other barrier to employment, neither branch of the Legislature adopted this policy. In its budget proposal, the Senate incorporates many of the elements of An Act Relative to Responsible Welfare Reform, sponsored by Representative Cabral and Senator Creem, which is currently before the Committee on

Children and Families. In doing so, the Senate creates a separate state program, which would retain exemptions for individuals with serious barriers to work and would allow the Commonwealth to meet federal work requirements. The House has not altered the TAFDC program in its version of the FY 2006 budget, but 81 members have signed a letter in support of a separate state program and the House is likely to recommend changes soon.

Medicaid and Other Health Care Programs

Senate amendments to the Senate Ways and Means proposed budget added \$26.2 million in funding for Medicaid, other health care programs, the pharmacy program and it also added to the Uncompensated Care Pool. Together, these sums represent \$171.3 million more than the House would allocate for these programs.

FY 2005	\$ 7,235,179,344
FY 2006 Senate	\$ 7,449,508,493
Increase (decrease)	\$ 214,329,149
Percentage change	3.0%

It is important to note that because of over-budgeting during FY 2005, the FY 2005 Medicaid budget figure of \$6.908 billion (see chart) is \$533.6 million more than actual estimated FY 2005 Medicaid spending. Compared to FY 2005 estimated spending (rather than the FY 2005 budget), the Senate proposal for Medicaid and other health care programs in FY 2006 actually represent a 6.9 percent increase over FY 2005.

Medicaid and Other Health Care Programs			
<i>In Millions of \$</i>			
	FY 2005 Budget	FY 2006 House	FY 2006 Senate
On-Budget Medicaid	6,535.8	6,825.5	6,937.0
Off-Budget Medicaid	372.4	36.5	36.5
Use of Prior Year's Surplus	0.0	0.0	0.0
Medicare "Clawback"	0.0	120.0	120.0
Other Pharmacy	115.0	90.2	97.2
Uncompensated Care Pool	212.0	206.0	258.7
Total Medicaid and Other Health Care Programs	7,235.2	7,278.2	7,449.5

"On-Budget" Medicaid includes the Healthy Start and Children's Medical Security Plan programs. "Off-Budget" Medicaid does not include \$288.5 million Health Care Quality Improvement Trust.

The Senate budget anticipates being able to fund enrollment growth in certain programs, as well as certain coverage expansions. The major differences between the House and Senate budget proposals concern the on-budget funding levels for the Medicaid program, the funding of the Uncompensated Care Pool, and changes to the elder pharmacy program.

Medicaid/MassHealth

The Senate budget for Medicaid is \$6.973 billion, including \$6.937 billion for on-budget Medicaid expenditures, and \$36.5 million for the off-budget funding of the MassHealth Essential program from July 1 through September 30. The Medicaid budget also accounts for the Medicare "Clawback" provision, discussed in the "Pharmacy Programs" sub-section of this *Budget Monitor*.

Like the House, the Senate budget appropriates funding to cover a full year's worth of services, rather than relying on one-time uses of the prior year's surplus dollars to cover a portion of the current year's Medicaid bills. The Governor's budget recommendation, on the other hand,

had relied on FY 2005 surplus Medicaid dollars (a portion of the difference between the FY 2005 Medicaid budget and FY 2005 Medicaid estimated spending) to pay some Medicaid bills that come due in FY 2006.

Like the House, the Senate includes funding for the MassHealth Medicare Buy-In Program and the MassHealth Essential Program as line items in the budget. Both of these programs had been off-budget in FY 2005. (It is still estimated that \$36.5 million in off-budget funds will be necessary to pay for the costs of the MassHealth Essential program between July 1 and September 30, 2005, at which point on-budget funding will be available.)

Unlike the House, the Senate proposal takes \$150.0 million of FY 2005 surplus Medicaid dollars to fund costs in the Uncompensated Care Pool (see sub-section on the Uncompensated Care Pool below).

Total Medicaid Budget				
<i>In Millions of \$</i>				
	FY 2005 Budget	FY 2005 Spending	FY 2006 House	FY 2006 Senate
On-Budget Medicaid	6,535.8	6,006.3	6,825.5	6,937.0
Off-Budget Medicaid	372.4	368.3	36.5	36.5
Use of Prior Year's Surplus	0.0	251.8	0.0	0.0
Medicaid Budget	6,908.2	6,626.4	6,862.0	6,973.5
Medicare "Clawback"	0.0	0.0	120.0	120.0
Total	6,908.2	6,626.4	6,982.0	7,093.5

"Off-Budget" Medicaid does not include \$288.5 million Health Care Quality Improvement Trust; Medicare Buy-In goes on-budget 7/05; MassHealth Essential goes on-budget 10/05.

The Senate budget proposal for Medicaid differs from the House proposal in several ways. The Senate budget provides \$1.99 billion for the combined total of the MassHealth programs administered by the Department of Elder Affairs, \$33.7 million more than the House. Unlike the House, however, the Senate does not carve out a new line item for \$67.0 million to target a portion of these dollars to home health care services.

The Senate budget also recommends funding the Executive Office (which includes the Office of Medicaid) at \$19.5 million, \$4.1 million less than the House recommendation.

Program Enrollment

The Senate amendments changed only one line item in the MassHealth budget: the full Senate adds \$250,000 more to a line item supporting grants to community organizations to conduct outreach for MassHealth enrollment. This brings the total for that line item to \$500,000, the same amount as recommended by the House.

Although the Senate floor amendments did not make other changes to the Medicaid bottom line, there are several areas where the Conference Committee will need to work out differences between the House and final Senate recommendations:

- The Senate recommends \$22.3 million more than the House for the MassHealth Essential program, an amount that would allow the enrollment of up to 10,000 more low-income unemployed adults.
- The Senate's total Medicaid funding level is \$111.6 million more than the House. The Senate projects that this total funding level will be sufficient to support a caseload of more than one million members (currently the caseload stands at approximately 980,000 beneficiaries).
- The Senate budget includes language that would lift enrollment caps for adults in certain programs (the HIV Program, the CommonHealth Program, and employees covered through the Insurance Partnership Program). The

House budget does not include this provision.

