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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

Wednesday, July 21, 2004.

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

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

Distinguished Guests.

There being no objection, several introductions were made during the consideration of the Orders of the Day as follows:

The President handed the gavel to Mr. Shannon for the purpose of an introduction. Mr. Shannon introduced, seated in the rear of the Chamber, the Medford Little League Champion Pirates. With a record of 19 and 3, the team won the Medford Wellington Glenwood Division title. They were accompanied by their head coach Ian Austin.

The President handed the gavel to Mr. McGee for the purpose of an introduction. Mr. McGee introduced, seated in the Senate Gallery, the student resource officers from the Lynn student police academy.

The President handed the gavel to Mr. Brown for the purpose of an introduction. Mr. Brown introduced, seated in the rear of the Chamber. The North Attleborough delegation to Boys State, from the American Legion Post 49 in North Attleborough. They were joined by their leader, Ms. Jackie Savignano.

Report.

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Western Massachusetts Correctional Alcohol Center (received Tuesday, July 20, 2004),— **was read and sent to the House for its information.**

Reports of Committees.

By Mr. Brewer, for the committee on Senate Ethics and Rules, on Senate, No. 2310, in part, a "Bill providing coverage for lymphedema treatments" (Senate, No. 848);
Read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Ms. Resor, for the committee on Natural Resources and Agriculture, on petition, a Bill further regulating trade (Senate, No. 2110);
Read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Committee Discharged.

Mr. Brewer, for the committee on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Insurance to make an investigation and study of several Senate documents (Senate, No. 2310), reported in part, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2186) of Guy W. Glodis for legislation relative to the viatical and life settlements act,— and recommending that the same

be recommitted to the committee on Insurance.
Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5011) of Shaun P. Kelly and Stanley C. Rosenberg (by vote of the town) relative to validating the proceedings of the presidential primary in the town of Bernardston; and

Petition (accompanied by bill, House, No. 5012) of Elizabeth Poirier and Scott P. Brown (by vote of the town) relative to elections in the town of North Attleborough;
Severally to the committee on Election Laws.

Petition (accompanied by bill, House, No. 5013) of Stephen Kulik and Stanley C. Rosenberg (by vote of the town) for legislation to authorize the town of Montague to issue additional licenses for the sale of alcoholic beverages to be drunk on the premises; and

Petition (accompanied by bill, House, No. 5014) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) relative to increasing the number of licenses for the sale of alcoholic beverages for certain restaurants in the town of Arlington;
Severally to the committee on Government Regulations.

Petition (accompanied by bill, House, No. 5015) of Daniel K. Webster, Thomas J. O'Brien and Robert L. Hedlund (by vote of the town) that the town of Duxbury be authorized to establish an affordable housing trust fund;
To the committee on Housing and Urban Development.

Petition (accompanied by bill, House, No. 5016) of Louis L. Kafka, Jo Ann Sprague and Brian A. Joyce (by vote of the town) that the town of Sharon be authorized to convey certain conservation land to Sharon Plaza Associates;
To the committee on Local Affairs and Regional Government.

Petition (accompanied by bill, House, No. 5017) of J. James Marzilli, Jr., Jay R. Kaufman, Anne M. Paulsen and Robert A. Havern (by vote of the town) that Timothy Pacheco of the town of Arlington be authorized to apply for the position of fire fighter in said town, notwithstanding the maximum age requirements;
To the committee on Public Service.

A Bill requiring continuing education for licensed plumbers and gas fitters (House, No. 4750,— on House, No. 549),— 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 considered forthwith and adopted, as follows:—

Resolutions (filed by Messrs. Joyce and Barrios, Ms. Chandler, Ms. Creem, Ms. Menard, Messrs. Montigny, Moore, Nuciforo, Rosenberg and Shannon, Mrs. Sprague, Mr. Tisei and Ms. Tucker) "recognizing the Massachusetts Voters' Bill of Rights."

Report of a Committee.

By Ms, Murray, for the committee on Ways and Means, that the Senate Bill relative to expediting school improvement (Senate, No. 2277),— ought to pass, with an amendment substituting a new draft entitled "An Act relative to quality public education" (Senate, No. 2463).
There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time and, after remarks, was amended, as recommended by the committee on Ways and Means, and read a third time.
On motion of Mr. Lees, the bill was placed at the end of the Calendar.

At twenty-five minutes before twelve o'clock noon, at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and, at twenty-five minutes before one o'clock P.M., the Senate reassembled, the President in the Chair.

Subsequently, Mr. Panagiotakos in the Chair, the Senate Bill relative to quality public education (Senate, No. 2463) was further considered.

Messrs. Pacheco and Lees moved that the bill be amended by inserting after section 6, the following 2 sections:—

“SECTION 6A. Chapter 6 of the General Laws is hereby amended by striking out section 121, as appearing in the 2002 Official Edition.

SECTION 6B. Said chapter 6 is hereby further amended by striking out sections 209 to 213, inclusive, as so appearing.”; and

By inserting after section 14 the following section:—

“SECTION 14A. The General Laws are hereby amended by inserting after chapter 6A the following chapter:—

CHAPTER 6C.

Massachusetts Service Alliance Commission.

Section l. This chapter shall be known and may be cited as the ‘Service Alliance Commission Law’.

Section 2. The general court finds that the commonwealth has a strong history of community service, community service-learning, and volunteerism, with a vast array of programs that successfully mobilize volunteers and encourage students to be active members of their communities; that every day thousands of people across the commonwealth generously give their time to educate students, assist the elderly, protect our city streets and address other critical community needs; that the increasing demand for services, and limited financial resources of the commonwealth, have contributed to the need to call up the energy, compassion, inventiveness, and the entrepreneurial spirit of all citizens to help solve many of the problems facing their communities; that research shows community service-learning helps meet the goal of education reform by improving student learning, enhancing student performance, and promoting the ethic of service; that the entire state benefits from building upon the experience, expertise and successes of the higher education service community to create the systemwide Commonwealth Student Corps; and that it is in the commonwealth’s best interest to promote reforms that will better coordinate volunteers, engage students in their communities, utilize funds, foster communication among organizations, identify the needs of the state and replicate successful models; And, that the purpose of these reforms is to make the commonwealth a national leader for community service, community service-learning, and volunteerism.

Section 3. (a) There shall be a Massachusetts Service Alliance Commission, referred to in this chapter as the Alliance for the purpose of advising and assisting in the development and implementation of a comprehensive, state-wide plan for promoting volunteer involvement and citizen participation, as well as to serve as the commonwealth’s liaison to national and state organizations which support the Alliance’s mission. The Alliance shall establish guidelines and programs to reform, expand, replicate and implement community service and volunteer opportunities in the commonwealth. The programs and activities shall be coordinated among state departments and agencies to optimize the allocation of resources. The Alliance shall promulgate regulations necessary to implement this section.

(b) The Service Alliance Commission shall consist of the commissioner of education or his designee, the secretary of environmental affairs or his designee, the secretary of elder affairs or his designee, the commissioner of employment and training or his designee, and 11 members to be appointed by the governor, 1 of whom shall be a representative of a community based organization or agency in the commonwealth, 1 of whom shall be a representative of local government in the commonwealth, 1 of whom shall be a representative of local labor organization in the commonwealth, 1 of whom shall be representative of business, 1 of whom shall be between the ages of 16 and 25 who is a participant in or supervisor of a service program for youth, or of a campus-based or national service program, 1 of whom shall be a person with expertise in the educational, training and development needs of youth, particularly disadvantaged youths, and 1 of whom shall be an individual with expertise in promoting the involvement of adults, as defined in the domestic volunteer service act of 1973, as amended, 42 U.S.C. 4950 et seq., in service and volunteerism.

The chairperson shall be elected by the members. Members shall serve without compensation but shall be reimbursed for customary and usual expenses directly incurred in the performance of their duties.

(c) The commission may consult with: educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety service to communities and persons; representatives of native American tribes; out of school or at risk youth; representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act, such as VISTA, Senior Companions, Retired Senior Volunteer or Foster Grandparent Programs.

(d) In addition to the 15 voting members, the governor may appoint non-voting members including: a representative of the governor’s office; and a representative of the Corporation on National and Community Service.

(e) Members appointed by the governor shall serve staggered renewable 3-year terms.

(f) No more than 50 percent plus 1 of the voting members shall be of the same political party and no more than 25 percent of the voting members shall be employees of the commonwealth.

(g) To the maximum extent possible the Alliance shall be diverse with respect to race, ethnicity, age, gender, and disability characteristics.

(h) Vacancies among the appointed members shall be filled by the governor to serve for the remainder of any un-expired term.

(i) All votes of the Alliance will be decided by a majority of those present at a meeting.

