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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, January 22, 2004.

Met at six minutes past one o'clock P.M.

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

Distinguished Guests.

There being no objection, the President in the Chair, the Senator from Middlesex and Worcester, Ms. Resor introduced, seated in the rear of the Chamber, the Barfield family. The Chair also introduced, seated in the rear of the Chamber, the Charles Hardey family.

There being no objection, the President introduced the mother of the Senator from Second Worcester, Mr. Glodis, Pat Glodis who was accompanied by Rita and Katie Battles. They were guests of Senator Glodis.

Reports of Committees.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill authorizing Barnstable County to administer the repair, replacement and upgrade of septic systems (Senate, No. 2123); and

The House bills

Providing for uniform regulatory standards for certain insurance companies (House, No. 2823); and

Establishing a sick leave bank for Mary M. Putney, an employee of the Trial Court (House, No. 4332);

Severally ought to pass.

Severally referred, under Senate Rule 26, to the committee on Steering and Policy.

Ms. Murray, for the committee on Ways and Means, that the Senate Bill providing MCAS options (Senate, No. 1994),— ought to pass, with an amendment by inserting in line 2, after the word “effects,” the following words:— “and feasibility” .

Referred, under Senate Rule 26, to the committee on Steering and Policy.

By Mr. Hart, for the committee on Commerce and Labor, on petition (accompanied by bill, Senate, No. 71), an Order relative to authorizing the joint committee on Commerce and Labor to make an investigation and study of Senate document numbered 71, relative to lemon laws (Senate, No. 2191);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, Nos. 77 and 119), an Order relative to authorizing the joint committee on Commerce and Labor to make an investigation and study of Senate documents numbered 77 and 119, relative to personnel records (Senate, No. 2192);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 79), an Order relative to authorizing the joint committee on Commerce and Labor to make an investigation and study of Senate document numbered 79, relative to child labor laws (Senate, No. 2193); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 84), an Order relative to authorizing the joint committee on Commerce and Labor to make an investigation and study of Senate document numbered 84, relative to public access to fitness facilities (Senate, No. 2194);

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

By Mr. Hart, for the committee on Commerce and Labor, on Senate, No. 130 and House, No. 667, a Bill to establish a self-sufficiency standard in Massachusetts (Senate, No. 130);

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

By Mr. Hart, for the committee on Commerce and Labor, on Senate, No. 99 and House, Nos. 1046 and 1997, a Bill relative to consumers and workers (Senate, No. 2190);

Read and, under Senate Rule 26A, referred to the Senate committee on Science and Technology.

By Mr. Hart, for the committee on Commerce and Labor, on petition, a Bill relative to apprentice training (Senate, No. 42); and

By the same Senator, for the same committee, on Senate, Nos. 72, 88 and 123, a Bill relative to workers' compensation exclusive remedy (Senate, No. 72);

Severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

By Mr. Hart, for the committee on Commerce and Labor, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 60) of Brian P. Lees, Linda J. Melconian, Stephen M. Brewer, Jo Ann Sprague and other members of the General Court for legislation relative to the elective participation of corporate officers in workers' compensation;

Referred, under Senate Rule 36, to the committee on Steering and Policy.

PAPER FROM THE HOUSE.

A Bill further regulating certain retirement benefits (House, No. 3810, amended,— on House, No. 1184) ,— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Resolutions.

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

Resolutions (filed by Mr. Knapik) “honoring David Healey and Tighe & Bond, Inc., recipients of the 2004 Holyoke Saint Patrick’s Parade Citizenship Award”;

Resolutions (filed by Mrs. Sprague) “commending Leonard F. and Marydee Flynn”;

Resolutions (filed by Mr. Tisei) “on the retirement of Patricia Demit”;

Resolutions (filed by Mr. Travaglini) “congratulating the Perkins School for the Blind on the occasion of its one hundred and seventyfifth anniversary”; and

Resolutions (filed by Mr. Travaglini) “on the ninetieth anniversary of the Grand Lodge of Massachusetts Order Sons of Italy in America.”

PAPERS FROM THE HOUSE.

A Bill relative to the Medical Security Trust Fund (printed in House, No. 4433,— being a message from His Excellency the Governor),— was read.

