

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.



JOURNAL OF THE SENATE.

Tuesday, May 4, 2004.

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

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

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) relinquished the gavel to the Senator from Middlesex and Norfolk, Ms. Creem, who introduced, seated in the rear of the Chamber, Susan Zuker, Matthew Zuker and Jonathan Zuker. They are the daughter and grandsons of the late Senator Frank Foster.

There being no objection, during consideration of the Orders of the Day, the Chair (Ms. Menard) relinquished the gavel to the Senator from Middlesex and Worcester, Ms. Resor, who introduced, seated in the rear of the Chamber, several members of the Council of State Governments, Alan V. Sokolow, Director, Eastern Office, Wendell M. Hannaford, Deputy Director, Karen Imas, Publications Manager, and Marge L. Kilkelly, Director of Northeast States Association for Agricultural Stewardship.

Communication.

The President in the Chair, a communication from the Massachusetts Highway Department (pursuant to line item 6010-0001 of the General Appropriation Act of fiscal year 2004) relative to quarterly reports required by line item 6010-0001 of the FY'04 budget (received Monday, May 3, 2004),— **was placed on file.**

Reports of Committees.

By Mr. Joyce, for the committee on Election Laws, on the recommitted petition (accompanied by bill, Senate, No. 2029), an Order relative to authorizing the joint committee on Election Laws to make an investigation and study of a certain Senate document relative to local voting rights in Amherst (Senate, No. 2341) [Local approval received on Senate, No. 2029]; **Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.**

By Mr. Tolman, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Sally Lamarre (Senate, No. 2336); **Read and, under Senate Rule 27, referred to the committee on Ways and Means.**

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 Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to public service (Senate, No. 2302), reported, in part, asking to be discharged from further consideration of the Senate petition (accompanied by bill, Senate, No. 2229) of Robert L. Hedlund for legislation relative

to the transfer of sick, personal or vacation time to State Trooper Mary T. McCauley of the Middlesex District Attorney's Office,— and recommending that the same be recommitted to the committee on Public Service; and

The same Senator, for the same committee, to whom was referred the Senate Order relative to authorizing the joint committee on Taxation to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to public service (Senate, No. 2335), reported, in part, asking to be discharged from further consideration of the Senate petition (accompanied by bill, Senate, No. 2180) of Andrea F. Nuciforo and William Smitty Pignatelli for legislation relative to the town of Lenox and the reimbursement of local room occupancy taxes,— and recommending that the same be recommitted to the committee on Taxation.

Severally under Senate Rule 36, the reports were considered forthwith and accepted.

PAPERS FROM THE HOUSE.

A Bill relative to the dissemination of criminal offender record information to the operators of camps for children (House, No. 4610,— on House, No. 4359),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Notice was received from the House that the House had called for a joint session of the two houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, for the purpose of considering a proposal for a legislative amendment to the Constitution relative to creating a permanent "Rainy Day" fund to provide stable revenues for the Commonwealth (House, No. 4691),— **with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought to pass.**

Reconsideration of Referral to Committee.

Mr. Barrios moved that the Senate reconsider the vote by which, at a previous session, it had concurred in reference to the committee on the Judiciary the message from His Excellency the Governor recommending legislation relative to the authorization of the Governor to request an extension of the stay in Goodridge et al. v. Department of Public Health et al, SJC-08860 (accompanied by bill, House, No. 4679).

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

Resolutions.

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

Resolutions (filed by Ms. Resor, Messrs. Antonioni, Baddour, Barrios, Berry, Brewer and Brown, Ms. Chandler, Mr. Creedon, Ms. Creem, Ms. Fargo, Messrs. Glodis, Hart, Havern, Hedlund, Joyce, Knapik, Lees, Magnani and McGee, Ms. Melconian, Ms. Menard, Messrs. Montigny, Moore and Morrissey, Ms. Murray, Messrs. Nuciforo, O'Leary, Pacheco, Panagiotakos, Rosenberg and Shannon, Mrs. Sprague, Messrs. Tarr, Tisei and Tolman, Ms. Tucker, Ms. Walsh and Ms. Wilkerson) "recognizing National Nurses Week";

Resolutions (filed by Mrs. Sprague and Mr. Brown) "recognizing Judith H. Robbins and her many years of dedicated service to the city of Attleboro"; and

Resolutions (filed by Mr. Tisei) "congratulating the First Educational Savings Bank."

Report of a Committee.