Section 4. The Alliance's duties and responsibilities shall include but not be limited to, the following:

(1) fulfilling the requirements of a state commission as defined and outlined by the National and Community Service Trust Act of 1993;

(2) coordinating the advice of and providing counsel to other state agencies and organizations using community service and volunteerism as a strategy to assist in the solution of local, regional, and statewide problems;

(3) initiating and carrying out studies and analyses of proposed and implemented service and volunteer programs, which will aid in the solving of local, regional, and statewide issues.

(4) serving as an advocate for the needs of volunteers;

(5) adopting regulations to expand corps opportunities to address all community needs, such as education, environment, public safety, public health, and employment and training;

(6) acting as a clearinghouse for information, data, and other materials relative to community service and volunteer opportunities;

(7) ensuring the coordination of community service and volunteer corps operating in the commonwealth;

(8) encouraging the corporate community of the commonwealth to become an active partner in the support, advocacy and promotion of community service and volunteer opportunities in the commonwealth;

(9) requiring the assistance and participation of any department, division, bureau, commission or agency of the commonwealth in order to carry out its duties;

(10) advising and informing the general court and governor on the affairs and problems of community service and volunteer opportunities in the commonwealth; and

(11) developing outcome guidelines for accreditation of State Employees Responding as Volunteers program, higher education service sites and other programs as deemed necessary.

(12) developing mechanisms to encourage, promote and support programs that offer community service and volunteer opportunities in the commonwealth for volunteers who are 55 years of age or older.

Section 5. All state agencies shall cooperate with the Alliance in carrying out its duties.

Section 6. (a) The Alliance shall appoint a community service-learning advisory council consisting of not less than 10 nor more than 30 members. These persons shall represent a wide range of professions and institutions involved in education and community service, which will include, but not be limited to teachers, superintendents, counselors, students, school board members, independent agencies, business community, a Massachusetts Service Alliance member, a Massachusetts Campus Compact member, union representative and program coordinators. The Alliance representative or designee shall chair the advisory council.

(b) The advisory council shall assist the Alliance, commissioner of education and the board of higher education in the development of a statewide initiative to integrate the philosophy and practice of community service-learning into the public schools, colleges and universities. These guidelines shall be directly linked to the Education Reform Act pursuant to chapter 71 of the acts of 1993. The council shall develop guidelines and criteria for disseminating grants to districts through a competitive process and the establishment of professional development opportunities for teachers, students, and community partners. The council shall develop a plan to require all districts to integrate community service-learning into curricula and teaching practices over a five-year period, beginning September first, two thousand and five.";

By inserting after section 43 the following section:—

“SECTION 43A. Section 13 of chapter 19A of the General Laws is hereby repealed.”;

By inserting after section 74 the following section:—

“SECTION 74A. Said chapter 29 is hereby further amended by inserting after section 31E, as so appearing, the following section:—

Section 31F. Expand the State Employees Responding as volunteers program pursuant to section 31E to address additional community needs, such as environmental, educational, health and public safety issues throughout the commonwealth, through volunteer opportunities at accredited non-profit organizations. The programs shall be part of an aggressive advertising campaign targeting, but not limited to, public employees and public institutions.”;

By inserting after section 122 the following 2 sections:—

“SECTION 122A. Chapter 69 of the General Laws is hereby amended by inserting after section 10A, as so appearing, the following 9 sections: —

Section 10B. Notwithstanding any general or special law or regulation to the contrary, the commissioner, in coordination with the Massachusetts Service Alliance, shall establish a curriculum based community service-learning initiative in all public schools.

Section 10C. As used in this chapter, the following words, unless the context requires otherwise, shall have the following meanings:

‘Community’, a family, classroom, school, neighborhood, town or world as basis for community service-learning.

‘“Community service-learning’, a pedagogical approach to learning and a methodology for teaching, incorporating the study of local community problems and larger social issues into the classroom curriculum, using real world scenarios as the basis for learning curricular content and developing skills including, but not limited to critical and creative thinking skills, problem solving, reasoning, communication and collaboration skills, hereinafter referred to as the Common Core of Learning. Community service-learning enables students to be active, contributing members of society;

‘Commissioner’, the commissioner of education.

‘Department’, the department of education.

‘Board’, the board of education.

Section 10D. The purpose of this program shall be to ensure each school in the commonwealth provides opportunities for each student enrolled in the Massachusetts public schools to participate in community service-learning as a part of their regular academic courses including but not limited to mathematics, science, English language arts, history and social studies, art, health and world languages and other courses designed to address the student learning goals and standards outlined in the Education Reform Act pursuant to chapter 71 of the acts of 1993 and to increase the number of teachers using community service-learning.

This program shall provide schools with targeted professional development, resources and grant awards to systematically integrate community service-learning into academic courses of study and to encourage schools and school districts to incorporate community service-learning into school-wide goals and school improvement plans pursuant to section 59C of chapter 71. The program will require that schools use community service-learning as a strategy for implementing education reform and to make important structural and organizational changes that support improved student learning and teacher professionalism.

Section 10E. The commissioner, with the advisory council, shall have the responsibility and authority to:

(1) Ensure each school in the commonwealth provides opportunities for students to participate in community service-learning as a part of their regular academic courses including but not limited to mathematics, science, English language arts, history and social studies, art, health and world languages and other courses designed to address the student learning goals and standards outlined in the Education Reform Act pursuant to chapter 71 of the acts of 1993;

(2) Ensure that each student enrolled in the Massachusetts public school system participates in community service-learning at least once at each grade level;

(3) Each community service-learning experience will consist of the following standards: (i) Ensure that students understand how the needs of the community are identified or, when appropriate, will identify the needs of the

community; (ii) Ensure that students develop, acquire and demonstrate curricular knowledge and skills through participation in an integrated community service-learning experience; (iii) Ensure that students acquire a developmentally appropriate understanding of the relationship between school, community and the importance of school-community partnerships; and (iv) ensure that students and teachers will work in collaboration with individuals and organizations in the community when appropriate in order to develop and implement meaningful community service-learning experiences that reflect their understanding of school and community relationships;

(4) Ensure that integration of community service-learning into academic curricula and teaching practices will be aligned with the K-12 curriculum frameworks and learning standards for the commonwealth and will be developed as per guidelines developed by the advisory council and adopted by the department;

(5) Ensure that each school incorporates the process it will use to include community service-learning into its curricula and teaching practices school-wide into its school improvement development plan pursuant to section 59C of chapter 71 and its school professional development plan, developed pursuant to section 38Q of said chapter 71;

(6) Ensure that each school annually submits data, as determined by the advisory council, to the department verifying that community service-learning is being integrated into academic curricula and that each student is participating in community service-learning at least once at each grade level; and

(7) Ensure each school develops community service-learning curricula that incorporate both the developmental needs of the students and the unmet needs of communities.

Section 10F. The department shall, with the advisory council:

(1) Determine criteria for the successful integration of community service-learning into academic curricula and teaching practices, provide technical assistance and training as needed, and, assess the progress of participating schools annually;

(2) Include one open-ended question on each state assessment test which will assess the learning outcomes of community service-learning;

(3) Develop a statewide community service-learning initiative and plan for integrating community service-learning into school curricula and teaching practices over a five year period and ensure that this plan is integrated into the Massachusetts Service Alliance's Massachusetts plan for service. All schools shall begin to implement their individual five-year plans by September 1, 2005;

(4) Develop a staffing structure and appoint staff at the department's office of curriculum and instruction to coordinate all aspects of this statewide initiative;

(5) Deliver reports on the initiative to the Massachusetts Service Alliance as appropriate, as well as publicize the exceptional examples of community service in various schools.

Section 10G. School committees may include participation in a community service program among requirements for high school graduation, or may grant academic credit for the participation in such a program.

SECTION 122B. Section 2 of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The commissioner shall establish guidelines for promoting community service-learning as a means of fulfilling the state's civic education requirements. For the purpose of this section, the curriculum for civic education shall include, but not be limited to, such forms of community service-learning that promotes an identification of community needs, investigation, analysis, and research into those needs, and development and defense of a solution, as may be directed by the department of education. The department of education shall file annually with the alliance January first a report regarding civic education requirements. The council shall develop guidelines to determine what pertinent data shall be included in the report.";

By inserting after section 123 the following 3 sections:—

"SECTION 123A. Section 2A of chapter 73 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The board shall establish guidelines for promoting community service-learning as a means of fulfilling the state's civic education requirement. For the purpose of this section, the curriculum for civic education shall include, but not be limited to, such forms of community service-learning that promotes an identification of community needs, investigation, analysis, and research into those needs, and development and defense of a solution, as may be directed by the board. The board

shall file annually with the Massachusetts Service Alliance on or before January first a report regarding civic education requirements. The council shall develop guidelines to determine what pertinent data shall be included in the report.