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

Message from the Governor — Disapproval and Reductions in Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain sections, and reductions in certain sections contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which on Wednesday, November 19, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4366) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 9 (Workforce Training Fund Reforms) was considered as follows:

“SECTION 9. Said section 2RR of said chapter 29, as so appearing, is hereby further amended by adding the following 6 subsections:—

(f) The director, in consultation with the secretary of economic development, shall adopt regulations to carry out the purposes of this section, including the criteria set forth in paragraph (1) of subsection (b). The regulations shall provide for a rolling applications process and shall allow employers with plan to locate in the commonwealth and employ commonwealth residents to apply for grants. The director may contract with a private organization to carry out some or all of the director’s duties provided in this section.

The board may require a match or co-investment from participating organizations; provided, however, that in determining the amount of any match, the board shall establish different requirements for organizations based on the size of the organization, its profit or not-for-profit status and financial capacity.

(g) Documentary materials or data made or received by an employee of the department of workforce development, or previously by the division of employment and training, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established by this section, shall not be public records and shall not be subject to section 10 of chapter 66.

(h) The director shall, in accordance with section 328 of chapter 127 of acts of 1999, prepare a performance evaluation of the workforce training grants awarded under this section. The evaluation shall assess the effectiveness of each grant awarded in terms of the (1) development of employee skills; (2) increase in employee wages; (3) improvement in employee retention rates; (4) improvement of employee productivity; (5) impact on employer’s business and (6) impact on regional economy, including reduction of regional unemployment levels. The director shall require, as a condition of receiving a grant under this section, employers to provide, within a time frame following the end of the grant period as established by the director, such information and data determined by the director to be necessary to complete the performance evaluation.

(i) The director shall make no grant under this section to any person or entity from the Fund, nor shall any technical assistance be provided by the department out of the proceeds of the Fund, to any person or entity unless the person or entity applies for and receives a certificate of tax in good standing with the department of revenue with respect to all tax types for which it should be registered and for which it is obligated to file reports or returns. A certified copy of the certificate shall be presented to the director before the issuance of any grant under this section before the department’s providing any technical assistance to the person or entity.

(j) There is hereby established a board to be known as the Workforce Training Fund Advisory Board, consisting of 9 members, who are citizens of the commonwealth, to be appointed by the governor. Three members shall be persons representing businesses or employers; 3 shall be persons representing employees or employees of labor organizations, 2 of whom shall be selected from a list of 5 recommended by the President of the Massachusetts AFL-CIO; and 3 shall be persons representative of the public, 2 of whom shall have expertise or experience in workforce training and 1 of whom shall represent a non-profit workforce training provider. The governor shall designate as chairman of the advisory board 1 of the members appointed as representative of the public. Members shall serve for a term of 6 years. Of the members originally appointed, 1 employer representative and 1 employee representative shall serve for a term of 4 years, and 1 employer representative and 1 employee representative shall serve for a term of 6 years; and thereafter, as their terms expire, the governor shall appoint members for terms of 6 years. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. All members shall serve until the qualification of their respective successors. Members shall serve without compensation. The advisory board shall advise the director of the department of workforce development on the administration of the workforce training fund grant program, including but not limited to reviewing and making recommendations on grant requirements and selection criteria and reviewing grant applications and making recommendations about grant awards. The advisory board shall, from time to time, submit recommendations to the legislature on any legislative changes it deems necessary for the successful operation of the program.

(k) To provide technical assistance to increase training opportunities available to employees. The director may provide this direct technical assistance by using existing institutions such as local workforce investment boards, community colleges, labor organizations, administrative entities for service delivery areas under the federal Workforce Investment Act, or its successor statute, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the departments of labor and workforce development or of the commonwealth corporation. Such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training. Of the \$3,000,000, not less than \$75,000 shall be provided annually to the Workforce Investment Board Association to support the activities of business, labor, education, youth councils and community members in leading regional workforce development systems; each of the 16 workforce investment boards shall receive \$75,000 annually; and each

of the 16 workforce investment boards shall receive \$20,000 annually for youth councils.”.

After debate, the question on passing Section 9, 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 one o’clock P.M., as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 434**]:

YEAS.

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

NAYS.

Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. —
Sprague, Jo Ann	5.

The yeas and nays having been completed at a twenty-eight minutes before two o’clock P.M., Section 9 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 54 (Workforce Training Grants) was considered as follows:

“SECTION 54. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$6,000,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:

Of the total transfer, not less than \$3,000,000 shall be expended for the operation of programs whose primary purpose is workplace education and training grants managed by industry-driven partnerships that include, but are not limited to, workforce development providers, institutions of higher education, and employers to promote the career advancement of workers and the productivity of businesses in the commonwealth, including for the operation of the Building Essential Skills through Training Initiative.

