

The Commonwealth of Massachusetts

JOURNAL OF THE SENATE.



THURSDAY, NOVEMBER 14, 2019.

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JOURNAL OF THE SENATE

Thursday, November 14, 2019.

Met at ten minutes past eleven o'clock A.M. (Mr. Brownsberger in the Chair) (having been appointed by the President, under authority conferred under Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Brownsberger), members, guests and staff then recited the pledge of allegiance to the flag.

Pledge of allegiance.

Report of a Committee.

The following report was received in the Office of the Clerk of the Senate on Thursday, November 14 at twenty-five minutes past five o'clock P.M., and placed on file to wit:

Report and recommendations of the Senate Committee on Ethics.

Report of the Senate Committee on Ethics concerning the conduct of Senator Michael D. Brady (pursuant to Senate Order – Senate, No. 2280) (Senate, No. 2405):

- In so much as relates to the plea colloquy in the case of Commonwealth v. Brady (see Senate, No. 2405, Appendix A)
• so much as relates to the Senate Order relative to the question of the conduct of Senator Michael D. Brady (see Senate, No. 2405, Appendix B)
• so much as relates to the statement of facts in support of application for criminal complaint (see Senate, No. 2405, Appendix C)
• so much as relates to Resolutions resolving the investigation into the conduct of the Honorable Michael D. Brady, Senator from the Second Bristol and Plymouth District (see Senate, No. 2405, Appendix D)

Communications.

The following communications were severally received and placed on file, to wit:

Communication from the Honorable Karen E. Spilka, President of the Senate, announcing the following committee appointment having been ratified by the Majority Party Caucus:

Committee appointment.

Joint Committee on Public Service, Chair – Barry R. Finegold; and

Communication from the Department of Public Health acknowledging receipt for the plan of correction for Hampden County Jail and House of Correction, Ludlow, in response to an inspection on September 18th, 19th and 20th, 2019 (received November 13, 2019).

DPH,-- plan of correction. SD2634

Reports.

The following reports were severally received and placed on file, to wit:

Report of the Department of Public Health (pursuant to Sections 5, 20 and 21 of Chapter 111 of the General Laws) relative to inspection of the Berkshire County House of Corrections and Jail, Pittsfield (received November 13, 2019); and

DPH,-- report. SD2635

Report of the Department of Department of Labor Relations (pursuant to Section 9U of Chapter 23 of the General Laws) submitting its annual report for the fiscal year 2019 (received November 13, 2019).

Labor Relations,-- report.. SD2636

Petitions.

Petitions were severally presented and referred as follows:

By Ms. Lovely, a petition (accompanied by bill) (subject to Joint Rule 12) of Joan B. Lovely for legislation to prohibit discrimination in insurance on the basis of having a naloxone prescription; and

Insurance discrimination,-- naloxone. SD2630

By Mr. Pacheco, a petition (accompanied by bill) (subject to Joint Rule 12) of Marc R. Pacheco for legislation relative to gas infrastructure and public safety;

Gas infrastructure,-- safety. SD2633

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. Lewis, for the committee on Education, on petition, a Bill relative improving students' access to life saving treatments (Senate, No. 235);

Diabetes,-- glucagon.

Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Lewis, for the committee on Education, on petition, a Resolve authorizing a study of starting times and schedules (Senate, No. 253);

School day schedules,-- study.

By the same Senator, for the same committee, on petition, a Bill regarding breakfast after the bell (Senate, No. 267);

School breakfast.

By the same Senator, for the same committee, on petition, a Bill to improve the excellence to teaching programs (Senate, No. 287);

Teaching programs.

By the same Senator, for the same committee, on petition, a Bill relative to calling for a comprehensive study of vocational education in the Commonwealth (Senate, No. 302);

Vocational education,-- study.

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 255), a Bill to establish food allergy plans (Senate, No. 2398);

Food allergy,-- plans.

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 263), a Bill relative to healthy youth (Senate, No. 2399);

Sex education,-- students.

By Ms. Gobi, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill authorizing the release of an agricultural preservation restriction of certain land in Plymouth (Senate, No. 2335);

Plymouth,-- land release.

By the same Senator, for the same committee, on Senate, No. 438 and House, No. 873, a Bill promoting healthy soils for reducing greenhouse gases and the effects of climate change in the commonwealth (Senate, No. 2404); and

Healthy soil,-- incentives.