SECTION 123B. Said chapter 73 is hereby amended by inserting after section 2A, as so appearing, the following 2 sections:—

Section 2B. As used in this chapter the following words, unless the context requires otherwise, shall have the following meanings:—

'Massachusetts Campus Compact', The Massachusetts Campus Compact is a membership organization of college and university presidents leading Massachusetts institutions of higher education in building a statewide collaboration to promote service as a critical component of higher education.

'Massachusetts Service Alliance', the organization created in chapter 6B, referred to in this chapter as the Alliance.

'Council', the Community Service-Learning Advisory Council.

'Board', the board of higher education.

'Commonwealth Student Corps' a statewide program to coordinate the activity of students and others in activities, services and resources relative to the environment, education, public health and public safety that support or provide primary service to underserved populations and geographical areas in the Commonwealth. The Commonwealth Student Corps shall consist of, but not be limited to, the Student Education Corps, the Student Conservation Corps, the Student Health Corps and the Student Public Safety Corps.

'Commissioner', the commissioner of the department of education.

'Unmet community needs', underserved populations and geographical areas in the Commonwealth.

Section 2C. (a) The board, with the advisory council, shall establish the Commonwealth Student Corps to expand opportunities for students of environmental professions, student of educational professions, students of public health professions, students of public safety professions, educators, practitioners, and active and retired certified professionals to participate in public service programs that help meet critical community needs. The board and the advisory council shall develop a program to expand and coordinate public and private resources that promote community service by connecting supervised students with professionals in service programs opportunities that are consistent with students' respective area of study.

(b) The board shall conduct, with the advisory council, a landscape survey that documents the current status and successes of community-service learning opportunities and programs at all Massachusetts public higher education institutions.

(c) The board shall establish, as part of the Commonwealth Student Corps, a curriculum based community service requirement for all students enrolled in approved Massachusetts public colleges and universities. The board shall adopt guidelines and deadlines governing the implementation such a program, including the selection of criteria, requirements and hours necessary for students to meet said requirement.

(d) The board shall work in cooperation with the Alliance to ensure students are matched with accredited service sites. The Alliance shall develop criteria for the accreditation of said service sites.

(e) The purpose and goals of the curriculum based community service-learning requirement for students is to: (1) increase the number of students participating in curriculum based community service opportunities throughout the Commonwealth; (2) help address the state's unmet needs; (3) strengthen communities through service; and (4) enhance the ethic of service.

(f) The board, with the advisory council, shall have the responsibility and authority to:

(1) conduct studies and accredited projects;

(2) apply to private sources and federal government for grants to implement studies and accredited service projects; deposit funds and received from those sources in a separate account at the department of each state college or university; and expend such funds for the purpose set forth in this section;

(3) enter into agreements with each other and other entities as allowed by law for the purposes of implementing this act;

(4) study of the feasibility of utilizing the services of retired professionals and other licensed and certified professionals;

(5) deliver reports of the program to the governor and the general court as appropriate;

(6) implement statewide Commonwealth Student Corps programs designed to achieve the comprehensive and coordinated delivery of services to underserved populations and geographical areas; and

(7) appoint a program director to implement and administer the studies and accredited service projects initiated by this chapter.

(g) The following shall be the deadlines for the implementation of said program:

Phase I — The board, with the advisory council, shall develop and implement a curriculum based community service requirement for all students majoring in the academic areas of education, the environment, public health, and public safety on or before August 1, 2005;

Phase II — The board of higher education, with the advisory council, shall develop and implement a curriculum based community service requirement for all students majoring in all academic areas on or before August 1, 2008.

SECTION 123C. Said chapter 73 is hereby amended by adding the following 7 sections:—

Section 21. The board of higher education shall establish a community service and volunteer requirement for all public higher education institutions. The board shall adopt regulations governing the implementation of the program: —

Section 22. The board of higher education shall establish a student loan repayment program, to be known as the Massachusetts community service and volunteer loan repayment program, for the purposes of encouraging outstanding students to participate and foster community service and volunteer opportunities within the commonwealth by providing financial assistance for the repayment of qualified education loans, as defined herein.

Section 23. The board of higher education shall establish a scholarship program, to be known as Massachusetts community service and volunteer scholarship program, to provide students in approved Massachusetts colleges and universities with scholarships for tuition and fees for the purpose of encouraging outstanding Massachusetts' students to participate and foster community service and volunteer opportunities within the commonwealth.

Section 24. The board of higher education shall establish a housing voucher program for scholarship recipients, to be known as the Massachusetts community service and volunteer housing voucher program, to provide students in approved Massachusetts colleges and universities with housing vouchers for the purpose of encouraging outstanding Massachusetts' students to participate and foster community service and volunteer opportunities within the commonwealth, The housing voucher, in such form and manner as the board may determine, may be utilized by the recipient to assist in paying housing costs, including rent or mortgage payments, while such recipient is enrolled in good standing in the college or University.

Section 25. The board of higher education shall establish a student community service and volunteer award, to be known as the Massachusetts student community service and volunteer award, to provide students in approved Massachusetts colleges and universities with the honor of receiving this award for the purpose of encouraging outstanding Massachusetts' students to participate and foster community service and volunteer opportunities within the commonwealth.

Section 26. The board of higher education shall establish criteria to increase the percentage of professors, staff and administration employed in Massachusetts' colleges and universities participating and fostering community service and volunteer opportunities within the commonwealth.

Section 27. Notwithstanding any general or special law or regulation to the contrary, the board of higher education shall establish guidelines to increase the percentage of federal work-study funds designated at approved Massachusetts colleges and universities to students participating in community service and volunteer opportunities within the commonwealth. All public institution of higher education shall report to the Alliance that the institution meets the state and federal minimum requirements under this section. A student shall not participate in more than 1 of the programs established under sections 22 to 25, inclusive.

SECTION 11. A member of the Commonwealth Student Corps shall not be considered an employee of the commonwealth entitled to benefits such as worker's compensation or unemployment benefits, nor shall a member be considered to be an employee of the commonwealth. A municipality shall not be held liable for any claim arising out of a community service program. Service opportunities shall not replace existing state employees."; and

By inserting after section 124 the following section:—

“SECTION 124A. The General Laws are hereby amended by striking out chapter 78A.”

“SECTION 12. The commissioner of education and the board of higher education shall each file annually with the community service-learning advisory council established under chapter 6B of the General Laws on or before January first, a report of schools participating in community service-learning activities, the commonwealth corps activities, and other the progress of other community service and volunteer programs, as well as other pertinent service data as determined by the advisory council. The Massachusetts Service Alliance shall compile the reports and additional service data and report annually to the clerk of the senate and house of representatives on or before September first in order to foster communication among local, state and federally funded programs engaged in community service and volunteer opportunities. Said report shall include, but not be limited to:

(1) A financial statement summarizing its expenditures and available funds;

(2) The number of projects and proposed corps placements submitted to it;

(3) The number of volunteers generated;

(4) A description of approved projects and a summary of the work completed.

SECTION 13.This act shall take effect July 1, 2005.”

The amendment was adopted.

Messrs. Antonioni, Rosenberg, Nuciforo, Baddour, Brewer, Ms. Chandler, Ms. Resor, Messrs. Pacheco, Knapik, Panagiotakos, Lees, Tarr, McGee, Ms. Menard, Ms. Murray, Messrs. Joyce, Morrissey, Berry, Ms. Fargo and Mr. Brown moved that the bill be amended by adding after section 37 the following new section:—

“SECTION 37A. Notwithstanding any general or special law to the contrary, for the fiscal years 2006 and thereafter, reimbursements for regional schools for the transportation of pupils shall equal 100 percent of costs.”

The President in the Chair, after remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eighteen minutes past five o’clock P.M., on motion of Mr. Brown, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 639]:

YEAS.

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

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-two minutes past five o'clock P.M., the amendment was adopted.

The question on passing the bill, as amended, to be engrossed was determined by a call of the yeas and nays, at twenty-three minutes past five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 640]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-six minutes past five o'clock P.M., the bill (Senate, No. 2643, printed as amended) was passed to be engrossed.

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to campaign reporting (Senate, No. 347);

Relative to the city of Melrose (Senate, No. 2374);

Relative to the town meeting of the town of Burlington (Senate, No. 2388);

Relative to the creation of an economic development fund in the town of Plymouth (Senate, No. 2390);

Validating the results of the annual town election held in the town of Falmouth on May 18, 2004 (Senate, No. 2410);

Relative to the Wampanoag Tribe of Gay Head (Aquinnah) House, No. 1586);

Relative to the Winchendon District Court (House, No. 2638); and

Designating a certain bridge along Route 3 in the town of Bedford (House, No. 4394);

Were severally read a second time and ordered to a third reading.

