

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.

Thursday, October 23, 2003.

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

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

Communications.

The following communications were severally placed on file:

Communication from the Administrative Office of the Trial Court relative to the expansion of interpreter services in the Commonwealth (received Monday, September 15, 2003);

Communication from the Public Employee Retirement Administration Commission submitting a copy of its actuarial valuation of the Commonwealth's Total Pension Obligation (received Monday, September 29, 2003);

Communication from the Executive Office of Transportation and Construction submitting copies of several reports required through account 6000-0100 (received Wednesday, October 1, 2003); and

Communication from the Executive Office of Transportation and Construction submitting a copy of its annual report on the Lynn/Boston Transportation Study (received Tuesday, October 14, 2003).

Reports.

The following reports were severally read and placed on file:

A report of the Department of Environmental Protection (under the provisions of Section 3(h) of Chapter 21I of the General Laws) relative to its 2001 Toxic Use Information Release (received Thursday, September 18, 2003);

A report of the Massachusetts Turnpike Authority (under the provisions of Section 9 of Chapter 87 of the Acts of 2000) relative to the status of the Central Artery/Tunnel Project (received Monday, September 22, 2003);

A report of the Division of Employment and Training (under the provisions of Chapter 233 of the Acts of 1983) relative to the condition of the Commonwealth's Unemployment Insurance Trust Fund (received Friday, September 26, 2003);

A report of the Economic Assistance Coordinating Council submitting a copy of its annual report for fiscal year ended 2003 (received Tuesday, September 30, 2003);

A report of the Massachusetts Biologic Laboratories (under the provisions of Section 43(f) of Chapter 75 of the General Laws) submitting its seventh annual report on its activities for the fiscal year 2003 (received Tuesday, September 30, 2003);

A report of the Massachusetts Legal Assistance Corporation (under the provisions of Section 10 of Chapter 221A of the General Laws) submitting its annual report for fiscal year 2003 (received Tuesday, September 30, 2003);

A report of the Nantucket Regional Transit Authority (under the provisions of Chapter 161B of the General Laws) submitting its annual report (received Monday, October, 6, 2003);

A report of the Group Insurance Commission (under the provisions of Section 21 of Chapter 32A of the General Laws) submitting its annual report on vendor quality improvement activities (received Monday, October 6, 2003); and

A report of the Merrimack Valley Regional Transit Authority (under the provisions of Chapter 161B of the General Laws) submitting its annual report for fiscal year 2003 (received Thursday, October 9, 2003).

The following reports were severally read and sent to the House for its information:

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 Northeastern Correctional Center (received Monday, September 15, 2003);

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 Barnstable County Jail and House of Correction (received Monday, September 29, 2003);

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 Dukes County Jail and House of Correction (received Monday, September 29, 2003);

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 MCI Plymouth (received Friday, October 10, 2003);

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 Friday, October 17, 2003); and

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 South Middlesex Pre-Release Center (received Monday, October 20, 2003).

Petition.

Mr. Joyce presented a petition (subject to Joint Rule 12) of Brian A. Joyce for legislation to authorize the sale of certain land in the town of Milton to Alexis W. Blood,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to promoting job creation, workforce training and economic development in the Commonwealth (House, No. 4245),— **was referred, in concurrence, to the committee on Taxation.**

A petition (accompanied by bill, House, No. 4247) of J. James Marzilli, Jr., Robert A. Havern, Jay R. Kaufman and Anne M. Paulsen (by vote of the town) for legislation to eliminate the residency requirement for appointment to the position of town manager in the town of Arlington,— **was referred, in concurrence, to the committee on Local Affairs and Regional Government.**

Bills

Making certain changes to the tax laws of the Commonwealth (House, No. 4254,— on House, No. 4215) ; and

Relative to compensation for certain erroneous felony convictions (House, No. 4255,— on House, No. 4166) ;
Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

A Bill providing for the annual observance of myositis awareness day (House, No. 3970,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

A Bill relative to the Inland Fisheries and Game Fund (House, No. 4248, amended,— on House, No. 4228),— was read.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time.