By Ms. Jehlen, for the committee Labor and Workforce Development, on petition (accompanied by bill, Senate, No. 1068), a Bill protecting injured workers (Senate, No. 2401);

Injured workers,-- protection.

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

By Ms. Jehlen, for the committee Labor and Workforce Development, on petition, a Bill ensuring fair worker representation on corporate boards of directors (Senate, No. 1094);

Worker representation,-- boards.

Read and, under Senate Rule 26, referred to the committee on Rules.

PAPERS FROM THE HOUSE.

Notice was received from the House of Representatives announcing the following appointment by the Speaker:

Sarah Sabshon to the special commission established (under Section 21 of Chapter

Vaping.

UNCORRECTED PROOF.

157 of the Acts of 2018) to study and provide recommendations regarding the vaping industry.

Message from His Excellency the Governor recommending legislation relative to military family support and unemployment transformation (House, No. 4192),-- **was referred, in concurrence, to the committee on Labor and Workforce Development.**

Military,-- family support.

A petition (accompanied by bill, House, No. 4193) of Bradford Hill and Bruce E. Tarr (by vote of the town) relative to the historic curatorship program in the town of Hamilton,-- **was referred, in concurrence, to the committee on Revenue.**

Hamilton,-- curatorship program.

Bills

Authorizing the town of Williamsburg to continue the employment of Michael Wayne, a member of the police department of the town of Williamsburg (House, No. 3955, amended,-- on petition) [Local approval received]; and

Williamsburg,-- Michael Wayne.

Relative to the funding of the other post-employment benefits liability trust fund in the town of Uxbridge (House, No. 4097,-- on petition) [Local approval received];

Uxbridge,-- post-employment benefits.

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session

Report of the committee on Municipalities and Regional Government asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4115) of Kevin G. Honan and others (with the approval of the mayor and city council) that the city of Boston be authorized to further regulate the zoning of housing, commercial and institutional development in said city,-- and recommending that the same be referred to the committee on Housing,-- **was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

Boston,-- housing.

Resolutions.

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

Resolutions (filed by Ms. Comerford) “commending the Amherst-Pelham Regional Public School District on its recognition of November 20, 2019, as National Education Support Professionals Day”;

Amherst-Pelham Regional Public School District.

Resolutions (filed by Ms. Friedman) “congratulating Edward Asner on his ninetieth birthday”;

Edward Asner.

Resolutions (filed by Mr. Montigny) “congratulating the Lions Club of Fairhaven, Inc. on the seventy-fifth anniversary of its establishment”; and

The Lions Club of Fairhaven, Inc.

Resolutions (filed by Mr. Tarr) “commending Lawrence Dysart on his dedicated service to youth sporting leagues in the town of North Reading.”

Lawrence Dysart.

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill validating the results of the annual town election held in the town of Heath on May 10, 2019 (see Senate Bill. printed in Senate, No. 2234) (which originated in the Senate) **having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Brownsberger) and laid before the Governor for his approbation.**

Bill laid before Governor.

An engrossed Bill validating actions taken in connection with an annual town meeting and an annual town election in the town of Westhampton (see Senate Bill, printed in Senate, No. 2327) (which originated in the Senate) **having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Brownsberger) and laid before the Governor for his approbation.**

Ibid.

The following engrossed bills (the first of which originated in the Senate), 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. Brownsberger) and laid before the Governor for his approbation, to wit:

Bills laid before the Governor.

Revising the charter of the town of Groton (see Senate, No. 1192); and
Further regulating the fair housing ordinance of the city of Cambridge (see House, No. 3998).

Matters Taken Out of the Notice Section.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows:

The Senate Bill authorizing the town of North Andover to grant an additional liquor license (Senate, No. 2353),-- **was read a third time and passed to be engrossed.**

North Andover,--
liquor license.

Sent to the House for concurrence.

The Senate Bill relative to gender neutral redraft of the town charter of Ipswich (Senate, No. 1203),-- was read a third time.

Ipswich,-- charter.

Pending the question on passing the bill to be engrossed, Mr. Tarr moved that the bill be amended by substituting a new draft entitled "An Act amending the charter of the town of Ipswich to make it gender neutral and to further regulate town operations" (Senate, No. 2406).

The amendment was adopted.