The Senate bills

Relative to the state retirement system (Senate, No. 2458);

To provide pediatric palliative care to children with life-limiting illnesses in the Commonwealth (Senate, No. 2460); and

Relative to training for law enforcement in dealing with individuals suffering from mental illness and mental retardation (Senate, No. 2461);

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

Severally sent to the House for concurrence.

The House bills

Relative to credit union deposits (House, No. 483); and

Relative to consumer and merchant protection (House, No. 492);

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

The House Bill relative to fire safety in the Commonwealth (House, No. 4550, amended),— was read a second time.

Pending the question on ordering the bill to a third reading, Ms. Fargo moved that the bill (as corrected by House Bills in Third Reading) be amended by striking out section 6, and inserting in place thereof the following section:—

"SECTION 6. The General Laws, are hereby further amended by inserting after chapter 148 the following chapter:—

CHAPTER 148A.

Section 1. As used in this chapter, unless the context otherwise requires, the following words shall have the following meanings:

'Code violation', a violation of the state building code, 780 CMR or the State Fire Code, 527 CMR.

'Housing Court', the housing court within the county in which an alleged code violation has occurred, or, if there is no housing court in the county, the district court with jurisdiction of the location in which the alleged code violation occurred.

'Local code enforcement officer', the head of the fire department as defined in section 1 of chapter 148, a designee of the head of the fire department who is empowered to enforce the state fire code, or the local building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

'Municipal hearing officer', a person appointed by the appointing authority of a municipality to conduct requested hearings of violations.

'Scheduled assessment', the amount of the civil assessment for a particular code violation as determined jointly by the state fire marshal, commissioner of public safety, and the chief justices of the district and housing court departments, respectively. A scheduled assessment shall not exceed the maximum assessment or fine established by law for each such violation.

'State code enforcement officer', in cases involving the state fire code, the marshal as defined in section 1 of chapter 148, or in the case of state building code violations, the state building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

Section 2. (a) Notwithstanding any general or special law to the contrary, any local code enforcement officer, empowered to enforce violations of the state building code or the state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of code violation. Such notice shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place of the violation. The notice shall be signed by the local code enforcement officer and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received. The local code enforcement officer shall, if possible, deliver to the offender a copy of the notice at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the local code enforcement officer, or by the head of his department or by any person authorized by such department head, to the offender's last known address, within 15 days after the violation. Such notice as so mailed shall be deemed a sufficient notice. A certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be *prima facie* evidence thereof. The notice shall be executed in triplicate.

Whoever, upon request of any local code enforcement officer, refuses to state his name and address, or if he states a false name and address, or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than $200.

(b) The local code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a condition that continues to exist after the issuance of the notice, the code enforcement officer shall indicate that the condition must be corrected within 24 hours of receipt thereof. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall return the notice of violation by mail, personally or by authorized person to the municipal hearing officer and shall within 21 days either: (1) pay in full the scheduled assessment; or (2) request a hearing before the municipal hearing officer. Any amounts paid shall be payable to the city or town, as the case may be. If the alleged violator requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days after receiving such hearing request. The municipal hearing officer shall duly notify the alleged violator of the date, time and location of the hearing. In no case shall the hearing officer, so designated, be an employee or officer of the fire department or building department associated with the code enforcement officer who issued the notice of violation. The hearing by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the housing court within the county in which the violation occurred and shall be entitled to a hearing before a clerk magistrate of the court. The appeal shall be filed by the aggrieved person within 10 days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time, fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the municipal hearing officer or who fails to appear at the time and place of the hearing, shall be deemed responsible for the code violations as stated in the notice of violation and shall be considered *prima facie* evidence of finding of responsibility for the code violation in any subsequent criminal or civil proceeding regarding said violation. If the condition which caused the notice of violation to issue continues to exist, the violation may also be used by the city or town as *prima facie* evidence of the existence of a code violation in any proceeding to suspend or revoke any license, permit or certificate issued by such municipality, the state fire marshal or commissioner of public safety relative to said building, structure or premises pending the correction of the condition.

Section 3. (a) Notwithstanding the provisions of any general or special law to the contrary, any state code enforcement officer empowered to enforce violations of the state building code or state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of code violation. The notice shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place of the violation. The notice shall be signed by the state code enforcement officer and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received. The state code enforcement officer shall, if possible, deliver to the offender a copy of the notice at the time and place of the violation. If it is not possible to deliver a copy the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the state code enforcement officer, or by the head of his department or by any person authorized by such department head, to the offender's last known address, within 15 days after the violation. The notice as so mailed shall be deemed sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be *prima facie* evidence thereof. The notice shall be executed in triplicate. Whoever, upon request of any state code enforcement officer, refuses to state his name and address, or if he states a false name and address, or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than $200.

(b) The state code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the state code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a condition that continues to exist after the issuance of the notice, the state code enforcement officer shall indicate that the condition shall be corrected within 24 hours of receipt thereof. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall, within 21 days of the receipt of the notice either: (1) pay in full the scheduled assessment in accordance with the instructions on the notice of violation; or (2) request a hearing before a clerk magistrate of the housing court within the county in which the alleged violation occurred, by submitting the notice by mail, personally or by authorized person to the housing court. If the alleged violator requests a hearing before the clerk magistrate as prescribed the clerk magistrate shall schedule a hearing not later than 45 days after receiving such hearing request. The clerk magistrate shall duly notify the alleged violator and the state code enforcement officer of the date, time and location of said hearing. The information contained on the notice of violation shall be *prima facie* evidence of the existence of a code violation. The code enforcement officer who issued the notice of violation may appear personally at said hearing or may designate another person from his department or district to prosecute the case who is also empowered to enforce such building or fire code, as the case may be. Such hearing by the clerk magistrate shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the clerk magistrate, after a hearing, may appeal to a single justice of the housing court and shall be entitled to a hearing before a single justice of the court. The aggrieved person shall file, such appeal within 10 days after receiving notice of the decision from the clerk magistrate who conducted the hearing. The decision of the single justice shall be final.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the clerk magistrate or who fails to appear at the time and place of hearing, shall be deemed responsible for the code violations, as stated in the notice of violation and shall be considered *prima facie* evidence of a finding of responsibility for such code violation in any subsequent criminal or civil proceeding regarding the violation. If the condition which caused the notice of violation to issue continues the violation accompanied by a sworn affidavit of the issuing state code enforcement officer relating the relevant details of the violation, may be used as *prima facie* evidence in any proceeding to suspend or revoke any license, permit or certificate issued by the city, town or the commonwealth, including the state fire marshal or the commissioner of public safety relative to the building, structure or premises pending the correction of the condition.

Section 4. The state fire marshal, commissioner of public safety, the chief administrative justices of the district and housing court departments, respectively, and the president of the Massachusetts Municipal Association board of directors shall jointly prescribe standardized notice of violation forms provided for in sections 2 and 3 of this chapter which shall be uniform throughout the commonwealth. The forms, which may be modified periodically, shall clearly state the

procedures, rights and obligations of alleged violators who receive such notices. The commissioner of public safety shall provide such forms to be used by local code enforcement officers to each municipality throughout the commonwealth. The charge for each such form shall be no greater than the actual cost incurred by the commissioner to produce such form.

Section 5. All fines, penalties or assessments in actions under this chapter, brought by a local code enforcement officer, shall be paid to the general fund of the city or town in which the violation occurred. Such city or town shall earmark such fines, penalties or assessments collected for enforcement, training and education of fire prevention officers, building inspectors, and the stipend for municipal hearing officers which shall be not less than $2,500 a year. All fines, penalties or assessments in actions brought under this chapter by state code enforcement officers shall be paid to the commonwealth, minus such stipend for the municipal hearing officers and shall be forwarded to the department of fire services as revenue to the General Fund and shall be applicable to the department's retained revenue account for the purposes of enforcement, training and education of state code enforcement officers."

The amendment was adopted.

Mr. Barrios moved that the bill (as corrected by House Bills in Third Reading) be amended, in section 3, in line 33, by inserting after the word "who" the following words:— "wantonly or recklessly".

After remarks, the amendment was adopted.

Mr. Brewer moved that the bill (as corrected in Bills in Third Reading) be amended, in section 9, by adding the following clause:—

"(5) establishing an advisory council on fire safety building materials for the purpose of incorporating comprehensive flame-retardant material standards into state building codes and to recommend to the state board of building regulations and standards flame-retardant material standards to be incorporated as emergency amendments into the state building code."

The amendment was adopted.

Mr. Brewer moved that the bill (as corrected by House Bills in Third Reading) be amended by inserting after section 3 the following section:—

"SECTION 3A. Within 180 days of the effective date of this act, the secretary of the executive office of economic affairs shall file with the senate committee on ways and means and with the senate clerk a plan to reduce for owners the costs associated with implementing section 3 of this act including, but not limited to, programs utilized by the Title V Program and low-interest loans and tax credits."

After remarks, the amendment was adopted.