A report of the committee on the Judiciary, ought NOT to pass (under Joint Rule 10) on the petition (accompanied by bill, Senate, No. 2173) of Frederick E. Berry, Mary E. Grant and Theodore C. Speliotis for legislation relative to adjustment or recovery of medical assistance (the time within which said committee had to report having expired).

There being no objection, the rules were suspended, on motion of Mr. Berry, and the matter was considered forthwith. On further motion of the same Senator, the petition was recommitted to the committee on the Judiciary.

Motion to Take Out of the Orders of the Day — Objection.

The President requested that the following matter be taken out of the Orders of the Day and considered forthwith:

The Senate Bill to extend the ban on assault weapons and further reduce gun violence in the Commonwealth (Senate, No. 2282),— **but objection was made thereto by Mr. Lees.**

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill relative to the Jacob Sears Memorial Library (see House, No. 3746, amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.**

A petition (accompanied by bill, House, No. 4699) of Demetrius J. Atsalis relative to the determination of distribution of state aid for education,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Education, Arts and Humanities.**

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Prohibiting illegal videotaping (Senate, No. 177);

Protecting consumers against additional charges from new area codes (Senate, No. 446);

Allowing for quarterly or monthly Medicaid statements (Senate, No. 678);

Authorizing the Massachusetts Highway Department to install certain signs (Senate, No. 1887);

Relative to the definition of Korean War veteran (Senate, No. 2136);

Relative to the lease of a property in Oak Bluffs (Senate, No. 2197);

Relative to water and sewer service in the city of Taunton (Senate, No. 2213);

Authorizing the city of Revere to reduce water and sewer fee liability in exchange for volunteer services by persons over age 60 (Senate, No. 2223);

Authorizing self-monitoring and treatment of students with diabetes (Senate, No. 2231);

Relative to certain conservation land in the town of Amherst (Senate, No. 2261);

Relative to the Nantucket Housing Authority (Senate, No. 2274);

Requiring written responses to inquiries from family members and guardians of nursing home, rest home and long-term care facility residents (Senate, No. 2275);

Authorizing the city of Waltham to continue the use of certain park land for water purposes (printed as House, No. 3849);

Relative to the removal of veterans' commemorative flag holders (House, No. 2390);

Authorizing the city of Taunton to re-institute an early retirement program (House, No. 3871);

Authorizing the town of Northbridge to issue an additional license for the sale of all alcoholic beverages not be drunk on the premises (House, No. 3935);

Relative to the membership of the conservation commission of the town of Bourne (House, No. 4057);

Relative to certain health premium payments made by the town of Mashpee (House, No. 4085);

Relative to public charities (House, No. 4234);

Providing for a statement relative to veteran status on ballots for city of Brockton elections (House, No. 4337);

Relative to the release of a conservation restriction in the town of Grafton (House, No. 4352);

Relative to the establishment of the position of director of finance in the city of Revere (House, No. 4508); and

Abolishing the Wareham Economic and Industrial Development Corporation and the Wareham Community Development Authority (House, No. 4566);

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

The Senate Bill relative to special veterans plates (Senate, No. 2338),— **was read a third time and passed to be engrossed. Sent to the House for concurrence.**

The Senate report of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1307) of Cynthia S. Creem, Carol A. Donovan, Stephen M. Brewer and other members of the General Court for legislation relative to the suspension of drivers' licenses,— **was considered; and it was accepted.**

The House report of the committee on Insurance, ought NOT to pass, on so much of the recommendations of the Division of Medical Assistance (House, No. 57) as relates to the MassHealth insurance claim payment intercept program (accompanied by bill, House, No. 60),— **was considered; and it was accepted, in concurrence.**

Ms. Menard in the Chair, the Senate Bill to amend insurance requirements for home inspectors (Senate, No. 415),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Creedon, the bill was referred to the committee on the Judiciary.
Sent to the House for concurrence.

The Senate Bill relative to the Division of Administrative Law Appeals (Senate, No. 581),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Lees, the bill was recommitted to the committee on Health Care.

The Senate Bill relative to frozen desserts and frozen dessert mix (Senate, No. 586),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Lees, the further consideration thereof was postponed until the next session.

The Senate Bill relative to licensing of milk pasteurization plants located within the Commonwealth (Senate, No. 596),— **was read a second time and ordered to a third reading.**

The Senate Bill to provide tenant participation in housing or redevelopment authorities (Senate, No. 738),— was read a second time.