Both the House and Senate versions of the budget allow approximately 3,000 elderly or disabled adult legal immigrants to be eligible for the MassHealth Essential Program, regardless of their immigration sponsors' income. This differs from the Governor's proposal, which would have required "deeming" the sponsors' income.

Programmatic Changes Proposed for Medicaid

The Senate budget includes language that would effect several significant changes in the Medicaid program, and since these provisions were not included in the House budget recommendation, they will be negotiated by the Conference Committee:

- The Senate recommends that adult dental benefits be restored, but only for pregnant women and women with children under age three. This provision was not included by the House.
- Unlike the House, the Senate recommends that smoking cessation and treatment programs be covered by MassHealth, but again, only for pregnant women and mothers with children under age three.
- The Senate budget directs the administration to seek a Medicaid waiver to cover home and community based services for children with autism, and a waiver for family planning services. The House did not include either of these directives.

Both the House and the Senate budgets include language that any proposed changes to MassHealth coverage or covered services

would require a public hearing prior to adoption. Because the specific language in the two proposals is not identical, this will be subject to negotiation by the Conference Committee.

Medicaid Provider Issues

The Senate and House budgets differ on only a few provisions affecting Medicaid providers:

- The Senate budget restores \$18.8 million to reinstate MassHealth coverage for inpatient stays greater than twenty days. MassHealth payment for these “outlier benefits” had been eliminated in April 2003. Funding for this line item had been proposed by the House Committee on Ways and Means, but then removed by the full House. Funding for this line item will be negotiated by the Conference Committee.
- The “Elder Affairs” section of this *Budget Monitor* discusses a wage increase for homemakers in the Senior Care Options program. This line item was funded by the Senate, but not by the House.
- There are also some differences between the House and Senate budget recommendations on the determination of provider payments, including differences in the total funding available for the Distressed Provider Expendable Trust fund, a targeted fund directed to specific health care providers.

There are also several areas where the House and Senate budget proposals agree, but make changes from FY 2005. Like the House, the Senate budget would allow dental providers to limit the number of Medicaid patients that they treat. The intent

of this section is to increase the number of dental providers willing to take any MassHealth patients at all.

Like the House budget proposal, the Senate budget includes an off-budget Medicaid payment of \$288.5 million for enhanced nursing facility rates. Because this amount is fully funded by an assessment on the nursing facilities and matched by federal money (“federal financial participation” or FFP), this amount is not included in the totals used in this *Budget Monitor*.

Pharmacy Programs

Although the full Senate did not make amendments to the Senate Ways and Means proposed budget for the elder pharmacy programs, there are several areas where the final Senate budget differs from the House.

- The Senate budget recommends \$92.2 million for the Senior Pharmacy Assistance Program (“Prescription Advantage”), compared to the House recommendation of \$90.2 million.
- The Senate budget recommends an additional \$5.0 million for co-payment subsidies through December 2005 for low-income elders.
- The Senate budget includes language allowing for an “open enrollment” period for the Prescription Advantage program in the spring; the House budget does not include this provision.

Included in both House and Senate budgets is an estimated \$120 million to pay for the federally-mandated assessment for the Medicare Part D Prescription Program (an assessment known as the “Clawback”). This amount will likely offset much of the savings the Commonwealth would have

realized with the implementation of this new federal benefit.

Other Health Care Programs

There are two health care programs that are administered under the umbrella of the Office of Medicaid but that are technically programs for people who do not qualify for MassHealth coverage: the Healthy Start program and the Children’s Medical Security Plan.

The Senate follows the House budget proposal for both of these programs. Healthy Start, a state-funded program ensuring prenatal care for low-income uninsured pregnant women, is funded at close to \$16.0 million. Estimated spending on this program in FY 2005 is \$12.3 million. The Children’s Medical Security Plan, a primary and preventive health insurance program for otherwise uninsured children, is funded at \$21.1 million. Estimated FY 2005 spending is \$15.5 million. The Senate proposal, unlike the House, restructures premiums for this latter program, including the elimination of premiums for families under 200 percent of the federal poverty level.

Uncompensated Care Pool

The Senate amendments added \$25.9 million to the Senate Ways and Means recommended funding for the Uncompensated Care Pool, for a total of \$52.7 million more than the House recommendation. The Pool pays for a portion of the costs of uncompensated care provided by health care providers such as acute care hospitals and community health centers. State payments into the Pool are matched by federal dollars (“federal financial participation” or FFP) and are supplemented by assessments on hospitals

and private payers, as well as by intergovernmental transfers. The state payments into the Pool therefore represent only a portion of the full amount of funding available to health care providers as partial compensation for the free care and the bad debt that they will accrue over the course of the year.

State Funding to the Uncompensated Care Pool			
<i>In Millions of \$</i>			
	FY 2005	FY 2006 House	FY 2006 Senate
Transfer from the General Fund	297.0	171.9	224.6
Surplus from 4000-0896	75.0	34.1	34.1
Sub-Total	372.0	206.0	258.7
MassHealth Essential	(160.0)	0.0	0.0
Total Funding	212.0	206.0	258.7

MassHealth Essential goes "on-budget" 10/05, \$36.5 million will carry over from FY 2005 to cover 7/05-9/05. By the start of FY 2006, \$18.7 million of prior year surplus included in the General Fund transfer in the Senate budget may no longer be available.

As the above chart indicates, when comparing Uncompensated Care Pool funding across years, it is necessary to account for funding of the MassHealth Essential Program which has been funded by the Pool. In FY 2005, the state budgeted \$372 million for the Uncompensated Care Pool, which included \$160 million for “off-budget” funding of the MassHealth Essential Program. Therefore, in FY 2005 only \$212 million remained from state funding for the Pool.

In FY 2006, funding for the MassHealth Essential Program is moved on-budget as a distinct line item within the Executive Office of Health and Human Services, so funding for the program need no longer be subtracted from Uncompensated Care Pool funding. However, the MassHealth Essential program comes on-budget starting only in October 2005, when hospital fiscal year 2005 ends. Between July 1 and

September 30, 2005, approximately \$36.5 million in off-budget funding will be necessary for the MassHealth Essential program from Uncompensated Care Pool dollars budgeted during FY 2005.