Mr. Brewer moved that the bill (as corrected by House Bills in Third Reading) be amended by striking out section 2.

The amendment as adopted.

Messrs. Shannon and Lees moved that the bill (as corrected by House Bills in Third Reading) be amended in section 3, in the first paragraph of the proposed section 26G½ of chapter 148 of the General Laws, by striking out the figure "50" and inserting in place thereof the following figure:— "100"; and, in section 9, by striking out the figure "50", each time it appears, and inserting in place thereof, in each instance, the following figure:— "100".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eighteen minutes past one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 22 — nays 16) [Yeas and Nays No. 622]:

YEAS.

Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.

Hart, John A., Jr.	Panagiotakos, Steven 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.
Melconian, Linda J.	Tucker, Susan C. — 22.

NAYS.

Antonioni, Robert A.	McGee, Thomas M.
Barrios, Jarrett T.	Montigny, Mark C.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 16.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

Mr. Havern in the Chair, the yeas and nays having been completed at twenty-three minutes past one o'clock P.M., the amendment was adopted.

Mr. Shannon moved that the bill (as corrected by House Bills in Third Reading), be amended, in section 3, by striking out the second paragraph of the proposed section 26G½ of chapter 148, and inserting in place thereof the following paragraph:—

"Any owner of a business designed or used for occupancy as a nightclub, dancehall, discotheque, bar or for similar entertainment purposes to which the previous paragraph does not apply shall install a system of automatic sprinklers within the business in accordance with the state building code if the business: (1) violates the recognized occupancy limitations as previously established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector as provided in chapter 143, 2 or more times during a 12-month period; or (2) violates the occupancy capacity of such building by a number greater than one-half of such capacity as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector as provided in chapter 143. Any owner of a building or structure required to install automatic sprinklers as a result of a violation of this paragraph shall do so within 1 year of being cited for such violation, and shall be responsible for the full costs of installation. Notwithstanding any general or special law to the contrary, any business owner cited for violating the maximum capacity for his place of business shall be subject to a $10,000 fine for a first or second offense. A third such offense shall result in the business owner losing his license to operate in the Commonwealth and all food, entertainment and other licenses associated with his business. This section shall be enforced by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector as provided in chapter 143, or any state official with concurrent jurisdiction."

The amendment was adopted.

Mr. Shannon moved that the bill (as corrected by House Bills in Third Reading) be amended, in section 3, in the third paragraph of the proposed section 26G½ of chapter 148 of the General Laws, by adding the following sentence:— "The cost of installing an adequate system of automatic sprinklers shall be borne in its entirety by the owner of said building or structure."

After remarks, the amendment was adopted.

Mr. Brewer moved that the bill (as corrected by House Bills in Third Reading) be amended by striking out section 1 and inserting in place thereof the following section:—

"SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 72, inserted by section 48 of chapter 26 of the acts of 2003, the following section:—

Section 73. The commission shall require all applicants for alcoholic beverages licenses to submit a valid certificate of inspection, as provided in the state building code, issued by a local inspector, as defined in chapter 143, and signed by the head of the fire department, as defined in chapter 148, for the city, town or district in which the applicant intends to sell alcoholic beverages to be consumed on the premises. The certificate of inspection shall attest to the safety of the building or structure in which the applicant intends to sell alcoholic beverages to be consumed on the premises and that the building or structure meets or exceeds the requirements of the state building code.

The commission shall require that every license holder submit, annually, a valid certificate of inspection, as provided in the state building code, issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located and from which alcoholic beverages intended to be consumed on the premises are to be sold. The issuance of such certificate shall be a precondition for the issuance or renewal of such a license and the commission may summarily revoke any license upon notice of noncompliance or expiration of such certificate, by operation of law and without a hearing. The commission may presume that such premises conform with the inspectional safety requirements for the premises as provided for in the state building code based upon such certificate, however such presumption may be rebutted.

Failure by the inspector to issue annual certificate of inspection, signed by the head of the fire department, may be appealed in accordance with the inspectional safety requirement procedures for appeal as provided in the state building code.

The commission may authorize the issuance of a temporary license to any applicant or license holder who has been issued a temporary certificate of inspection by a local inspector and signed by the head of the fire department, as provided in the state building code, if the applicant or license holder has complied with the terms therein and the temporary certificate of inspection has not expired. Such temporary license may be revoked by the commission, without a hearing, if the licensee has failed to comply with the terms of such temporary certificate.

Failure by the inspector to issue an annual certificate of inspection, signed by the head of the fire department, may be appealed in accordance with the inspectional safety requirement procedures for appeal as provided for in the state building code.

The commission shall promulgate rules and regulations to effectuate the purposes of this section."; and

By striking out section 3 and inserting in place thereof the following section:—

"SECTION 3. Chapter 148 of the General Laws is hereby amended by inserting after section 26G the following section:—

Section 26G½. Every building or structure, or portions thereof of public assembly, including a building or structure owned or controlled by the commonwealth or a political subdivision thereof, with a capacity of 50 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, including all rooms, lobbies and other spaces connected thereto and all means of egress and entrances, including any such public assembly located within a mixed use building or structure, shall be protected throughout with an adequate system of automatic sprinklers, in accordance with the state building code.

Any owner of a building or structure designed or used for occupancy as a nightclub, dancehall, discotheque, bar or for similar entertainment purposes with a maximum capacity of less than 50 persons shall install a system of automatic sprinklers within such building or structure in accordance with the provisions of the state building code if such owner: (1) violates the maximum capacity for such building or structure, as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other *duly recognized local inspector or inspector,* as provided in chapter 143, 2 or more times during a 12 month period; or (2) violates such maximum capacity by a number

greater than one-half of the maximum capacity for such building or structure, as established by such inspector of buildings, building commissioner or local inspector or inspector. Any owner in violation of this section shall cease to operate such building or structure as a nightclub, dancehall, discotheque, bar or for similar entertainment purposes until such owner has installed a system of automatic sprinklers within the business in accordance with the state building code.

This section shall not apply to a place of assembly within a building, structure or portions thereof used principally as a house of worship, restaurant, lecture hall, auditorium, state or local government building, educational function facility, or other similar place of assembly. Temporary use of such a building or structure or portions thereof as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, may be allowed if a permit is issued for such use by the head of the fire department in consultation with the local building inspector or inspector who may set the terms and conditions to protect against fire and preserve public safety.

The head of the fire department shall enforce this section.

Whoever is aggrieved by an interpretation, order, requirement or direction of the head of the fire department under this section, or, whoever is aggrieved by a failure of the head of the fire department to take action under this section, may, within 45 days after the service of notice of such interpretation, order, requirement or direction, or, after 45 days of such failure to act, appeal from such interpretation, order, requirement, direction or failure to act to the automatic sprinkler appeals board as provided in section 201 of chapter 6.";

In section 4 by striking out, in line 8, the figure "25,000.00" and inserting in place thereof the following figure:— "5,000";

In said section 4, by striking out, in line 40, the word "violates" and inserting in place thereof the following words:— "(1) commits a second or subsequent violation of";

In said section 4, by inserting after the word "imprisonment", in line 39, the following paragraph:—

"For purposes of this section, 'serious bodily injury' shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death."; and

In said section 4, by striking out the word "after", in line 43, and inserting in place thereof the following words:— "or (2) continues to violate any such code or order after receipt of";

In said section 4 *(section 3, as printed)* by adding the following sentence:— "This section shall not apply to such violations which are under appeal pursuant to section 100 of chapter 143, if such appeal was timely filed.";

In section 6, by striking out, in lines 158 to 159, the words "The information contained on the notice of violation shall be *prima facie* evidence of the existence of a code violation.";

By striking out section 9 and inserting in place thereof the following section: —

"SECTION 9. The secretary of public safety, or, as directed by the secretary, the head of a department, division or agency within the executive office of public safety, shall promulgate rules and regulations to effectuate the following:

1. establishing a nightclub fire safety training program and training materials for employees of every building or structure, or portions thereof, of public assembly with a capacity of 50 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes;

2. establishing and promoting education relative to the proper use and storage of all forms of fire extinguishers and other similar fire suppressant apparatus for the owners, lessees or mortgagees of all buildings certified under the state building code;

3. establishing methods for the proper tracking and certification of pyrotechnic displays, usage of fog, hazing or other fog producing apparatus in all places of public assembly, improving luminescence of egress routes and the widening or upgrading of main exit doors in places of public assembly, establishing requirements that 'balanced design' be employed in future construction of larger entertainment venues, such as theatres, convention centers and arenas and establishing standards, based on current technology and science, on the proper use of fire resistant acoustic materials in all places of public assembly.