Pending the question on ordering the bill to a third reading, after remarks, on motion of Mr. Lees, the bill was recommitted to the committee on Housing and Urban Development.

The Senate bills

Protecting the environment (Senate, No. 1193); and

Further regulating the sale and advertising of certain produce and turkeys (Senate, No. 1200);

Were severally read a second time and, after remarks, in each instance, were severally ordered to a third reading.

The Senate Bill relative to the modification of the helmet law (Senate, No. 1363),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Shannon, the further consideration thereof was postponed until Tuesday, May 18.

The House Bill relative to campaign finance (House, No. 1268, changed),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Lees, the further consideration thereof was postponed until Tuesday, June 8.

Subsequently, Mr. Hart asked unanimous consent that no action having been taken on the matter; but objection was made thereto by Mr. Lees.

The House Bill relative to liquor legal liability insurance (House, No. 1881),— **was read a second time and, after remarks, was ordered to a third reading.**

The House Bill relative to provisional employees in the city of Worcester (House, No. 3839),— **was read a second time and, after remarks, was ordered to a third reading.**

The House Bill relative to the charter of the city of Gloucester (House, No. 4092),— **was read a second time and ordered to a third reading.**

The Senate Bill relative to banks and banking (Senate, No. 2045, amended),— was read a third time, and after remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at ten minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit: (yeas 39 — nays 0) **[Yeas and Nays No. 518]:**

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
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
Menard, Joan M.	Wilkerson, Dianne —
McGee, Thomas M.	39.

NAYS — 0.

The yeas and nays having been completed at sixteen minutes past two o’clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

The Senate Bill requiring college students immunization against meningococcal disease (Senate, No. 2159, amended),— **was read a third time and, after remarks, was passed to be engrossed. Sent to the House for concurrence.**

The Senate Bill relative to managed care contracts with home health agencies (Senate, No. 2329),— was read a third time and, after remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-nine minutes past two o’clock P.M., on motion of Mr. Lees, as follows, to wit: (yeas 39 — nays 0)[**Yeas and Nays No. 519**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
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
Menard, Joan M.	Wilkerson, Dianne —
McGee, Thomas M.	39.

NAYS — 0.

The yeas and nays having been completed at twenty-seven minutes before three o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to court advisement (House, No. 4135),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Montigny moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:—

“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 so fails 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 defendants’ 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 consequence of deportation, exclusion from admission to the United States, or denial of naturalization.”.

After remarks, the amendment was *adopted*.

The question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at sixteen minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 520**]:

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
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
Menard, Joan M.	Wilkerson, Dianne —
McGee, Thomas M.	39.

NAYS — 0.

**The yeas and nays having been completed at twelve minutes before three o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.**

The Senate Bill relative to the Massachusetts Credit Union Share Insurance Corporation (Senate, No. 2267),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Nuciforo moved that the bill be amended by striking out section 4; in section 6, by striking out subsection (d) and inserting in place thereof the following subsection:—

“(d) With the approval of the commissioner, the board of directors may pay to regular, excess or inactive members a dividend computed on the aggregate assessments paid by each member pursuant to this chapter.”; and by striking out section 7 and inserting in place thereof the following section:—

“SECTION 7. Said chapter 294 is hereby amended by striking out section 9 and inserting in place thereof the following section:—

Section 9. The board of directors of the corporation may by their vote and with the approval of the commissioner borrow money for the purposes of the share insurance fund and may pledge any assets in which such fund is invested as security for such loans. The directors may buy reinsurance and bonds or make purchases of stock or otherwise participate in the capital structure of a corporation for the purposes of protecting and strengthening the share insurance fund and reducing and diversifying the overall risk to the fund or make purchases of stock in a corporation formed for the purpose of providing excess insurance or of reinsuring share insurance corporations. The corporation may evaluate and transfer funds to a regional or national share insurance corporation whose primary function is for the insurance of shares or the reinsurance of share insurance corporations.”.

The amendment was adopted.

The bill (Senate, No. 2267, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill further regulating tips received by certain employees (House, No. 4431) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Hart moved that the bill be amended by inserting before section 1 the following 18 sections:—

“SECTION 1. Section 27B of said chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 7, the words ‘to the commissioner’ and inserting in place thereof the following words:— promptly furnish to the attorney general, or his representative.

SECTION 2. Said section 27B of said chapter 149, as so appearing, is hereby further amended by inserting after the word ‘authority’, in line 17, the following word:— directly.