The Senate budget proposes \$258.7 million in funding for the Uncompensated Care Pool. This amount includes \$150.0 million from the FY 2005 Medicaid surplus, \$56.9 million in transfers from the General Fund, and a continuation of an estimated \$34.1 million in surplus dollars in the old off-budget MassHealth Essential line item. Also included in the Senate Uncompensated Care Pool budget is \$18.7 million which is the surplus still remaining from Uncompensated Care Pool funding from FY 1998 and FY 1999. A recently finalized audit of the Pool determined that these dollars were available, but it is possible that they will be spent in FY 2005, and therefore not be part of the FY 2006 budget.

Public Health

The Senate amendments added \$3.5 million to the Senate Ways and Means proposed budget for public health programs. The Senate proposal funds public health programs at \$428.4 million, 2.7 percent more than the recommended funding levels in the House budget. Non-hospital spending is 2.8 percent higher than the House recommendation and hospital spending is 2.4 percent higher.

FY 2005	\$398,898,612
FY 2006 Senate	428,414,463
Increase (decrease)	\$ 29,515,851
Percentage change	7.4%

During the floor debate on the budget, the Senate added funding to the Senate Ways and Means proposal in five areas:

- \$300,000 for stroke awareness (The House did not fund this line item.)
- \$507,000 for teenage pregnancy prevention, totaling \$1.0 million more than the House recommendation
- \$2.0 million for universal immunization, totaling \$2.0 million more than the House recommendation
- \$150,000 for school health services, \$150,000 more than the House recommendation
- \$500,000 for smoking prevention, matching the House recommendation

There are a number of areas in the public health budget in which the Senate proposal differs from the House.

The Senate budget partially restores funding for a training program for nurses' aides and direct care workers, providing \$250,000 for this purpose in FY 2006. This line item, last funded in FY 2004, had received as much as \$1.0 million (not adjusted for inflation) as recently as FY 2001.

Other significant differences between the House and Senate budgets include:

- The Senate proposes that early intervention services receive a \$1.0 million increase over the House recommendation, a total that is \$1.5 million more than in FY 2005; expected Medicaid reimbursement for eligible children in the Early Intervention program is budgeted for \$800,000 more than in the House proposal. This is also an \$800,000 increase over FY 2005 levels.

- Family Health services increase by \$918,000, for a total of \$8.6 million more than in the House proposal, and \$1.6 million more than in FY 2005. Much of this difference comprises an earmark of \$800,000 for the RISE domestic violence program, transferred from the Department of Social Services.
- Substance abuse services are \$833,000 over the House budget recommendation, for a total of \$47.3 million. The Senate presumes that this funding level should be sufficient to allow the Commonwealth to receive the full amount of federal substance abuse dollars for which it is eligible. Although this is \$10.7 million more than budgeted in FY 2005, there is still supplemental legislation pending to bring up the current year's funding level.
- Funding for Community-Based Suicide Prevention programs increases in the Senate budget, to \$500,000. This is twice the level funded in FY 2005, and twice the level recommended by the House.
- Funding for Colorectal Screening programs more than doubles from the House recommendation, to \$185,000. There had been no funding for this program in FY 2005.
- With the additional money included by the Senate budget amendments, Teenage Pregnancy Prevention program funding increases by \$1.0 million from the House recommended level, for a total of \$2.0 million. Funding in FY 2005 had been \$990,000.
- Funding for public health hospitals increases by \$1.6 million from the House budget. Also included in the

Senate budget is a new item for \$1.6 million, designed to develop a program to increase the stability of staffing at public health hospitals.

Even with money added on the floor of the Senate, several items in the public health budget receive less funding in the Senate proposal than in the House:

- Dental health services receive \$122,000 less than in the House proposal.
- Prostate cancer screening programs receive \$1.0 million – slightly more than in the FY 2005 budget, but less than the \$1.3 million recommended by the House.

An amendment added by the Senate brings funding for smoking prevention programs to the same level as recommended by the House - \$4.25 million. The Conference Committee will need to negotiate the language on this item, however, because the Senate budget constrains the focus of this program on youth smoking prevention and tobacco control.

Mental Health

The budget proposed by the Senate for the Department of Mental Health totals \$626.1 million, the same as the recommendation by the Senate Ways and Means Committee. This level of funding provides a \$28.8 million increase over FY 2005.

FY 2005	\$597,245,276
FY 2006 Senate	\$626,092,016
Increase (decrease)	\$ 28,846,740
Percentage Change	4.8%

Much of the difference between the budgets proposed by the Senate and House in this area is in the amount proposed for adult mental health and support services. The Senate proposes \$293.3 million for these services, while the House offers \$288.2 million. Compared to the House, the Senate also provides slightly higher funding for child and adolescent mental health services (\$37,500 more than the House) and for the Department's administrative costs (\$354,700 higher than the House).

Mental Retardation

Under the Senate proposal, which is unchanged from the recommendation by the Ways and Means Committee, funding for the Department of Mental Retardation would grow from \$1.063 billion in FY 2005 to \$1.112 billion in FY 2006.

FY 2005	\$1,063,894,604
FY 2006 Senate	\$1,122,884,973
Increase (decrease)	\$ 58,990,369
Percentage Change	5.5%

The Senate's budget for the Department of Retardation is much like that of the House. Both budgets meet the legal requirement for the Boulet Settlement by providing \$85.6 million to fund interim services for individuals on the waitlist for residential placements. Both proposals also include \$1.0 million for a new budget account to provide support services for families with autistic children. The only difference between the two budgets is in the amounts offered for community residential supports. Both branches provide an increase over the \$476.6 million currently appropriated for these services. The slightly higher proposal by the Senate totals \$499.6 million, while the House offers \$499.4 million.

Social Services

The Senate's budget for the Department of Social Services (DSS) totals \$741.1 million, \$32.1 million over current appropriations.