The secretary of public safety shall establish, in conjunction with the executive office of economic affairs, methods for owners, lessees, or mortgagees in possession of a building or structure, or portions thereof of public assembly with a capacity of 50 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes to install automatic sprinklers at discounted rates including, but not limited to, no-interest or low-interest loans and insurance cost containment measures."; and

By inserting after section 10 the following section:—

"SECTION 10A. Any owner of a building, structure or portions thereof subject to the provisions of section 3 shall submit plans and specifications for the installation of an adequate system of automatic sprinklers to the head of the fire department and the local building inspector or inspector within 18 months of the effective date of this act and shall install an adequate system of automatic sprinklers within 3 years of such effective date. The head of the fire department may allow a reasonable extension of time, not to exceed 1 year, to comply with section 3 if the owner has timely submitted the required plans and specifications, has entered into an existing contract for the installation and clearly documents or shows that he did not cause the delay of installation.

For the purpose of this section the term 'adequate system of automatic sprinklers' shall include: (1) a working automatic sprinkler system; (2) fire alarm system control equipment which provides notice of an emergency within a place of assembly; and (3) adequate monitoring of and reporting of any activation of the automatic sprinkler system and fire alarm equipment, in accordance with the state building code in effect at the time of the installation of such system and equipment."

After remarks, the amendment was adopted.

Mr. Lees moved that the bill (as corrected by the House Committee on Bills in the Third Reading) be amended, in section 3, in the fourth paragraph of proposed section 26G½ of chapter 148 of the General Laws, by striking out the figure "3" and inserting in place thereof the following figure:— "5".

After debate, the amendment was rejected.

Mr. Lees moved that the bill (as corrected by the House committee on Bills in the Third Reading) be amended by inserting at the end thereof the following new sections:—

"SECTION ___. Subsection (d) of section 2 of chapter 62 of the General Laws is hereby amended by adding the following paragraph:—

(3)(a) For purposes of the depreciation deduction allowed under sections 62(a)(1) and 168 of the Federal Internal Revenue Code, as amended and in effect for the taxable year, a taxpayer that is required to comply with the provisions of section 26G½ of chapter 148 of the General Laws and that has so complied, may classify an automatic sprinkler system in service on or after the date of adoption of said section 26G½ and having a situs in the commonwealth, and used exclusively in the trade business of such taxpayer, as 5-year property as defined under section 168(e)(3) of the Federal Internal Revenue Code. The term 'automatic sprinkler system' means the system installed pursuant to the provisions of said section 26G½ and in accordance with the provisions of the state building code.

(b) Such depreciation deduction for the automatic sprinkler system shall be allowed only upon the condition that the net income for the taxable year and all succeeding taxable years be computed without any depreciation deduction upon the property other than the deduction allowed by this section.

SECTION ____. Chapter 63 of the General Laws is hereby amended by inserting after section 38R the following section:—

Section 38S. (a) In determining the net income subject to tax under this chapter, a domestic or foreign business corporation required to comply with the provisions of section 26G½ of chapter 148 and that has so complied, may, for the purposes of the depreciation deduction allowed under section 168 of the Federal Internal Revenue Code, classify an automatic sprinkler system placed in service on or after the date of adoption of said 26G½ and having a situs in the commonwealth, and used exclusively in the trade or business of such corporation, as 5-year property as defined under 168(e)(3) of the Federal Internal Revenue Code. The term 'automatic sprinkler system' means the system installed pursuant to the provisions of section 26G½ of said chapter 148 and in accordance with the provisions of the state building code.

(b) Such depreciation deduction for the automatic sprinkler system shall be allowed only upon the condition that the net income for the taxable year and all succeeding taxable years be computed without any depreciation deduction upon the property other than the deduction allowed by this section."

The amendment was adopted.

Subsequently, Ms. Barrios asked unanimous consent that no action having been taken on adoption of the amendment; but objection was made thereto by Mr. Lees.

Mr. Shannon moved that the bill (as corrected by House Bills in Third Reading) be amended in section 3, in the first paragraph of the proposed section 26G½ of chapter 148 of the General Laws, by adding the following sentence:— "The owner of any newly constructed or converted building or structure that includes a place of business with a capacity of 100 or more persons, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, and which also includes 1 or more residential apartments, shall be required to install an adequate system of automatic sprinklers throughout the building, including, but not limited to in accordance with the provisions of the state building code."

The amendment was adopted.

Mr. McGee moved that the amendment to the bill offered by Mr. Brewer regarding the Fire Safety Advisory Council be amended by inserting at the end thereof the following:—

"Such standards may incorporate the use of fire resistant coating. For the purposes of this section, fire resistant coating is defined as a coating that has attained both the room corner test FM 4880 or UL1715 or NFPA 286 on plywood and ASTM E-119 on numerous substrates found in general building construction."

The amendment was adopted.

Mr. Barrios moved that the bill be amended by inserting, after section 4 (as printed), the following text:—

"SECTION 4.1. Section 201 of chapter 6 of the General Laws is hereby amended by inserting after the words 'twenty-six A½', in lines 6, 50, 54, 57, 60, and 68, in each instance, the following words:— 'and twenty-six G½'."

After remarks, the amendment was adopted.

Mr. Tolman moved that the bill be amended in section 4, by inserting after the words "with a capacity of 50 persons or more", in line ___ (as printed), the following words:— "and with a structural makeup of two or more floors above ground level the majority of which are comprised of wood or some other flammable material".

After remarks, the amendment was *rejected*.

The bill, as amended, was then ordered to a third reading.

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

Mr. Shannon, for the committee on Bills in the Third Reading, reported, recommending that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2468 (as corrected by the committee).

The report was accepted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at eleven minutes before two o'clock P.M., on motion of Mr. Brewer, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 623]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The President in the Chair, the yeas and nays having been completed at seven minutes before two o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

At six minutes before two o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and, at twelve minutes before three o'clock P.M., the Senate reassembled, the President in the Chair.

The Senate Bill prohibiting illegal videotaping (Senate, No. 177),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. McGee, Ms. Creem and Messrs. O'Leary and Knapik moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:—

"Chapter 265 of the General Laws is hereby amended by adding the following section:—

Section 47. (a) For the purposes of this section the following terms shall have the following meanings:—

'Partially nude', that the human genitals, pubic areas or the human female breast below a point immediately above the top of the areola is exposed.

'Sexual intercourse', genital or anal penetration of one person by another, including the use of an inanimate object or penetration of another with a sex organ.

'Surveil', to observe visually.

(b) Whoever surveils, photographs, videotapes or otherwise records another person, while such person is nude, partially nude, or is engaged in sexual intercourse, actually or apparently, with the intent to secretly surveil or record such person, when such person has a reasonable expectation of privacy in not being so surveilled or recorded and without the consent of such person, shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than $10,000 or by both such fine and imprisonment.

(c) A secret recording of any oral communication may not be prosecuted under this section."; and

By striking out the title and inserting in place thereof the following title:— "An Act punishing certain surveilling, photographing, recording or videotaping."

Pending the question on adoption of the amendment, Ms. Fargo moved that the pending amendment (McGee, et al) be further amended by adding the following subsection:—

"(d) This section shall not apply to merchants that provide notification to consumers that video recording or monitoring is or may be in use in such merchant's dressing rooms, or that visual monitoring is or may be used in such areas. This notification of recording or surveillance must be in writing and posted in a conspicuous and prominent manner in each dressing room."

The further amendment (Fargo) was adopted.

The pending amendment (McGee, et al) as amended (Fargo) was considered; and it was adopted.

Mr. Hedlund moved that the bill be further amended by adding the following section:—

"SECTION 2. Chapter 266 of the General Laws is hereby amended by inserting after section 120 the following section:—

Section 120½. (a) For the purpose of this section, the word 'surveil' shall mean to observe visually.

(h) Whoever (1) without right enters or remains in or upon the dwelling house, building or boat of another, after having been forbidden to do so by a person who has lawful control of the premises, whether directly or by notice posted thereon, or in violation of a court order pursuant to section 34B of chapter 208 or section 3 or 4 of chapter 209A; and (2) surveils another person, with the intent to surveil secretly such person, when such person has a reasonable expectation of privacy in not being so surveilled and without such person's consent shall be punished by a fine of not more than $2,500 or imprisonment for not more than 2½ years or by both such fine and imprisonment.

(c) A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe has violated this section."

This amendment was adopted.

The bill (Senate, No. 2464) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to insurance rates (Senate, No. 2093),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Shannon moved that the bill be amended by substituting a new draft with the same title (Senate, No. 2465).

This amendment was adopted.

The bill (Senate, No. 2465) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill authorizing the Department of Fisheries, Wildlife and Environmental Law Enforcement to issue motor vehicle citations (Senate, No. 1287),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Brewer moved that the bill be amended by substituting a new draft entitled "An Act relative to the distribution of citation books to the office of law enforcement in the executive office of environmental affairs" (Senate, No. 2467).

This amendment was adopted.