SECTION 3. Said section 27B of said chapter 149, as so appearing, is hereby further amended by striking out, in line 22, the words ‘commissioner of labor and industries’ and inserting in place thereof the following words:— awarding authority directly.

SECTION 4. Said section 27B of said chapter 149, as so appearing, is hereby further amended by striking out the words ‘interested party’, in line 28, and inserting in place thereof the following word:— person.

SECTION 5. Said section 27B of said chapter 149, as so appearing, is hereby further amended by striking out the word 'commissioner', in line 29, and inserting in place thereof the following words:— awarding authority.

SECTION 6. Said section 27B of said chapter 149, as so appearing, is hereby further amended by inserting after the word 'inspection', in line 28, the following words:— and copying.

SECTION 7. Section 27C of chapter 149 of the General Laws, as appearing, in the 2002 Official Edition, is hereby amended by striking out, in line 27, the words 'or 27H' and inserting in place thereof the following words:— , 27H or 148B.

SECTION 8. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 34, the words 'or 27H' and inserting in place thereof the following words:— , 27H or 148B.

SECTION 9. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 44, the word 'send' and inserting in place thereof the following word:— publish.

SECTION 10. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 83, the words 'or 27H' and inserting in place thereof the following word:— , 27H or 148B.

SECTION 11. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 91, the word 'such' and inserting in place thereof the word:— 'a.'

SECTION 12. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 94, the word 'such' and inserting in place thereof the word:— 'a.'

SECTION 13. Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word 'order', in line 103 the following words:— or a final court order, whichever is later.

SECTION 14. Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word 'affirm', in lines 113 and 114, the following words:— or if the aggrieved person demonstrates by a preponderance of evidence that the citation or order was erroneously issued.

SECTION 15. Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word 'complaint', in line 131 the following words:— or seek indictment.

SECTION 16. Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word 'amount', in line 136, the following words:— and any restitution order.

SECTION 17. Section 150 of said chapter 149, as so appearing, is hereby amended by inserting after the word 'complaint', in line 1, the following words:— or seek indictment.

SECTION 18. Said section 150 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 2 and 3, the words 'within three months after the date thereof.' “; and by adding the following 4 sections:—

“SECTION 21. Section 15 of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words 'they shall have the right to make a transcript thereof' and inserting in place thereof the following words:— the employer shall furnish immediately to the attorney general, commissioner or representative, upon request, a copy of any of these records.

SECTION 22. Said section 15 of said chapter 151, as so appearing, is hereby further amended by adding the following sentence:— An employer shall allow an employee at reasonable times and places to inspect the records kept under this section and pertaining to that employee.

SECTION 23. Section 19 of said chapter 151, as so appearing, is hereby amended by striking out subsection (3) and inserting in place thereof the following subsection:—

(3) An employer or the officer or agent of a corporation who fails to keep the true and accurate records required under this chapter or to furnish a record to the attorney general, the commissioner, or an authorized representative of the attorney general or commissioner upon request, or who falsifies a record, or who fails to allow an employee to inspect a records under section 15, or who fails to comply with a requirement of the commissioner under the last sentence of section 16, or who hinders or delays the attorney general, commissioner or representative in the performance of his duties, or who refuses to admit, or locks out, the attorney general, commissioner, or representative from a place of employment, other than a place of employment of a person engaged in domestic service in the home of the employer, which he is authorized to inspect, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each day of the

failure to keep a record or to furnish to the attorney general, commissioner or representative a record or other information required for the proper enforcement of this chapter shall constitute a separate offense.

SECTION 24. Subsection (5) of said section 19 of said chapter 151, as so appearing, is hereby amended by adding the following sentence:— An employer who discharges or in any other manner penalizes or discriminates against an employee because the employee has made a complaint to the attorney general or any other person, or assists the attorney general in an investigation under this chapter, or has instituted, or caused to be instituted a proceeding under or related to this chapter, or has testified or is about to testify in the proceeding, or has taken any other action to seek rights under this chapter, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.”

After remarks, the 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 report of the committee on Commerce and Labor, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 60) of Brian P. Lees, Linda J. Melconian, Stephen M. Brewer, Jo Ann Sprague and other members of the General Court for legislation relative to the elective participation of corporate officers in worker’s compensation,— was considered.

Mr. Lees moved substitution of the bill for the committee report and the motion was *negatived*.

The report was then accepted.