FY 2005	\$708,999,852
FY 2006 Senate	\$741,109,750
Increase (decrease)	\$ 32,109,898
Percentage Change	4.5%

During debate, the Senate added \$637,000 to the budget for the Department of Social Services – an additional \$200,000 for services for children and families and an extra \$437,000 for domestic violence supports. Since the Senate Ways and Means Committee matched the House in the amount of funding for these services, the final Senate budget is higher than that of the House in these areas. The Senate also provides an additional \$1.9 million for the budget account which funds social workers. The House level-funds this line item at \$34.4 million. These differences will be settled in conference.

Elder Affairs

The final Senate budget funds programs for elders at \$214.5 million, \$10.1 million more than the House. Floor amendments by the Senate added \$755,000 to the elder affairs line items. These numbers do not include the MassHealth programs administered by the Department of Elder Affairs and the Senior Pharmacy Assistance program, which are addressed in the "Medicaid and Other Health Care Programs" section of this *Budget Monitor*.

FY 2005	\$196,676,585
FY 2006 Senate	\$214,531,327
Increase (decrease)	\$ 17,854,742
Percentage change	9.1%

Amendments to the Senate Ways and Means budget by the full Senate included an increase of \$755,000 for the elder lunch program. This was the only specific line item that was changed by the amendments.

The Senate budget includes \$137.1 million for elder home care and case management services, \$1.5 million more than the House recommendation. The Senate budget also includes \$3.9 million in a new FY 2006 line item for wage increases for homemakers and personal care homemakers in the elder community-based long term care programs.

The funding level for the Elder Protective Services program will also have to be resolved by the Conference Committee. The Senate recommends \$13.7 million, and the House recommended \$12.3 million. Funding in FY 2005 for this program was \$11.5 million.

The Senate also expands funding for the Enhanced Community Options program, which provides extensive community-based services for frail elders. It provides \$2.5 million more than the House budget for this program.

The Congregate Housing program received 3.1 percent more in the Senate budget than in the House; the Senate recommendation for this line item is \$1.32 million, the House recommended \$1.28 million.

Other Human Services

Funding for other human services programs totals \$580.2 million in the Senate budget, a \$24.6 million increase over FY 2005.

FY 2005	\$555,672,842
FY 2006 Senate	\$580,231,833
Increase (decrease)	\$ 24,558,991
Percentage Change	4.4%

During debate, the Senate added roughly \$141,000 to the Senate Ways and Means budget for other human services programs. The Senate provides an additional \$66,000 to homeless shelters for veterans. The \$2.1 million appropriation is approximately \$95,000 more than that of the House, and \$180,000 higher than FY 2005. Funding for community services for blind individuals is \$75,000 more than that of the Senate Ways and Means Committee and the House. The \$3.8 million line item would provide a \$54,000 increase over the current level of funding.

The following highlights various differences between the budgets proposed by the two branches:

- The Senate proposes \$73.6 million for emergency shelters for families, while the House offers \$72.6 million for this purpose.
- The Senate also provides a higher level of funding to grant salary increases for employees of privately-contracted human service providers. The Senate offers \$20.0 million, while the House proposes \$10.0 million.
- Funding for grants to youth development organizations is also slightly higher in the Senate budget. The Senate proposes

\$3.0 million (nearly \$1.0 million more than the current level), while the House provides \$2.9 million.

Environmental Affairs

The Senate budget provides \$200.2 million for environmental affairs. Without adjusting for one-time funding for FY 2005, the Senate budget represents a \$54.3 million decline. However, after adjusting for one-time funding in FY 2005, the Senate proposal shows a \$14.4 million increase.

Including one-time funding in FY 2005:

FY 2005	\$254,488,531
FY 2006 Senate	\$200,201,904
Increase (decrease)	(\$ 54,286,627)
Percentage Change	-21.3%

Excluding one-time funding from FY 2005:

FY 2005	\$185,756,791
FY 2006 Senate	\$200,201,904
Increase (decrease)	\$ 14,445,113
Percentage Change	7.8%

During floor debate, the Senate added \$660,000 to the budget proposed by the Senate Ways and Means Committee, including an additional \$100,000 for Environmental Law Enforcement and \$40,000 more for the Division of Urban Parks and Recreation.

Overall, the Senate's environmental affairs budget is \$5.5 million higher than the House's. The Senate's budget is higher mostly due to higher appropriations proposed for the Department of Environmental Protection and the

Department of Conservation and Recreation. For example:

- The Senate budget provides \$52.9 million for the Department of Environmental Protection, while the House offers \$51.8 million, a \$1.1 million difference.
- The Senate proposal also includes \$80.5 million for the Department of Conservation and Recreation, and the House includes \$77.9 million, a \$2.6 million difference.

Although the Senate budget begins to restore recent budget cuts, the environmental affairs budget is well below its 2001 level. In real terms, this proposal is \$66.3 million or 25 percent lower than the FY 2001 total for environmental affairs.

Housing

The Senate includes \$90.9 million for the Department of Housing and Community Development (DHCD). This amount shows a decline compared to current appropriations only because funding for much needed services like energy assistance for low-income families and economic development grants have been included in supplemental budgets for this year.

FY 2005	\$ 95,522,284
FY 2006 Senate	\$ 90,906,589
Increase (decrease)	(\$ 4,615,695)
Percentage Change	-4.8%

During debate, the Senate added \$700,000 to the recommendation by the Senate Ways and Means Committee. This additional funding will increase the appropriation for the Alternative Housing Voucher Program

(AHVP) from \$2.3 million in FY 2005 to \$3.0 million in FY 2006. The House provides level funding for this program in the following year.

Additional areas where the House and Senate differ include the following:

- The Senate includes \$2.5 million for the Soft Second Loan Program, which helps low- and moderate-income families to buy their first home. The House does not provide funding for this purpose.
- Funding for housing subsidies for individuals with mental illness increases from \$2.0 million to \$2.5 million in the Senate budget. The House’s proposal provides level-funding for FY 2006.
- Both branches increase funding for Rental Assistance for Families in Transition (RAFT), but the Senate’s increase is more than that of the House. The current appropriation of \$2.0 million would grow to \$3.0 under the House budget. The Senate increases funding to \$5.0 million.