The bill (Senate, No. 2467) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to unlawful conduct by non-residents of public housing (House, No. 1705),— was read a third time.

After remarks, the question on passing it to be engrossed, in concurrence, was determined by a call of the yeas and nays, at seven minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 1) [Yeas and Nays No. 624]:

YEAS.

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

NAY.

Wilkerson, Dianne — 1.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at one minute before three o'clock P.M., the bill was passed to be engrossed, in concurrence.

The Senate bills

To facilitate homeowners remediating heating oil spills (Senate, No. 2456); and

Relative to a retirement buy back from the State Board of Retirement (Senate, No. 2457);

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

Severally sent to the House for concurrence.

The Senate Bill directing the division of Capital Asset Management and Maintenance to convey certain parcels of land in the towns of Hopkinton and Westborough (Senate, No. 2462),— was read a third time.

Pending the question on passing the bill to be engrossed, on motion of Mr. Shannon, the further consideration thereof was postponed until Wednesday, July 28.

The House Bill further regulating the setting of private passenger automobile insurance rates (House, No. 4675, amended),— was read a third time and passed to be engrossed, in concurrence.

The House Bill relative to the underground cable reimbursement schedule (House, No. 4892, printed as amended),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Morrissey moved that the bill be amended in section 5, by striking out the word "plus" and inserting in place thereof the following words:— "but any utility may receive".

This amendment was adopted.

The bill was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

The Senate Bill relative to the worker's compensation exclusive remedy (Senate, No. 72, amended),— was considered, the question being on passing it to be engrossed.

Mr. Panagiotakos in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), on motion of Mr. Hart, the further consideration thereof was postponed until Friday, July 30.

The House Bill providing for dissection choice in the public schools (House, No. 1252, amended),— was considered.

Pending the question on passing the bill to be engrossed, Mr. Pacheco moved that the bill be amended by adding the following sentence:— "This section shall not be effective in any school district unless accepted by vote of the district's school committee."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty minutes past three o'clock P.M., on motion of Mr. Barrios, as follows to wit (yeas 11 — nays 27) [Yeas and Nays No. 625]:

YEAS.

Brewer, Stephen M.	Morrissey, Michael W.
Glodis, Guy W.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Knapik, Michael R.	Tarr, Bruce E.
McGee, Thomas M.	Tolman, Steven A. — 11.
Melconian, Linda J.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.

Brown, Scott P.	O'Leary, Robert A.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Shannon, Charles E.
Fargo, Susan C.	Sprague, Jo Ann
Hart, John A., Jr.	Tisei, Richard R.
Havern, Robert A.	Tucker, Susan C.
Hedlund, Robert L.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne — 27.
Magnani, David P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-six minutes past three o'clock P.M., the amendment was *rejected*.

After further debate, the question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at twenty-seven minutes past three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 35 — nays 3) [Yeas and Nays No. 626]:

YEAS.

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

Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 35.
McGee, Thomas M.	

NAYS.

Knapik, Michael R.	Pacheco, Marc R. — 3.
Melconian, Linda J.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a half past three o'clock P.M., the bill was passed to be engrossed, in concurrence.

PAPER FROM THE HOUSE.

The House Bill prohibiting certain practices in home mortgage lending (House, No. 4880),— came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2431, amended, *with further amendments* in section 6, in line 141, by inserting after the word "transaction.", the following sentence:— "Counseling shall be allowed in whole or in part by telephonic means."; and in lines 173 and 174 by striking out the following "in excess of 2 per cent of the total loan amount or $200" and inserting in place thereof the following:— "greater than 5 per cent of the total loan amount or $800".

The rules were suspended, on motion of Mr. Baddour, and the further House amendment was considered forthwith.

On further motion of Mr. Nuciforo, the Senate concurred in the House amendment *with a still further amendment* in section 6 (as corrected BTR), by striking out, in lines 173 and 174, the words, "greater than 5 per cent of the total loan amount or $800", and inserting in place thereof the following words:— "in excess of 2 per cent of the total loan amount or $200".

Motion to Take a Matter Out of the

Notice Section of the Calendar.

The Chair (Mr. Panagiotakos) requested that the House Bill establishing a citizen review board (House, No. 4969),— be taken out of the Notice Section of the Calendar; but objection was made thereto by Mr. Lees.

Engrossed Bills.

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

Authorizing the Superintendent of State office Buildings to install a plaque in the State House honoring Lieutenant Frances Y. Slanger (see House, No. 619);

Establishing a sick leave bank for Melissa J. Cornell, an employee of the Trial Court of the Commonwealth (see House, No. 4765);

Authorizing the city of Salem to grant 2 additional licenses for the sale of wines and malt beverages (see House, No. 4897); and

Authorizing certain borrowing by the town of Tewksbury (see House, No. 4965).

An engrossed Bill relative to the safe placement of newborn infants (see House, No. 4325, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at twenty-three minutes before four o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 627]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty minutes before four o'clock P.M., the bill was passed to be enacted and it was signed by the Acting President (Mr. Panagiotakos) and 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 Scott P. Brown, Elizabeth A. Poirier, Jeffery D. Perry, and Viriato Manuel deMacedo and other members of the General Court for legislation relative to sex offenders.

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.

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 Thomas M. McGee, Robert F. Fennell, Mark V. Falzone, Steven Myles Walsh and other members of the General Court for legislation to designate a memorial name to an intersection in Lynn.

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 Transportation.

Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 5019) of Cory Atkins for legislation to provide exemptions for certain school volunteers under the criminal offender record information law,— was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Criminal Justice.

The House Bill relative to court advisement (House, No. 4135),— came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the following:

"Chapter 278 of the General Laws is hereby amended by striking out section 29D, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:—

Section 29D. The court shall not accept a plea of guilty, a plea of nolo contendere, or an admission to sufficient facts from any defendant in any criminal proceeding unless the court advises such defendant of the following: 'If you are not a citizen of the United States, you are hereby advised that the acceptance by this court of your plea of guilty, plea of nolo contendere, or admission to sufficient facts may have consequences of deportation, exclusion from admission to the United States, or denial of naturalization, pursuant to the laws of the United States.' The court shall advise such defendant during every plea colloquy at which the defendant is proffering a plea of guilty, a plea of nolo contendere, or an admission to sufficient facts. The defendant shall not be required at the time of the plea to disclose to the court his legal status in the United States.

If the court fails so to advise the defendant, and he later at any time shows that his plea and conviction may have or has had one of the enumerated consequences, even if the defendant has already been deported from the United States, the court, on the defendant's motion, shall vacate the judgment, and permit the defendant to withdraw the plea of guilty, plea of nolo contendere, or admission of sufficient facts, and enter a plea of not guilty. Absent an official record or a contemporaneously written record kept in the court file that the court provided the advisement as prescribed in this section, including but not limited to a docket sheet that accurately reflects that the warning was given as required by this section, the defendant shall be presumed not to have received advisement. An advisement previously or subsequently provided the defendant during another plea colloquy shall not satisfy the advisement required by this section, nor shall it be used to presume the defendant understood the plea of guilty, or admission to sufficient facts he seeks to vacate would have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization.", *with a further amendment* adding at the end thereof the following section:—

"SECTION 2. The provisions of section 1 shall apply to pleas of guilty, pleas of nolo contendere and admissions to sufficient facts which occur on or after the effective date of this act. The provisions of former section 29D of Chapter 278 shall continue to apply to pleas of guilty, pleas of nolo contendere and admissions to sufficient facts which occurred before the effective date of this act.".

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

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Hamilton to convey certain land (see House, No. 4449, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at eighteen minutes before four o'clock P.M., as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 628]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

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

Engrossed Bill — State Credit.

An engrossed Bill relative to funds for School Building Assistance (see House, No. 4977) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, it being a bill that provided for the gift, loan or pledge of the credit of the Commonwealth, in accordance with the provisions of Section I of Article LXII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at fourteen minutes before four o'clock P.M., as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 629]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

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

A Bill providing for a retirement incentive for W. Philip Barrett and Claire Salois as employees of the city of Methuen (House, No. 4452,— on petition) [Local approval received],— was read.

There being no objection, the rules were suspended, on motion of Mr. Baddour, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act providing a retirement incentive for W. Philip Barrett and Claire Salois as employees of the city of Methuen.".

The engrossed Bill relative to electric transmissions (House, No. 4432),— came from the House amended as follows:— in section 1, in line 7 (as printed), by inserting after the word "selling" the words "or transmitting and selling, or transmitting only"; in section 3, in line 5 (as printed), by striking out the word "generating"; in section 6 (as printed), in line 5, by inserting after the word "company" (the third time it appears) the words "or any other entity"; in section 7 (as printed), in line 17, and also in section 8 (as printed), in lines 4 and 5, by striking out the words "or transmission company" and inserting in place thereof, in each instance, the words "distribution company, generation company, or transmission company or any other entity".