The Senate report of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1334) of Michael R. Knapik, Robert L. Hedlund, Brian P. Lees, Richard R. Tisei and other members of the General Court for legislation to authorize police officers to take certain actions outside their jurisdiction,— was considered.

After remarks, and pending the question on acceptance of the committee report, on motion of Mr. Lees, the further consideration thereof was postponed until the next session.

The House report of the committee on Transportation, ought NOT to pass, on the message from His Excellency the Governor recommending legislation relative to the financial sustainability of the Massachusetts Turnpike Authority (accompanied by bill, House, No. 3804),— **was considered; and it was accepted, in concurrence.**

The Senate Bill ensuring that parents of children prescribed psychotropic drugs receive adequate information (Senate, No. 674),— was considered, the question being on passing the bill to be engrossed.

Messrs. Shannon and Moore moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following text:—

“SECTION 1. Section 23 of chapter 94C of the General Laws, as most recently amended by section 2 of chapter 133 of the acts of 2003, is hereby further amended by adding the following subsection:—

(i) The commissioner of the department of mental health shall convene a task force consisting of 1 representative each from the department of medical assistance, the department of public health, the Massachusetts Psychiatric Society, the Massachusetts College of Pharmacy and Health Sciences, the Massachusetts chapter of the American Academy of Pediatricians, and a consumer who is the parent or guardian of a minor who is currently prescribed psychotropic medication.

The task force shall develop and implement a list of the 20 most commonly prescribed psychotropic medications for children, including a description in plain language of the most common side effects of each medication. The task force shall update the list annually. The commissioner of the department of mental health shall post the written information provided by the task force on the department’s website, to be available to prescribers and the general public.

Before a practitioner prescribes a psychotropic drug for use by a patient who is a minor in a non-inpatient setting, or before discharging the minor from an inpatient facility, a copy of the information provided by the task force shall be made available to the minor’s parent or legal guardian. The prescriber shall note in the patient’s record that the information has been provided to the parent or legal guardian. If the parent or legal guardian is incapable of understanding the psychotropic drug information, the practitioner shall explain the information, including side effects, before providing the prescription to the patient. Providing the information to the parent or legal guardian shall not be considered a substitute for informed consent.

SECTION 2. The task force created under section 1 shall hold its initial meeting within 90 days of the effective date of this act.”. The amendment was *adopted*.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at eleven minutes past three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 1) [**Yeas and Nays No. 521**]:

YEAS.

Antonioni, Robert A. Melconian, Linda J.

Baddour, Steven A.	Moore, Richard T.
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 P.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne —
	37.
Menard, Joan M.	

NAYS

Montigny, Mark C. — **1.**

ABSENT OR NOT VOTING.

McGee, Thomas M. — **1.**

**The yeas and nays having been completed at seventeen minutes past three o'clock P.M., the bill (Senate, No. 674, amended) was passed to be engrossed.
Sent to the House for concurrence.**

The Senate Bill regarding unlicensed practice of certain professions (Senate, No. 422),— was considered, the question on passing the bill to be engrossed.

The pending amendment, previously moved by Mr. Lees, striking out all after the enacting clause and inserting in place thereof the following new text:—

SECTION 1. Section 65 of chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 5, the words 'one thousand dollars' and inserting in place thereof the following figure:— \$5,000.

SECTION 2. Said chapter 112 is hereby further amended by inserting after section 65 the following 2 sections:—

Section 65A. Each board of registration within the division of professional licensure may, after opportunity for a hearing, assess and collect a civil administrative penalty of up to \$5,000 for each violation upon a person who practices a trade or profession at a time when his license, certificate, registration or authority to do so from that board is not valid because it has been suspended, revoked or canceled under this chapter or because it has expired. The penalty shall be in addition to all other penalties and remedies that may be provided by law. A board may apply to the appropriate court for a restraining order enjoining such unlicensed practice or for an order for payment of an assessed penalty, or both, and may obtain such other orders as may be appropriate. All penalties collected shall be deposited in the Division of Professional Licensure Trust Fund established under subsection (a) of section 35V of chapter 10.