Public Safety

The Senate budget provides \$1.310 billion for public safety in FY 2006, a \$22.6 million increase over FY 2005.

FY 2005	\$1,286,977,760
FY 2006 Senate	\$1,309,590,822
Increase (decrease)	\$ 22,613,062
Percentage Change	1.8%

The Senate’s budget for public safety is \$1.2 million higher than the recommendation by the Senate Ways and Means Committee, providing increased appropriations in areas

like community policing grants and state police operations.

Overall, the Senate’s public safety budget is \$18.9 million more than the House’s. The Senate offers higher appropriations than the House in the following areas:

- The Senate’s appropriation for the state police crime lab would increase from \$9.4 million in FY 2005 to \$12.2 million in FY 2006. The House provides a smaller increase to \$9.9 million.
- The Senate budget also provides a higher amount for county correctional programs. The Senate provides \$140.3 million, up from \$133.7 million in FY 2005. The House’s appropriation for this purpose totals \$137.3 million.

Judiciary

The Senate includes \$642.7 million for the Judiciary, a \$15.4 million increase compared to current appropriations.

FY 2005	\$615,206,661
FY 2006 Senate	\$642,711,351
Increase (decrease)	\$ 15,454,351
Percentage Change	2.5%

The Senate budget for the Judiciary is \$11.5 million higher than that of the House. In addition to increasing funding in many areas that the House does not, the Senate differs from the House in the proposed funding structure for various courts. The Senate proposes to consolidate funding for each of the major courts, while the House keeps the structure the same as in FY 2005.

Group Insurance Commission

The final Senate budget follows the House budget recommendations for funding the costs of health insurance for state employees and retirees, with group insurance costs totaling \$1.023 billion. Because of under-budgeting in FY 2005, there is a supplemental budget request for the current fiscal year for group insurance costs, which will bring total FY 2005 funding levels closer to the proposed budget for FY 2006.

FY 2005 prior to supplemental	\$ 830,885,587
FY 2006 Senate	\$ 1,023,190,489
Increase (decrease)	\$ 192,304,902
Percentage change	23.1%

The Group Insurance Commission has been hard hit by rising health care costs over the past several years. Health care inflation continues to run at about eight percent annually, and health insurance premiums continue to rise by more than ten percent annually.

The Senate budget recommends funding for the Group Insurance Premiums and Plans line item at \$949.0 million; the retired teachers insurance line item would receive \$64.1 million.

The House and Senate budgets agree in their recommendations for group insurance cost-sharing: 15 percent for employees earning less than \$35,000 per year, 25 percent for all employees hired after June 30, 2003, and 20 percent for all other employees. These are the rates that have been in place during FY 2005. The Senate and House also recommend that after December 31, 2005, the premium share for recently-hired employees would drop to 20 percent, and the share for employees earning more than \$35,000 would drop to 15 percent.

The House budget includes language that would have included coverage for the Board of Bar Examiners; the Senate budget does not.

Revenue

Transfers, Tax Collections, and the Senate Budget

Like the House of Representatives' consideration of its version of the FY 2006 budget, the Senate's budget debate yielded no direct changes in the amount of revenue available for FY 2006, largely due to Constitutional prohibitions on the Senate initiating action on tax matters. Thus, the version of the FY 2006 budget approved by the full Senate keeps intact provisions, originally recommended by the Senate Ways and Means Committee, that would mandate a total of \$656 million in transfers from the Commonwealth Stabilization Fund and other impermanent revenue sources – and that would divert \$183 million in tobacco-settlement related funds – in order to support ongoing spending. It also maintains the assumptions that changes in tax law sufficient to generate \$100 million in FY 2006 will soon be enacted and that recently enhanced auditing efforts at the Department of Revenue will yield \$78 million in the coming fiscal year. In short, then, the Senate budget debate largely preserved the intent of the budget proposed by the Senate Ways and Means Committee – namely, to use the recent growth in tax collections to finance additional spending in the coming fiscal year without altering the Legislature's FY 2006 tax revenue benchmark of \$17.1 billion. As will be discussed at greater length below, such tax revenue growth may prove sufficient to offset all of the various “one-time” revenue sources found in the budget passed by the Senate – and, as a

result, to close structural budget gaps in FY 2005 and FY 2006 – but there is still a real chance that the Commonwealth will continue to experience some fiscal strain in the coming year.

In order to keep in place what now appears to be an artificially low tax revenue benchmark while allowing for spending levels more in line with current revenue trends, the Senate budget would rededicate a significant portion of two key fund transfers, originally intended for use in FY 2005, as well as a sizable share of the MassHealth surplus anticipated for the current year, to support FY 2006 expenditures. Under current law, \$340 million is scheduled to be transferred from the Commonwealth Stabilization Fund to the General Fund in FY 2005. Similarly, \$270 million is scheduled to be transferred to the General Fund from the FMAP Escrow Fund, a fund created in 2003 to receive and to hold fiscal relief funds distributed by the federal government. The budget adopted by the Senate would split the \$340 million Stabilization Fund transfer so that \$104 million would be used for FY 2005 purposes and \$236 million would be dedicated to FY 2006; \$150 million of the FMAP transfer would still occur in FY 2005, but \$120 million would be moved to FY 2006. Moreover, as noted previously, the Senate budget would use \$150 million of the expected \$530 million FY 2005 surplus within MassHealth to support Uncompensated Care Pool spending in FY 2006. In addition to these FY 2005 diversions, the Senate would also make another, separate transfer of \$150 million in FY 2006 from the Stabilization Fund to the General Fund.

As the table on the following page indicates, annual tax collections may ultimately prove

sufficient to offset all of the various “one-time” revenue sources found in the Senate budget – and, thus, to close structural budget gaps in FY 2005 and FY 2006. Yet, under less optimistic scenarios, the Senate’s version of the budget could still leave the Commonwealth suffering some fiscal stress.