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

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

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

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

Item 1599-6901 (Human service providers) was considered as follows:

"1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2005, the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average percentage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed $20,000,000; provided further, that $10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than $25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that $10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than $25,001 and less than $40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that the annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein; and provided further, that the raises provided through this item shall be in addition to any already agreed to or collectively bargained for pay increases 20,000,000".

[The Governor disapproved this item.]

After debate, the question on passing item 1599-6901 contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before four o'clock P.M., as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 630]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at one minute before four o'clock P.M., item 1599-6901 contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 7061-0011 (Education funding) was considered as follows:

"7061-0011 For a reserve to (1) meet extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of section 3 of this act; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to the provisions of section 3 of this act; provided, further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of such application; provided, further, that preference shall be given to municipalities with an increase of greater than 25% in required contribution to any of the districts to which the municipality belongs as a result of the new regional allocation methodology; (2) meet expenses associated with extraordinary increases in enrollment calculated on a percentage basis for such municipalities; provided, that preference shall be given to districts with enrollment growth of greater than 10% from fiscal year 2000 through fiscal year 2005; (3) address the effects of reductions in per pupil chapter 70 aid between fiscal year 2003 and fiscal year 2005; provided, that preference in the awarding of such funds shall be given to districts which receive less than 20% of their foundation budgets as chapter 70 aid, and which received reductions in chapter 70 aid of greater than 10% between fiscal year 2003 and fiscal year 2004; (4) assist regional school districts which, prior to fiscal year 2005, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2005, will assess member towns using the required contributions calculated pursuant to chapter 70 of the general laws and section 3 of this act; (5) assist municipalities with median income below the state average and equalized valuation per capita above the state average; provided further, that preference in the awarding of funds shall be given to municipalities with required local contributions greater than 80% of their foundation budgets; (6) assist municipalities which pay a separate and additional tax to multiple fire districts within the municipality's borders, and which have required minimum contributions in excess of 80% of the municipal district's foundation budget; (7) assist municipalities negatively impacted by shortfalls in federal impact aid for the education of children of families employed by the federal government

on military reservations located within the town limits; (8) assist densely populated urban districts with high fixed costs and enrollment declines of greater than 3% resulting in no increase in Chapter 70 aid; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one time non-recurring basis; provided further, that the department shall make not less than 80 percent of awards from this line item no later than October 15, 2004; and provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2006 6,870,000".

[The Governor disapproved this item.]

The question on passing item 7061-0011 contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I Article II, of the Constitution, at four o'clock P.M., as follows, to wit (yeas 38 — nays 0) [Yeas and Nays No. 631]:

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at four minutes past four o'clock P.M., item 7061-0011 contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1231-1000 (DOR Commonwealth Sewer Rate Relief Fund) was considered as follows:

"1231-1000 For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the General Laws 10,000,000".

[The Governor disapproved this section.]

After debate, the question on passing item 1231-1000 contained in Section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes past four o'clock P.M., as follows, to wit (yeas 33 — nays 5) [Yeas and Nays No. 632]:

YEAS.

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

NAYS.

Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Knapik, Michael R.	Rosenberg, Stanley C. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at twenty-seven minutes past four o'clock P.M., item 1231-1000 contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

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. 4365) 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 62 (Newburyport Armory I) was considered as follows:

"SECTION 62. Item 8700-7997 of section 2 of chapter 289 of the acts of 1998, as amended by section 19 of chapter 245 of the acts of 2002, is hereby further amended by striking out the words 'For improvements to the Newburyport Armory' and inserting in place thereof the following words:— 'For improvements in the city of Newburyport'."

[The Governor disapproved this section.]

After remarks, the question on passing section 62, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-three minutes before five o'clock P.M., as follows, to wit (yeas 35 — nays 3) [Yeas and Nays No. 633]:

YEAS.

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

Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 35.
Melconian, Linda J.	

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 3.
Knapik, Michael R.	

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nineteen minutes before five o'clock P.M., section 62 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 63 (Newburyport Armory II) was considered as follows:

"SECTION 63. Said item 8700-7997 of said section 2 of said chapter 289, as so amended, is hereby further amended by striking out the words 'on the Newburyport Armory site'."

[The Governor disapproved this section.]

After remarks, the question on passing section 63, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eighteen minutes before five o'clock P.M., as follows, to wit (yeas 36 — nays 2) [Yeas and Nays No. 634]:

YEAS.

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

Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 36.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at a quarter before five o'clock P.M., Section 63 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

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

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

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

Item 0330-0300 (Trial Court administration) was considered as follows:

"0330-0300 For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, and insurance and chargeback costs; provided that funds may be expended for the judicial training institute; provided further, that the amount of increased compensation to certified private counsel appointed by the committee for public counsel services ordered by any court under Supreme Judicial Court Rule 3.10, section 5, shall be paid from this item; provided further, that 50 percent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30, or any general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any veteran, as so defined, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who (1) has held the office or position for not less than 1 year and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that not less than $100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than $100,000 shall be expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that the chief justice for administration and management of the trial court shall make a report to the general court relative to the annual cost of maintaining the court system's electronic equipment and systems and identify means to reduce the costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further, that in preparing said report the chief justice for administration and management may utilize the services of

appropriate third parties knowledgeable in equipment service contracts; provided further, that the chief justice for administration and management shall file said report with the house and senate committees on ways and means on or before October 1, 2004; provided further, that notwithstanding any general or special law or regulation to the contrary, the chief justice of administration and management of the trial court, in consultation with the state secretary, shall, not later than October 31, 2004, issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the trial court in order to achieve cost savings including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. The chief justice shall, in consultation with the state secretary, report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magistrate within said courts; provided further, that said report shall be submitted to the victim and witness assistance board on or before January 14, 2005; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure 103,671,838".

[The Governor having reduced item by $4,000,000 and disapproved wording as follows: "; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure"].

After debate, the question on passing item 0330-0300 contained in section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at fourteen minutes before five o'clock P.M., as follows, to wit (yeas 36 — nays 2) [Yeas and Nays No. 635]:

YEAS.

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

Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 36.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at nine minutes before five o'clock P.M., Item 0330-0300 contained in section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0331-3404 (Suffolk education and community outreach pilot) was considered as follows:

"0331-3404 For an education and community outreach pilot program to be administered in the Suffolk superior criminal court 178,902".

[The Governor disapproved this item]

After remarks, the question on passing item 0331-3404 contained in section 2, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eight minutes before five o'clock P.M., as follows, to wit (yeas 30 — nays 8) [Yeas and Nays No. 636]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.

Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 30.

NAYS.

Brown, Scott P.	Nuciforo, Andrea F., Jr.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 8.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed at four minutes before five o'clock P.M., item 0331-3404 contained in section 2, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 0330-3200 (Trial Court Court Officers) was considered as follows:

"0330-3200 For the court security program, including personnel and expenses; provided, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than January 31, 2005, detailing the number of court officers and security personnel located in each trial court of the commonwealth 49,967,224".

[The Governor reduced this item by $1,600,000]

The question on passing item 0330-3200 contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes before five o'clock P.M., as follows, to wit (yeas 36 — nays 2) [Yeas and Nays No. 637]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.

Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 36.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann — 2.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed one minute past five o'clock P.M., item 0330-3200 contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 320 (Solid waste facility location) was considered as follows:

"SECTION 320. Notwithstanding any general or special law to the contrary, a solid waste facility shall not be sited within nor shall a permit be granted for the establishment, construction, expansion, maintenance, or operation of a solid waste facility within the Zone II area of contribution, as said term is defined by section 22.02 of title 310 of the code of Massachusetts regulations, of an existing public water supply well; provided, however, that such a prohibition shall only apply to any proposed solid waste facility located at any place in the city of Brockton, which had not received a site assignment by the department of environmental protection on or before January 1, 2004."

[The Governor disapproved this section].

After remarks, the question on passing Section 320, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past five o'clock P.M., as follows, to wit (yeas 32 — nays 6) [Yeas and Nays No. 638]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.

Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tarr, Bruce E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 32.

NAYS.

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tisei, Richard R. — 6.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

The yeas and nays having been completed six minutes past five o'clock P.M., section 320 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

A Bill establishing the Massachusetts Health Care Trust (House, No. 4953,— being a new draft of Senate Bill, No. 2272, amended),— was read.

There being no objection, the rules were suspended, on motion of Mr. Havern, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act providing for a study of the financial feasibility of establishing the Massachusetts Health Care Trust."

Order Adopted.

On motion of Mr. Shannon,—

***Ordered,* That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M., in a full formal session without a calendar.**

On further motion of Mr. Shannon, at twenty-seven minutes before six o'clock P.M., the Senate adjourned to meet on the following day at one o'clock P.M.