The same Senator moved that the bill (as corrected by the committee on Bills in Third Reading) be amended by inserting after section 6 the following 2 sections:—

“SECTION 6A. Item 2310-0200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after the words ‘endangered species program’ the following words:— ; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns of Montague and Sandwich previously scheduled to close on January 1, 2004.

SECTION 6B. Said item 2310-0200 of said section 2 of said chapter 26 is hereby further amended by striking out the figure “\$6,782,731” and inserting in place thereof the following figure:— \$6,982,731.”

The amendment was adopted.

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

After debate, the question on passing the bill, as amended, to be engrossed was determined by a call of the yeas and nays, at a quarter past one o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 35 — nays 0) **[Yeas and Nays No. 336]:**

YEAS.

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

NAYS — 0.

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 5.
Shannon, Charles E.	

The yeas and nays having been completed at twenty-five minutes past one o’clock P.M., the bill, (House, No. 4248, amended) was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.

Subsequently, Ms. Walsh asked unanimous consent to make a statement; and there being no objection, she addressed the Senate as follows:

MR. PRESIDENT: During the taking of the yeas and nays on House, No. 4248, I was unable to be present in the Chamber. Had I been present when the vote was taken, I would have voted in the affirmative.

The same Senator then moved that her remarks be printed in the Journal of the Senate; and the motion prevailed.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Establishing the Ipswich affordable housing trust fund (Senate, No. 1987);

Relating to the issuance of bonds by the town of Orleans for the purpose of creating and/or preserving affordable housing (Senate, No. 2021);

Relative to the issuance of additional liquor licenses in the town of Winchester (printed as Senate, No. 2032); and

Authorizing the town of Saugus to continue the employment of police officer Peter Cicolini (House, No. 4115);

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

The Senate bills

Establishing reasonable fees for copying medical records (Senate, No. 642) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the commissioner of conservation and recreation to modify, extinguish and relocate a certain easement in the city of Lawrence (Senate, No. 2083, changed and amended);

Authorizing the State Board of Retirement to grant creditable service to Joseph A. Quinlan (Senate, No. 2116); and

Authorizing the Division of Capital Asset Management and Maintenance to transfer a certain parcel of conservation/recreation land within the town of Sandwich (Senate, No. 2117);

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

Severally sent to the House for concurrence.

The House Bill establishing a sick leave bank for Christopher Boumil, an employee of the Department of Correction (printed as Senate, No. 2051),— **was read a third time and passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.**

Sent to the House for concurrence in the Senate amendment.

The Senate Bill further regulating change of name or address notices to the Registry of Motor Vehicles (Senate, No. 1278),— **was read a second time and, after remarks, was ordered to a third reading.**

The Senate Bill relative to stealing registration plates and the possession of stolen registration plates (Senate, No. 1284),— **was read a second time and ordered to a third reading.**

The Senate Bill relative to parking for disabled persons (Senate, No. 1301) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and, after remarks, passed to be engrossed.**

Sent to the House for concurrence.

The Senate Bill providing for the collection of data relative to traffic stops and other police service (Senate, No. 1396),— was read a third time.

The committee on Bills in the Third Reading reported, recommending that the bill be amended by substitution of a bill entitled “An Act requiring special state police officers to collect certain data” (Senate, No. 2118).

After remarks, the report was accepted; and the bill (Senate, No. 2118) was passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill clarifying employer sanctions for improper expenditure of withholdings or deductions from wages (Senate, No. 98) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After debate, the question on passing it to be engrossed was determined by a call of the yeas and nays, at sixteen minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 337**]:

YEAS.

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

Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	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 —
McGee, Thomas M.	37.

NAYS — 0.

ABSENT OR NOT VOTING.

Melconian, Linda J.	Shannon, Charles E. —
	2.

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

The Senate Bill relative to negative option mailings (Senate, No. 113),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Shannon moved that the bill be amended adding the following 2 paragraphs:—

“(c) A violation of this section shall constitute an unfair or deceptive act or practice within the meaning of subsection (a) of section 2 of chapter 93A.