Through the end of May, year-to-date tax collections for FY 2005 stood at \$15.258 billion – or \$377 million ahead of the Department of Revenue’s latest set of benchmarks. While the Department’s current benchmark for total FY 2005 collections is \$16.650 billion, if monthly tax collections simply meet their benchmark for June (the sole remaining month in FY 2005), then total FY 2005 tax collections will amount to \$17.027 billion. Thus, total tax collections for FY 2005 are likely to exceed the tax revenue figure on which the FY 2005 budget was originally based – \$15.930 billion – by anywhere from \$720 million to \$1.097 billion. Taken in combination with an anticipated net MassHealth surplus of \$115 million in FY 2005, this means that an additional \$837 million to \$1.214 billion could be available in FY 2005. (The anticipated gross MassHealth surplus for FY 2005 is \$534 million. Approximately half of that amount – \$267 million – consists of federal funds. The other half represents state monies; the Senate budget would reallocate \$150 million of those monies to the Uncompensated Care Pool in FY 2006.)

IMPACT OF SENATE BUDGET ON STRUCTURAL BALANCE

	AMOUNT (in \$million)
<i>FISCAL YEAR 2005</i>	
Initial FY05 Tax Revenue Benchmark	15,930
Anticipated FY05 Tax Collections	16,650 to 17,027
Anticipated Tax Revenue in Excess of Initial FY05 Benchmark	720 to 1,097
Anticipated Net FY05 MassHealth Surplus	117
<i>Anticipated Gross FY05 MassHealth Surplus</i>	534
<i>Portion of Anticipated Gross FY05 MassHealth Surplus Returned to Federal Government</i>	(267)
<i>Partial Diversion of FY05 MassHealth Surplus to FY06</i>	(150)
Apparent FY05 Surplus (Additional Tax Revenue + Net MassHealth Surplus)	837 to 1,214
Additional FY05 Costs	(647)
<i>Enacted FY05 Supplemental Appropriations</i>	(131)
<i>Pending FY05 Supplemental Appropriations</i>	(160)
<i>Reduced FY05 Stabilization Fund Transfer</i>	(236)
<i>Reduced FY05 FMAP Escrow Fund Transfer</i>	(120)
FY05 Surplus without Adjusting for Temporary Revenue Sources	190 to 567
Temporary Revenue Sources	(254)
<i>Net Transfer from Stabilization Fund to General Fund in FY05</i>	(104)
<i>Net Transfer from FMAP Escrow Fund to General Fund in FY05</i>	(150)
Estimated FY05 Structural (Deficit) / Surplus	(64) to 313
<i>FISCAL YEAR 2006</i>	
FY06 Tax Revenue Benchmark (Legislature)	17,100
Projected FY06 Tax Collections	17,233 to 17,827
Projected FY06 Tax Revenue in Excess of FY06 Benchmark	133 to 727
Additional FY06 Spending Proposed by Senate (relative to Ways & Means)	(43)
Temporary Revenue Sources	(656)
<i>FY06 Stabilization Fund Transfer</i>	(150)
<i>Partial Rededication of FY05 Stabilization Fund Transfer to FY06</i>	(236)
<i>Partial Rededication of FY05 FMAP Escrow Fund Transfer to FY06</i>	(120)
<i>Diversion of FY05 MassHealth Surplus to FY06 (State funds)</i>	(150)
Estimated FY06 Structural (Deficit) / Surplus	(566) to 28

Both FY 2005 supplemental appropriations and the Senate Ways and Means version of the FY 2006 budget have already laid significant claims against this apparent surplus, however. Supplemental appropriations enacted since the general appropriations act was written into law have increased FY 2005 spending by \$131 million; additional supplementals proposed by the Governor, in combination with funding for collective bargaining agreements, would raise spending another \$160 million in FY 2005.³ In diverting portions of the Stabilization Fund and FMAP Escrow Fund transfers originally scheduled for FY 2005 into FY 2006, the Senate budget would require another \$356 million of the apparent FY 2005 surplus to be used to finance the previously approved spending that such diversions would have supported. After taking these adjustments into account, the apparent surplus falls to \$190 million to \$567 million.

That \$190 million to \$567 million range does not account for the remaining “one-time” sources of revenue used to support FY 2005 spending. Specifically, the Senate budget would still result in a \$104 million transfer from the Stabilization Fund to the General Fund – and a \$150 million transfer from the FMAP Escrow Fund to the same destination – for use in FY 2005. In the end, then, the recent growth in tax collections

³ The MBPC’s *Budget Monitor* for the Senate Ways and Means Committee’s version of the FY 2006 budget contained a figure of \$403 million for the cost of enacted supplemental appropriations for FY 2005. However, approximately \$272 million of that total consisted of funds that were technically appropriated for FY 2004, but were authorized to be spent in FY 2005; Stabilization Fund balances were used to cover the cost of those appropriations. While one could argue that appropriations from the Stabilization Fund spent in FY 2005 should be counted against the FY 2005 surplus, this *Monitor* follows the Senate treatment in excluding those appropriations from its FY 2005 balance sheet.

could result in a structural surplus in FY 2005, but continued fiscal stress is also still possible. If total FY 2005 tax revenue simply reaches its current benchmark of \$16.65 billion, then there will be a gap of some \$64 million. Alternatively, if tax collections continue at their current pace, they should amount to at least \$17.027 billion, in which case a surplus of approximately \$300 million or more would emerge. It should be noted, though, several factors could alter the estimated structural balance presented in the above chart. On one hand, still higher tax collections or further reversions would serve to increase any surplus (or reduce any deficit); on the other hand, additional supplementals or deficiencies would work in the opposite direction.