Section 65B. Each board of registration within the division of professional licensure may, after opportunity for a hearing, assess and collect a civil administrative penalty of up to \$5,000 for each violation upon a person who, without holding the required license, certificate, registration or authority is required from that board, engages in the practice of a trade or profession for which a license, certificate, registration or authority is required. The penalty shall be in addition to all other penalties and remedies that may be provided by law. A board may apply to the appropriate court for a restraining order enjoining such unlicensed practice or for an order for payment of an assessed penalty, or both, and may obtain such other orders as may be appropriate. All penalties collected shall be deposited in the Division of Professional Licensure Trust Fund, established under subsection (a) of section 35V

of chapter 10.”— was considered.

The amendment was adopted.

The bill (Senate, No. 422, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to the practice of dental assisting (Senate, No. 508),— **was considered; and, after remarks, it was ordered to a third reading.**

The Senate Bill relative to cemeteries and burials (Senate, No. 648),— **was considered; and it was ordered to a third reading.**

The Senate Bill relative to municipal light plant department security deposits (Senate, No. 2211),— was considered, the main question being on ordering it to a third reading.

Mr. Pacheco moved that the pending motion to lay the matter on the table be withdrawn; and there being no objection, the motion was *withdrawn*.

Mr. Pacheco further moved that the bill be amended by adding after the words “ending December of the prior year.” the following text:—

“No municipal light department, as defined in this section, shall realize and retain a profit based on this security deposit formulation. Any such profit shall be returned to the consumer in the form of a rate reduction.”

Pending the adoption of the amendment and pending the main question on ordering the bill to a third reading, Mr. Pacheco further moved that the amendment be printed in the calendar pursuant to the provisions of Senate Rule 31; and the motion was seconded by Mr. Moore.

Accordingly, the matter was laid over under the provisions of Senate Rule 31 until the next session.

The House Bill relative to the dissemination of criminal record information to private detectives (House, No. 1721),— was considered, the main question being on ordering it to a third reading.

Mr. Nuciforo moved that the pending motion to lay the matter on the table be withdrawn; and there being no objection, the motion was *withdrawn*.

After remarks, the bill was then ordered to a third reading.

The Senate Bill to extend the ban on assault weapons and further reduce gun violence in the Commonwealth (Senate, No. 2282),— was considered; the question being on ordering it to a third reading.

Messrs. Brewer and Moore moved that the bill be amended by striking out sections 4, 5 and 6 and inserting in place thereof the following:—

“SECTION 4. Paragraph (1) of section 129D of said chapter 140, as so appearing, is hereby amended by striking out clauses (i) and (ii) and inserting in place thereof the following:—

(i) has ever, in a court of the commonwealth, been convicted or adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of more than one year may be imposed; (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in said section 1 of said chapter 94C; provided, however, that except for the commission of a violent crime or a felony involving the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition or a felony involving the use, possession or sale of controlled substances or the second or subsequent conviction of a felony or a misdemeanor punishable by imprisonment for more than two years, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than seven years immediately preceding such application, such applicant’s civil rights and ability to possess a rifle or shotgun or ammunition therefore shall be deemed to be fully restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearm identification card.

(ii) has, in any state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of more than one year may be imposed; (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in said section 1 of said chapter

94C; provided, however, that except for the commission of a violent crime or a felony involving the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition or a felony involving the use, possession or sale of controlled substances or the second or subsequent conviction of a felony or a misdemeanor punishable by imprisonment for more than two years, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than seven years immediately preceding such application, such applicant's civil rights and ability to possess a rifle or shotgun or ammunition therefore shall be deemed to be fully restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearm identification card.

SECTION 5. Subsection (d) of said section 131 of said chapter 140, as so appearing, is hereby amended by striking out clause (i) and inserting the place thereof the following clause:—

(i) has, in any state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of more than one year may be imposed; (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in said section 1 of said chapter 94C; provided, however, that except for the commission of a violent crime or a felony involving the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition or a felony involving the use, possession or sale of controlled substances or the second or subsequent conviction of a felony or a misdemeanor punishable by imprisonment for more than two years, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than seven years immediately preceding such application, such applicant's civil rights and ability to possess firearms shall be deemed to be fully restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a Class A or Class B license to carry firearms.

SECTION 6. Section 129B of chapter 140, as so appearing, is hereby amended by inserting after the word 'issue', in line 167, the following words:— provided, however, that if the cardholder applied for renewal before said card expired, such card shall remain valid for a period of 90 days after the state expiration date on the card unless the renewal was denied.

SECTION 7. Said section 129B of said chapter 140, as so appearing, is hereby further amended by inserting after the word 'expired', in lines 201 and 215, in each instance, the following words:— , meaning after 90 days after the stated expiration date on the card.