Not more than \$250,000 shall be made available to the Massachusetts Council of Human Service Providers, Inc. to develop an industry-guided, internet-based workforce development program for direct care workers who provide direct care services pursuant to purchase of service contracts with the executive office of health and human services or agencies within that executive office.

The workforce development grant program shall: (1) provide essential training and credentialing for the direct care workforce in an industry; (2) improve the quality of services provided to clients; and (3) improve recruitment and retention of a well-trained

direct care workforce. The council may expend these funds to hire a program director as well as consultants with expertise in the field of human services training to develop a curriculum and to administer the program using an e-learning, or web or internet based environment.

Not less than \$1,250,000 of the funds allocated herein shall be for grants under the health professions worker training program established pursuant to section 9 of chapter 23H of the General Laws; provided, that not less than \$500,000 shall be provided for grants to providers of workforce development and job skills training services for projects benefiting older adults; provided further, that not less than \$1,000,000 shall be made available for grants under a competitive application process to community-based nonprofit organizations that provide workforce development and job training services, utilizing the following criteria; whether the project will lead to employment on the part of unemployed individuals and improved employment for low wage workers; whether the project will result in employment at wages sufficient to support a family or place individuals on a career path leading to such employment and wages; and whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers. Grants awarded under this section shall observe the following guidelines: the educational or eligible service provider, as defined in section 8 of chapter 23H, is an existing, experienced, and effective provider of workforce development services within the state; the program involves workforce development services that is an area of local employment need, particularly for low income residents or low wage workers; and preference will be given to educational and eligible service providers, as defined in section 8 of chapter 23H, which provide workforce development services which operate in economic opportunity areas as defined in section 3E of chapter 23A of the General Laws or serve residents of economic opportunity areas.

Recipients of grants under this section must match such grant funding in an amount equal to thirty percent of the value of such grant. The match may be in the form of funding, equipment, or personnel.

The director shall annually, by September 31, 2005, report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, the joint committee on state administration, and the joint committee on commerce and labor the status of grants awarded under this section, including the number of educational and eligible service providers receiving grants, the number of participants receiving services, the number of participants placed in employment, the salary and benefits that participants receive post placement, and the cost per participant, and job retention or promotion rates one year after training ends.

The director, working with and through the state workforce investment board, may collect and disseminate information concerning areas of projected employment need. The state workforce investment board may also prepare and publish studies, organize conferences, and conduct special projects which will increase knowledge and communication in the areas of employment need, skills training, and education.

The director of the department of workforce development shall adopt regulations to carry out the purposes of this section.”.

[The Governor had reduced said section by striking out the following: “Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$6,000,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:” and inserting in place thereof the following: “Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$1,500,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:”.]

After debate, the question on passing Section 54, 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 fourteen minutes before two o’clock P.M., as follows, to wit (yeas 37 — nays 1) **[Yeas and Nays No. 435]:**

YEAS.

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

Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
Melconian, Linda J.	37.

NAYS.

Sprague, Jo Ann — **1.**

The yeas and nays having been completed at eleven minutes before two o'clock P.M., Section 54 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Emergency Preamble Adopted.

An engrossed Bill relative to the Medical Security Trust Fund (see House Bill, printed in House, No. 4433), 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 13 to 0.

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

PAPERS FROM THE HOUSE.

Message from the Governor — Disapproval and Reductions in Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which on Wednesday, November 19, 2003, 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. 4366) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 9700-0000 (Joint Legislative Accounts) was considered as follows:

“9700-0000.....\$8,686,000”.

The question on passing Item 9700-0000 (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 two o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 436]:**

YEAS.

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

Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 38.

NAYS — 0.

The yeas and nays having been completed at seven minutes before two o'clock P.M., Item 9700-0000 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 80 (MBTA Date Correction) was considered as follows:

“SECTION 80. Item 1108-5200 of said section 2 of said chapter 26 is hereby amended by striking out the words “July 1, 2002” and inserting in place thereof the following words:— “July 1, 2003.”.

After debate, the question on passing Section 80, 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 two o'clock P.M., as follows, to wit (yeas 34 — nays 3) [**Yeas and Nays No. 437**]:

YEAS.

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

NAYS.

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

ANSWERED “PRESENT”.

Wilkerson, Dianne —
1.