(d) The department of consumer affairs and business regulation shall adopt regulations to carry out this section.”.

This amendment was adopted.

The bill (Senate, No. 113, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to the victims of drunk driving trust fund (Senate, No. 1295),— was read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at seven minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 338]:**

YEAS.

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

Jacques, Cheryl A.	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.
McGee, Thomas M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Melconian, Linda J.	Shannon, Charles E. —
	2.

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

The Senate Bill relative to the state DNA data base (Senate, No. 187, changed),— was considered, the main question being on concurring in the House amendment.

The pending motion, previously moved by Mr. Joyce, to lay the matter on the table,— was considered; and it was *negated*.

The pending motion, previously moved by Mr. Nuciforo, to concur in the House amendment, *with a further amendment*,— was considered.

Mr. Nuciforo moved that the call of the yeas and nays, previously ordered on the prior motion be *withdrawn*; and this motion prevailed.

Mr. Nuciforo then moved that his motion to concur with the House amendment, *with a further amendment*, be *withdrawn*; and this motion prevailed.

Messrs. Nuciforo and Joyce then moved that the Senate concur in the House amendment, *with a further amendment*, striking out all after the enacting clause and inserting in place thereof the following text:

“SECTION 1. Section 3 of chapter 22E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Any person who is convicted of an offense not included in section 3A and that is punishable by imprisonment in the state prison and any youthful offender who is adjudicated a youthful offender by reason of an offense not included in section 3A and that is punishable by imprisonment in the state prison if committed by an adult, shall, within 1 year of such conviction or adjudication, submit a DNA sample to the department, which shall be collected by a person authorized pursuant to section 4 in accordance with regulations or procedures established by the director.

SECTION 2. Said chapter 22E of the General Laws, as so appearing, is hereby further amended by inserting after section 3, the following section:

Section 3A. The submission of a DNA sample under section 3 shall not apply to convictions for violating the following sections: section 30 or 30A of chapter 10, section 26 or 28 of chapter 56, section 34 or 35 of chapter 64C, section 26 or 28 of chapter 65C, paragraph (a) of subdivision (1) of section 24 of chapter 90, paragraph (1) of subsection (e) of chapter 90B, section 33 of chapter 94C, section 8 or 13 of chapter 111D, section 10B of chapter 128A, sections 75, 81 or 82 of chapter 130, section 44J of chapter 149, section 118 of chapter 185, section 9 or 10 of chapter 265, sections 21, 22, 24, 39, 41, 81, 99A, 110, 111, 126A, 129, 143A, 143B or 143C of chapter 266, section 7 of chapter 268B, section 7 of chapter 269, section 1 or 4 of chapter 270, section 7 of chapter 271 or section 14 of chapter 272.

SECTION 3. Any person convicted of any offense listed in section 1 of this act who is incarcerated in any prison or house of correction or in the custody of the department of youth services on the effective date of this act, notwithstanding the date of such conviction or adjudication, and who has not previously submitted a DNA sample to the department under chapter 22E of the General Laws, shall, within 1 year of the effective date of this act or before release from custody, whichever first occurs, submit a DNA sample to the department.”

Mr. Rosenberg in the Chair, after debate, the question on concurring in the House amendment *with the further amendment*, was determined by a call of the yeas and nays, at twenty-five minutes past two o'clock P.M., on motion of Mr. Nuciforo, as follows, to wit (yeas 10 — nays 27) [**Yeas and Nays No. 339**]:

YEAS.

Creedon, Robert S., Jr. Magnani, David P.
Creem, Cynthia Stone Nuciforo, Andrea F., Jr.
Hart, John A., Jr. Tisei, Richard R.
Hedlund, Robert L. Walsh, Marian
Joyce, Brian A. Wilkerson, Dianne —

10.

NAYS.

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. O'Leary, Robert A.
Chandler, Harriette L. Pacheco, Marc R.
Fargo, Susan C. Panagiotakos, Steven C.
Glodis, Guy W. Resor, Pamela
Havern, Robert A. Rosenberg, Stanley C.
Jacques, Cheryl A. Sprague, Jo Ann
Knapik, Michael R. Tarr, Bruce E.
Lees, Brian P. Tolman, Steven A.
McGee, Thomas M. Tucker, Susan C. — **27.**
Menard, Joan M.