Turning to FY 2006, both the House of Representatives and the Senate base their versions of the budget on the assumption that tax collections will total \$17.1 billion. Both arrive at this sum by assuming that FY 2005 collections will be approximately \$16.33 billion and then grow by roughly 4.7 percent in the coming year. However, as noted previously, tax collections for FY 2005 could amount to as much as \$17.027 billion. If FY 2006 tax collections were to grow 4.7 percent from this base, then they would total \$17.827 billion. Alternatively, if FY 2005 collections simply achieve their current benchmark of \$16.65 billion and then grow at a slightly slower pace – 3.5 percent – then they would be \$17.233 billion in FY 2006. Overall, then, FY 2006 tax collections could range from \$133 million to \$727 million above the figure on which the Legislature will premise its budget. (Of note, that range encompasses the \$400 million by which the Romney Administration’s FY 2006 tax benchmark of \$17.5 billion exceeds the Legislature’s mark of \$17.1 billion.) Nevertheless, this does not

mean that the Senate budget is structurally balanced. Indeed, when the whole assortment of transfers this budget uses to finance FY 2006 spending are taken into account, it appears that, if this budget were enacted, the Commonwealth could continue to face a structural budget gap in FY 2006.

Differences between the House and Senate: Degree Rather than Kind

With regard to revenue, the differences between the versions of the FY 2006 budget approved by the House of Representatives and the Senate are more of degree than of kind. That is, both budgets depend to some extent on impermanent and diverted sources of revenue to support FY 2006 spending, but the magnitude of such transfers is greater under the Senate's version than under the House's. As discussed above, the Senate's version of the budget uses a variety of impermanent revenue sources totaling \$656 million in FY 2006, while the House's counts on a single transfer, in the amount of \$380 million, from the Stabilization Fund.

Both versions of the budget also reprise a set of policies, temporarily adopted as part of the FY 2005 budget, which would increase the amount of funds related to the tobacco settlement that could be used to support current spending. Specifically, both versions of the budget would, for FY 2006, transfer to the General Fund the full amount of the annual payment that Massachusetts is scheduled to receive as part of the master tobacco settlement agreement. Under current law, in FY 2006 and each succeeding year, 70 percent of that payment is supposed to be deposited in the Health Care Security Trust for future "funding health related services and programs, including, but not limited to, services and programs intended to control or reduce the use of tobacco in the commonwealth." For

FY 2006, the payment is projected to be \$250 million; thus, in spending that full amount, the budgets approved by the House and the Senate would use \$175 million that existing law would have set aside for future use. In addition, under current law, 30 percent of the annual investment earnings of the Health Care Security Trust are to be transferred to the General Fund to be used for current expenditures. For FY 2006, both budgets would increase that transfer to 50 percent of the annual investment earnings. As interest earnings are expected to total approximately \$40 million in FY 2006, this change would make an additional \$8 million available for use in the coming fiscal year. All told then, both the House and the Senate would divert \$183 million in tobacco settlement funds to cover current expenses, funds that otherwise would have been saved for the future.

In addition, while neither of the competing versions of the FY 2006 budget contains changes in tax law that would generate additional revenue in FY 2006, both rely on *anticipated* changes in tax law to help fund expenditures in the coming fiscal year. The Senate does so explicitly, by including an additional \$100 million, which such changes would presumably yield, in its FY 2006 fiscal note. The House does so implicitly, as it increased proposed FY 2006 spending by \$113 million during its floor debate, but did so without adopting any corresponding revenue increases. (The House leadership did suggest, at the time of the House's consideration of the budget, that the chamber would soon consider legislation to close a variety of tax loopholes.)

Given the rapidly approaching start of the fiscal year, it would seem that the Legislature would need to act soon to make such anticipated changes a reality. At this stage, it seems virtually certain that those

changes will be based on the provisions of legislation introduced by Governor Romney earlier this year. The legislation initially proposed by the Governor in January – House 21 – would put an end to a variety of tax avoidance techniques, impose new penalties on the firms that market abusive tax shelters, and improve the extent to which Massachusetts tax law reflects key facets of the modern economy. In so doing, House 21 would generate \$170 million in FY 2006. The Governor then introduced a second, substitute version of this legislation in March – House 2606 – but, rather than strengthen or supplement the original bill, House 2606 significantly undermines it. Specifically, House 2606 deletes three major sets of provisions from the original bill, provisions that would have:

- prevented companies from using differences between federal and Massachusetts law pertaining to entity classification to avoid taxation;
- enhanced the Department of Revenue’s authority to combat distortionary tax planning practices, such as those intended to shift income out of Massachusetts through the use of transactions with subsidiaries and other related entities, and;
- prevented companies from using intermediaries to avoid the deeds excise when selling real estate in Massachusetts.

As these latter two changes would have produced \$70 million in FY 2006, it appears that the changes in tax law anticipated by the Senate would include all of the provisions of House 21, save these two.

Some have alleged that providing the Commissioner of Revenue with such

enhanced authority would allow him to exercise excessive discretion in determining corporations’ tax liabilities, but, as explained by a nationally recognized tax expert, such authority is “consistent with the authority that [the Commissioner’s] counterparts in other states already have and employ, and ... is consistent with authority provided to the Commissioner of the Internal Revenue Service under Section 482 of the Code.”⁴ Others have argued that the changes in law contemplated by House 21 would adversely affect employment and economic growth in Massachusetts, but it is entirely unclear how, for example, permitting a select group of taxpayers to avoid the deeds excise – while everyone else still has to pay it – would help to increase the number of jobs in Massachusetts.⁵

⁴ Richard Pomp, Loiselle Professor of Law, University of Connecticut School of Law, Testimony to the Joint Committee on Revenue, May 2, 2005.

⁵ For more information on legislative testimony regarding House 21, see *Questions Answered*, available at www.massbudget.org.