SECTION 8. The first paragraph of paragraph (i) of section 131 of said chapter 140 of the General Laws, as so appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:— For the purposes of provisions of section 10 of chapter 269, an expired license to carry firearms, shall be deemed to be valid for a period not to exceed 90 days beyond the date of expiration, except that this provision shall not apply to any such license to carry firearms which has been revoked or relative to which a revocation is pending.

SECTION 9. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word 'issue', in line 230, the following words:— ; provided, however, that if the licensee applied for renewal before said license expired, such license shall remain valid for a period of 90 days after the stated expiration date on the license unless the renewal was denied.

SECTION 10. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word 'expired', in lines 280 and 293, in each instance, the following words:— , meaning after 90 days after the stated expiration date on the license."

Pending the adoption of the amendment and pending the main question on ordering the bill to a third reading, at the request of Messrs. Brewer and Moore, the matter was laid over until the next session, under the provisions of Senate Rule 31.

Ms. Walsh in the Chair, the following House Order (approved by the committees on Rules of the two branches, acting concurrently)

"Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on State Administration be granted until Friday, May 28, 2004 in which to make its final report on Senate documents numbered 1622, 1623, 1625, 1627, 1628, 1632, 1633, 1634, 1635, 1640, 1642, 1644, 1645, 1646, 1647, 1648, 1650, 1656, 1657, 1658, 1659, 1662, 1663, 1664, 1669, 1670, 1673, 1674, 1677, 1680, 1682, 1689, 1690, 1695, 1696, 1697, 1703, 1704, 1705, 1706, 1707, 1708, 1978, 2084 and 2233 and House documents numbered 42, 51, 52, 53, 54, 55, 259, 260, 261, 262, 264, 448, 449, 451, 615, 616, 617, 618, 622, 842, 1018, 1200, 1202, 1203, 1204, 1205, 1206, 1207, 1209, 1242, 1376, 1377, 1378, 1380, 1381, 1382, 1384, 1385, 1387, 1587, 1589, 1590, 1591, 1766, 1768, 1770, 1940, 1941, 1942, 2154, 2155, 2159, 2363, 2366, 2368, 2529, 2531, 2532, 2534, 2692, 2694, 2697, 2698, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2889, 2890, 3077, 3239, 3240, 3437, 3438, 3440, 3441, 3442, 3443, 3444, 3446, 3447, 3592, 3593, 3595, 3698, 3699, 3702, 3703, 3704, 3803, 3897, 4113, 4168, 4192, 4212, 4268, 4269, 4335,

4384, 4442, 4492, 4530, 4531, 4551, 4576 and 4596, relative to the administration of the commonwealth”,— **was considered; and it was adopted, in concurrence.**

The Senate Bill relative to pilotage in Massachusetts (Senate, No. 2097),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Lees, the further consideration thereof was postponed until the next session.

The House Bill relative to the boundary line between the towns of Groton and Pepperell (House, No. 4334),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Mr. Lees, the further consideration thereof was postponed until the next session.

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.

On motion of Mr. Lees, the further consideration thereof was postponed until the next session.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill to determine the financial feasibility of establishing the Massachusetts Health Care Trust (Senate, No. 2272),— ought to pass, with an amendment in section 1, by striking out the last sentence and inserting in place thereof the following sentence: “The division shall report the results of its findings to the joint committee on health care and to the house and senate committees on ways and means no later than December 1, 2004.”.

The rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2272, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at ten minutes before four o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) **[Yeas and Nays No. 522]:**

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
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
Menard, Joan M.	Wilkerson, Dianne —
McGee, Thomas M.	39.

NAYS — 0.

The yeas and nays having been completed at five minutes before four o'clock P.M., the bill was passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows. "An Act requiring a study of the financial feasibility of establishing the Massachusetts Health Care Trust." Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill relative to the disposition of certain state owned land in the city of Medford (see House, No. 3076, 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 four minutes before four o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 523**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
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 P.
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 36.

NAYS

Lees, Brian P.— **1.**

ANSWERED "PRESENT".

Hedlund, Robert L.	Knapik, Michael R. — 2.
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The yeas and nays having been completed at four o'clock P.M., the bill was passed to be enacted, two-thirds of the members present and voting having agreed to pass the same, and it was signed by the Acting President (Ms. Walsh) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Brewer,—

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

On motion of Mr. Lees, at one minute past four o'clock P.M., the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.