ABSENT OR NOT VOTING.

Melconian, Linda J. Shannon, Charles E. —
2.

The yeas and nays having been completed at twenty-nine minutes past two o'clock P.M., the question of concurring in the House amendment *with a further amendment*, was *rejected*.

Ms. Creem then moved that the Senate concur in the House amendment, *with a further amendment*, by inserting after section 1, the following sections:—

“SECTION 1A. Section 14 of chapter 272 of the General Laws is hereby repealed.

SECTION 1B. Said chapter 272 is hereby further amended by striking out section 34, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:—

Section 34. Whoever commits a sexual act on an animal shall be punished by imprisonment in the state prison for not more than 20 years or in a house of correction for not more than 2½ years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.”

Mr. Brewer rose to a point of order which, being stated, was that the amendment was beyond the scope of the petition.

The Chair (Mr. Rosenberg) stated that the bill before the Senate, Senate, No. 187, is a bill to enhance the state's DNA data base. It requires that a person or a youthful offender convicted of an offense punishable by imprisonment shall submit a sample of his or her DNA to the Department of the State Police which shall be kept on file by the department. The prayer in the petition which originated this legislation is limited to this one issue.

The pending amendment offered by the Senator from Middlesex and Norfolk seeks to repeal a crime that is currently on the books of the Commonwealth and to further define a second crime as well as determining a punishment for said crime.

The amendment *is well beyond* the limited scope of the petition and the bill currently before the body. As such, I rule that the point of order is WELL-TAKEN and that the further amendment is LAID ASIDE.”

The question on concurring in the House amendment was then determined by a call of the yeas and nays, at twenty-five minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 340**]:

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	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.

NAYS

Nuciforo, Andrea F., Jr.— **1.**

ABSENT OR NOT VOTING.

Melconian, Linda J.	Shannon, Charles E. —
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2.

The yeas and nays having been completed at seventeen minutes before three o'clock P.M., the Senate concurred in the House amendment.

The Senate Bill relative to selective service registration (Senate, No. 1275),— was considered.

Pending the main question on ordering the bill to a third reading, Messrs. Rosenberg and Barrios moved that the bill be amended by substituting a new draft with the same title (Senate, No. 2119).

This amendment was adopted.

The bill (Senate, No. 2119) was then ordered to a third reading.

The Senate Bill requiring children under 12 to wear ski helmets (Senate, No. 1376),— was considered, the main question being on ordering it to a third reading.

On motion of Mr. Glodis, the further consideration thereof was postponed until Friday, January 30, 2004.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered as follows:

The House Bill authorizing the town of Saugus to continue the employment of police officer Peter Cicolini (House, No. 4115), — **was read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE.

Message from the Governor —

Disapproval and Reductions in Supplemental Appropriation Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for fiscal year 2003 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4124), which on Tuesday, August 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. 4127) 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 8 (MBTA employee health care premiums) was considered, as follows:

SECTION 8. Item 1108-5200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by adding the following words:— ; provided, that notwithstanding the provisions of this item or any general or special law to the contrary, the authority's share of such premiums for employees of the Massachusetts Bay Transportation Authority, to whom a collective bargaining agreement in force on July 1, 2002, other than because of a rollover, applies, shall be as provided in that agreement until that agreement expires but not including any rollover period.

[The Governor disapproved this section.]

After debate, the question on passing Section 8 notwithstanding the disapproval of His Excellency the Governor to the contrary, was determined by a call of the yeas and nays at fourteen minutes before three o'clock P.M., as follows, to wit (yeas 33 — nays 3) [**Yeas and Nays No. 341**]:

YEAS.

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

NAYS.

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

ANSWERED "PRESENT".

Wilkerson, Dianne — **1.**

ABSENT OR NOT VOTING.