The yeas and nays having been completed at eight minutes past two o'clock P.M., Section 80 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Section 81 (MBTA Correction) was considered as follows:

“SECTION 81. Said item 1108-5200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after the words “such premiums and rates;” in line 55, the following words:— provided further, notwithstanding the provisions of this item or any general or special law to the contrary, the authority’s share of such premiums for employees of the Massachusetts Bay Transportation Authority, for any bargaining unit working without a contract, shall remain in force and effect until the effective date of any subsequent agreement.”.

After debate, the question on passing Section 81, 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 two o'clock P.M., as follows, to wit (yeas 35 — nays 2) [**Yeas and Nays No. 438**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 35.
Melconian, Linda J.	

NAYS.

Knapik, Michael R.	Sprague, Jo Ann — 2.
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ANSWERED “PRESENT”.

Wilkerson, Dianne —
1.

The yeas and nays having been completed at sixteen minutes past two o'clock P.M., Section 81 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

Engrossed Bill.

An engrossed Bill relative to the Medical Security Trust Fund (see House Bill, printed in House, No. 4433) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at seventeen minutes past two o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 439**]:

YEAS.

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

NAYS — 0.

The yeas and nays having been completed at nineteen minutes past two o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the day were considered, as follows:

The Senate Bill relative to the powers of trust companies (Senate, No. 15),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The House bills

Relative to the use of motorcyclist's head gear in parades (House, No. 206, changed);

Relative to public works functions in the town of Belmont (House, No. 4084); and

Relative to parking violations in the town of Wellfleet (House, No. 4122);

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

The Senate Bill to ensure parents of children prescribed psychotropic drugs receive adequate information (Senate, No. 674),— was read a third time.

On motion of Mr. Lees, the further consideration thereof was postponed until January 29th.

The Senate Bill relative to leasing motor vehicles (Senate, No. 1353),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The Senate Bill relative to the punishment for sale and storage of fireworks (Senate, No. 1364),— was considered, the main question being on ordering it to a third reading.

Mr. Lees moved that the bill be recommitted to the committee on Public Safety; and, after remarks, the motion was *negatived*.

Mr. Lees then moved that the further consideration of the bill be postponed until Friday, October 1, 2004; and, after remarks, that motion was *rejected*.

Mr. Lees then moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed without question until the next session.

The House Bill relative to police mutual aid agreements (House, No. 593),— was considered, the main question being on ordering it to a third reading.

The pending amendment previously recommended by the committee on Public Safety, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2184 was considered, and it was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

There being no objection, the following matters were considered prior to the completion of the Orders of the Day.

Engrossed Bills.

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

Authorizing the town of Adams to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House Bill, printed as Senate, No. 2034);

Providing for the annual observance of certain Civil War infantry regiments days (see House, No. 1764);

Relative to the off-street parking board in the city of Worcester (see House, No. 4082); and

Designating the Brockton District Courthouse as the George N. Covett Courthouse (see House, No. 4156, changed).

An engrossed Bill validating the proceedings of the annual town meeting in the town of Palmer (see House Bill, printed in House, No. 4141) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted, two-thirds of the members present having voted in the affirmative, and it was signed by the Acting President and laid before the Governor for his approbation.**

An engrossed Bill authorizing a ballot question in the town of Belmont relative to the granting of licenses for the sale of alcoholic beverages in certain restaurants (see House, No. 3975, amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the Acting President and again laid before the Governor for his approbation.**

Reports of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert A. O'Leary for legislation relative to fish restoration projects.

Senate Rule 36 was suspended, on motion of Mr. Tolman, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Natural Resources and Agriculture. Sent to the House for concurrence.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert L. Hedlund, Garrett J. Bradley, Frank M. Hynes, Scott P. Brown and other members of the General Court for legislation to establish the crime of peeping or peering into dwelling houses.

After remarks, Senate Rule 36 was suspended, on motion of Mr. Tolman, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Criminal Justice. Sent to the House for concurrence.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4466) of William G. Greene, Jr. and Robert A. Havern (by vote of the town) for legislation to place ambulance paramedics in the town of Billerica in Group 4 of the public employees retirement law,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Orders of the Day.