Spending by Program Area

(in Millions of \$)

Program	FY 2006				FY 2005*		Nominal Change Senate vs.			
	House 1	House	SWM	Senate	in 2006 \$	Nominal	House 1	House	SWM	FY05
Local Aid - Lottery	761.4	761.4	761.4	761.4	752.2	736.4	0.0	0.0	0.0	25.0
Local Aid - Additional Assistance and PILOT	397.4	397.4	398.4	398.4	403.8	395.3	1.0	1.0	0.0	3.1
Local Education Aid (Ch. 70) ¹	3,260.2	3,288.9	3,343.9	3,343.9	3,251.7	3,183.3	83.7	55.0	0.0	160.6
K-12 Educ (non Ch. 70) ²	481.4	475.3	472.1	475.6	473.2	463.2	(5.9)	0.2	3.4	12.4
School Building Debt Assistance ³	488.7	488.7	488.7	488.7	404.2	395.7	0.0	0.0	0.0	93.0
Higher Education ⁴	921.7	926.2	946.9	947.8	966.4	946.1	26.1	21.5	0.9	1.7
Early Education and Care ⁵	450.2	468.9	478.2	480.7	459.5	449.8	30.5	11.8	2.5	30.8
Income Support Programs ⁶	579.1	597.0	598.2	598.2	614.4	601.5	19.0	1.2	0.0	(3.3)
Medicaid and Other Health Care Programs ⁷	7,213.9	7,278.2	7,423.3	7,449.5	7,390.7	7,235	235.6	171.3	26.2	214.3
Public Health	412.2	417.2	424.9	428.4	407.5	398.9	16.2	11.2	3.5	29.5
Mental Health	619.9	620.3	626.1	626.1	610.1	597.2	6.2	5.8	0.0	28.8
Mental Retardation	1,122.1	1,122.7	1,122.9	1,122.9	1,086.8	1,063.9	0.7	0.2	0.0	59.0
Social Services	731.1	737.5	740.5	741.1	724.2	709.0	10.0	3.6	0.6	32.1
Elder Affairs	199.5	204.4	213.8	214.5	200.9	196.7	15.0	10.2	0.8	17.9
Other Health & Human Services	561.3	567.7	586.1	586.2	567.6	555.7	24.9	18.5	0.1	30.6
Environmental Affairs ⁸	189.3	194.7	199.5	200.2	260.0	254.5	10.9	5.5	0.7	(54.3)
Transportation	162.1	149.6	148.5	148.5	184.4	180.5	(13.6)	(1.1)	0.0	(32.0)
Housing & Community Development ⁹	77.1	85.9	90.2	90.9	97.6	95.5	13.8	5.0	0.8	(4.6)
Economic Development	127.1	127.8	135.7	137.8	136.5	133.7	10.7	9.9	2.1	4.1
Public Safety	1,305.2	1,290.7	1,308.4	1,309.6	1,314.6	1,287	4.4	18.9	1.2	22.6
Judiciary	617.6	631.2	642.7	642.7	640.7	627.3	25.1	11.5	0.0	15.5
District Attorneys	82.6	80.8	84.7	84.8	80.9	79.2	2.2	4.0	0.1	5.6
Attorney General	36.6	35.1	37.0	37.0	37.0	36.2	0.4	1.9	0.0	0.8
Libraries	27.2	28.4	28.8	28.8	27.7	27.1	1.6	0.4	0.0	1.7
Debt Service	1,793.1	1,793.2	1,793.2	1,793.2	1,791.5	1,753.8	0.0	0.0	0.0	39.4
Pensions ¹⁰	1,275.2	1,275.2	1,275.2	1,275.2	1,243.6	1,217.4	0.0	0.0	0.0	57.7
Group Insurance	946.9	1,023.2	1,023.2	1,023.2	848.7	830.9	76.3	0.0	0.0	192.3
Other Administrative	709.2	658.0	660.3	661.5	688.9	674.4	(47.7)	3.5	1.2	(12.9)
Total	25,549	25,726	26,053	26,097	25,665	25,125	547	371	44	971

Notes:

- (1) The Senate figure for Local Education Aid includes \$55 million set aside in a reserve account. The House 1 and House budgets do not include funding for this purpose.
- (2) The FY 2006 budget proposals would consolidate functions that are currently funded separately by the Department of Education and Office of Child Care Services. To enable a year-to-year comparison, the FY 2005 total adjusts for these transfers by subtracting \$81.8 million from the K-12 Education total and adding the appropriate proposals to the FY 2006 totals for Early Education and Care.
- (3) The FY 2005 budget reduces available revenue by \$395.7 million to cover the costs of School Building Assistance. In FY 2006, revenue would be reduced by \$488.7 million. The table includes these amounts as appropriations.
- (4) The higher education totals include \$30.6 million in tuition revenue retained by the campuses. The total for FY 2005 also includes supplemental funding to pay costs for FY 2004.
- (5) The FY 2006 House 1 total for Early Education and Care includes funding for the Office of Child Care Services that this budget keeps in a separate department. Proposals by the House and Senate move these appropriations to the Department of Early Education and Care. The House and Senate totals for Early Education and Care also include \$6.0 million in a reserve account to comply with changes to federal welfare regulations.
- (6) The FY 2006 House 1 budget proposes to move a portion of funding for the State Supplement to Supplemental Security Income (SSI) to Elder Affairs for beneficiaries residing in rest homes. This appropriation is incorporated in the total for Income Supports Programs, and, therefore is deducted from the Elder Affairs figure for House 1.
- (7) Totals include "on-budget" and "off-budget" Medicaid, senior pharmacy, other state health care programs, and off-budget state payments into the Uncompensated Care Pool. Totals do not include \$288.5 million off-budget funding for the Health Care Quality Improvement Trust. FY 2006 House 1 totals include \$327.6 million use of FY 2005 budgeted but unspent Medicaid dollars.
- (8) This FY 2005 number includes all FY 2005 appropriations, including one-time funding. While all categories in this chart use that same methodology, there were an unusually large number of one-time appropriations in environmental affairs, which is why it appears that funding is cut substantially in the FY 2006 proposals.
- (9) The FY 2005 budget transfers \$2.0 million from the General Fund to the Affordable Housing Trust Fund. This amount is included in the total above.
- (10) Off-budget pension funding in FY 2005 totals \$1.216 billion; the FY 2006 budgets include \$1.275 billion for this purpose. These amounts are treated as appropriations for these years.

*The totals for FY 2005 reflect total amounts appropriated to date, including one-time supplemental funding and prior appropriations that are continued for this year. The totals also incorporate off-budget spending for certain areas as noted above.