Melconian, Linda J.	Shannon, Charles E— 2.
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The yeas and nays having been completed at ten minutes before three o'clock P.M., Section 8 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 10 (Spousal retirement) was considered, as follows:

SECTION 10. Said chapter 26 is hereby further amended by inserting after section 713 the following section:—

Section 713A. Section 175 of this act shall take effect on November 1, 2003.

[The Governor has disapproved this section.]

The question on passing Section 10 notwithstanding the disapproval of His Excellency the Governor to the contrary, was determined by a call of the yeas and nays at eight minutes before three o'clock P.M., as follows, to wit (yeas 34 — nays 3) [**Yeas and Nays No. 342**]:

YEAS.

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

NAYS.

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

ABSENT OR NOT VOTING.

Melconian, Linda J.	Shannon, Charles E— 2.
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The yeas and nays having been completed at five minutes before three o'clock P.M., Section 10 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting, having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Emergency Preamble Adopted.

An engrossed Bill relative to the Inland Fisheries and Game Fund (see House, No. 4248, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 8 to 0.

The bill was signed by the Acting President, Mr. Rosenberg (having been appointed by Mr. President, under authority of Senate Rule 4, to perform the duties of the Chair), and sent to the House for enactment.

Engrossed Bills.

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

Authorizing the town of Milford to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3878); and

Relative to the civil service eligibility list for fire service in the town of Norwood (see House, No. 4165).

An engrossed Bill relative to the Inland Fisheries and Game Fund (see House, No. 4248, 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 three minutes past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0) **[Yeas and Nays No. 343]:**

YEAS.

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

36.

NAYS — 0.

ABSENT OR NOT VOTING.

Havern, Robert A.	
Melconian, Linda J.	Shannon, Charles E. —

3.

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

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Braintree to transfer a certain parcel of town park land (see House, No. 4129) (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 six minutes past three o'clock P.M., as follows, to wit (yeas 34 — nays 2) **[Yeas and Nays No. 344]:**

YEAS.

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

34.

NAYS

Lees, Brian P.	Sprague, Jo Ann — 2.
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ABSENT OR NOT VOTING.

Havern, Robert A.

Melconian, Linda J.	Shannon, Charles E. —
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3.

The President in the Chair, the yeas and nays having been completed at nine minutes past three 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 President and laid before the Governor for his approbation.

A Bill to improve public health in the Commonwealth (House, No. 4256, printed as amended,— on Senate, No. 521 and House, No. 2599),— was read.

Ms. Murray moved that the rules be suspended to allow the matter be further considered; but objection was made thereto by Mr. Tisei,— **the matter was referred under the rules to the committee on Steering and Policy.**

Mr. Hedlund moved that the provisions of Senate Rule 61A, prohibiting smoking on the floor of the Senate, be suspended; **and, after remarks, the motion was *negatived*, by a vote of 2 to 9.**

PAPER FROM THE HOUSE.

A Bill relative to the extension of municipal sewer and water services to Plum Island (House, No. 4070,— on petition),— 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.

Orders Adopted.

Mr. Brewer offered an Order establishing a special committee to study certain antiquated or outdated criminal laws (Senate, No. 2120).

There being no objection, the rules were suspended, and the order was considered forthwith and adopted.

On motion of Ms. Fargo,—

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

Adjournment in Memory of Private First Class John Hart.

The Senator from Middlesex, Ms. Fargo, requested that when the Senate adjourns today, it adjourn in memory of Private First Class John Hart of Bedford. Private Hart was killed in an ambush in Iraq on Saturday night. The son of Brian and Alma Hart, John was a member of the 173rd Airborne Brigade. He enlisted last September at the age of 19. Before he enlisted in the army, John attended Bedford High School, where he played lacrosse and was a member of the rifle team and the Bedford Junior ROTC. John enlisted knowing that to do so would put him in harm's way. He served his country with honor and bravery. We mourn his loss and extend our condolences to John's parents, his sisters Rebecca and Elizabeth, and to all of the lives he touched.

Accordingly, as a mark of respect to the memories of John Hart at seventeen minutes before four o'clock P.M., on motion of Mr. Lees, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.