The President in the Chair, the Orders of the Day were further considered, as follows:

The House Bill relative to the notarization of documents, including electronic notarization (House, No. 4217, changed) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

Pending the main question on passing the bill to be engrossed, in concurrence, Mr. Morrissey moved that the bill be amended by inserting after the enacting clause the following section:—

“SECTION 1. Chapter 207 of the General Laws is hereby amended by striking out sections 38 and 39, as appearing in the 2002 Official Edition, and inserting in place thereof the following 2 sections:—

Section 38. A marriage may be solemnized in any place in the commonwealth by a resident of the commonwealth who is so authorized by a church or religious organization, or by a city or town clerk or assistant city or town clerk, a clerk or assistant clerk of a court or a clerk or assistant clerk of the senate or house of representatives or by a justice of the peace if he has been so designated and has received a certificate of designation under section 39.

Section 39. The governor may, in his discretion, designate a justice of the peace in each town and such further number, not exceeding 1 for every 5,000 inhabitants of a city or town, as he considers expedient, to solemnize marriages, and may for a cause at any time revoke such designation.

The state secretary may authorize, subject to such conditions as he may determine, the solemnization of any specified marriage anywhere within the commonwealth by a non-resident clergy or non-clergy person desiring to solemnize a marriage. Upon application and payment of \$25, the state secretary shall issue a certificate of authorization to the person requesting permission to solemnize the marriage. Within 10 days of the completion of such solemnization, such person shall file the certificate with the town or city clerk where the certificate issued under section 28 was obtained. If the marriage is cancelled, postponed or fails to occur for whatever reason, the certificate shall be returned to the state secretary. Such certificate shall expire upon completion of such solemnization.

If any person solemnizes a specified marriage anywhere within the commonwealth without having obtained a certificate under this section, the state secretary, upon application of such person, may issue a certificate validating such person's acts. Whoever violates the filing provision of this section shall be punished by a fine of not more than \$100.”.

The amendment was adopted.

Mr. Creedon moved that the bill be further amended by inserting after line 36 the following sentence:— “Failure to comply with subclause (b) shall not affect the validity of any instrument, or the record thereof.”; and by striking out, in line 56, the word “(date)” and inserting in place thereof the following words:— “(date), but failure to include the expiration date shall not affect the validity of any instrument, or the record thereof”.

The amendment was adopted.

**The bill was then passed to be engrossed, in concurrence, with the amendments.
Sent to the House for concurrence in the amendments.**

Order Adopted.

On motion of Ms. Melconian,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Statement by Senator Cynthia Stone Creem

*In Honor of Edward M. O'Brien
Massachusetts Senate*

January 22, 2004

I rise in honor of my former colleague on the Governor's Council and good friend, Edward M. O'Brien of Easthampton, who sadly passed away earlier this week.

Ed was the consummate public servant, a man who cared deeply about his family, his community, his state and his nation.

When I joined the Governor's Council in 1994, Ed showed me the ropes. He knew everyone and everything there was to know about judicial appointments and he was passionate about the institution and the people he served.

He looked at his role on the Council as a steward of the public trust. And when it came to the everyday needs of the people he represented, no concern or issue brought to him was ever too small to be thoroughly considered.

He was also a wonderful family man, raising four daughters and a son, all great successes in their own right, and he instilled in his children the value of service to others.

He leaves a wonderful and beautiful legacy as his mark on this state. He had vision and was a leader and will be sorely missed by all who had the honor of knowing him.

The Senate adjourns today in the name of Edward O'Brien, as our Commonwealth owes him a great debt of gratitude.

Adjournment in Memory of Executive Councillor Edward M. O'Brien of Easthampton.

The Senator from First Middlesex and Norfolk, Ms. Creem, the Senator from First Hampden and Hampshire, Mr. Lees, the Senator from Second Hampden and Hampshire, Mr. Knapik, the Senator from Hampshire and Franklin, Mr. Rosenberg, the Senator from Hampden, Ms. Melconian and the Senator from Berkshire, Hampshire and Franklin, Mr. Nuciforo moved that when the Senate adjourns today, it adjourn in memory of Executive Councillor Edward M. O'Brien of Easthampton who passed away on Tuesday, January 20th, he served as Secretary to Governor Furcolo from 1958 to 1961, he served as a Hampshire County Commissioner from 1968 to 1972 and served as Executive Councillor from 1971 to 1974 and from 1979 to 2004.

Accordingly, as a mark of respect to the memories of Executive Councillor Edward M. O'Brien of Easthampton at ten minutes before three o'clock P.M., on motion of Ms. Melconian, the Senate adjourns to meet again on Monday next at eleven o'clock A.M. and that the clerk shall dispense with the printing of the calendar.