The bill (Senate, No. 2406) was then passed to be engrossed.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4202) of Paul McMurtry and Michael F. Rush for legislation to establish a special commission (including members of the General Court) relative to the bulk purchase of epinephrine auto-injectors;

Epinephrine auto-injectors,-- special commission.

Under suspension of Joint Rule 12, to the committee on Public Health.

Petition (accompanied by bill, House, No. 4200) of Susan Williams Gifford and Marc R. Pacheco for legislation to establish a sick leave bank for Racquel Cardoza, an employee of the Department of Transitional Assistance; and

Racquel Cardoza,--
sick leave.

Petition (accompanied by bill, House, No. 4199) of Gerard J. Cassidy for legislation to establish a sick leave bank for Karlene Derozier, an employee of the Department of Public Health;

Karlene Derozier,--
sick leave.

Severally, under suspension of Joint Rule 12, to the committee on Public Service.

Petition (accompanied by bill, House, No. 4201) of Brian M. Ashe and others relative to the income tax deduction for medical, dental and other expenses;

Medical and dental,--
tax deduction..

Under suspension of Joint Rule 12, to the committee on Revenue.

UNCORRECTED PROOF.

Orders of the Day.

The Orders of the Day were considered as follows:

Second reading bills.

Relative to the terms for members of the city of Somerville's Zoning Board of Appeals (Senate, No. 2369);

Establishing a charter for the town of Plainville (House, No. 4036);

Funding the town of Hanover's Other Post-Employment Benefits Liability Trust Fund (House, No. 4061);

Relative to the board of selectmen in the town of Sunderland (House, No. 4066);

Abolishing the sewer commission of the town of Royalston (House, No. 4068)

Authorizing the town of Swansea to grant additional alcoholic beverage licenses (House, No. 4085); and

Authorizing the Norfolk County Treasurer to borrow funds for repairs to the Norfolk County Agricultural School (House, No. 4090);

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

The Senate Bill providing for the exchange of certain park land in the town of Rockland (Senate, No. 2374),-- **was read a second time and ordered to a third reading. The rules were suspended, on motion of Mr. Keenan, and the bill was read a third time and passed to be engrossed.**

Rockland,-- park land.

Sent to the House for concurrence.

The Senate Bill relative to consumer protection for prescription drug purchases (Senate, No. 733),-- was read a second time.

Prescription drug,-- consumer protection.

Recess.

At nineteen minutes past twelve o'clock noon, at the request of Mr. Tarr, for the purpose of a minority caucus, the Chair (Mr. Brownsberger) declared a recess; and, at twenty-three minutes before two o'clock P.M., the Senate reassembled, Mr. Brownsberger in the Chair.

Recess.

PAPER FROM THE HOUSE.

The House Bill modernizing tobacco control (House, No. 4196,-- on House, No. 1902),-- was read.

Tobacco control.

There being no objection, Mr. Keenan moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2407.

Order Adopted.

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the House Bill modernizing tobacco control (House, No. 4196) (Mr. Keenan having recommended that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2407) shall be placed in the Orders of the Day for a second reading on Wednesday, November 20, 2019.

Procedural order.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, November 18, 2019. All such amendments shall be second-reading amendments to the proposed new text (Senate, No. 2407), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a

third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Ms. Lovely, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Tarr, and the order was considered forthwith and adopted.

The bill will be placed in the Orders of the Day for Wednesday, November 20, 2019, for a second reading with the amendment pending.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill relative to consumer protection for prescription drug purchases (Senate, No. 733),-- was again considered.

Prescription drug,--
consumer protection.

Pending the question on adoption on the amendment previously recommended by the committee on Ways and Means, and pending the main question on ordering the bill to a third reading, Mr. Keenan moved that the proposed new draft be amended by inserting the following sections:-

1.

“SECTION __. Section 55 of Chapter 52 of the Acts of 2016, as amended by Chapter 351 of the Acts of 2016, is hereby repealed.

SECTION __. Section 77 of Chapter 52 of the Acts of 2016 is hereby repealed.”

The amendment was *rejected*.

Mr. Lesser moved that the proposed new draft be amended in section 18 by striking, in lines 76-77, the words “and (vi) manufacturer costs”, and inserting in place thereof the following words:- “(vi) manufacturer costs; (vii) financial assistance for the drug provided by the manufacturer through any discount, rebate, product voucher, coupon or other assistance program; (viii) the amount of the planned price increase for the drug; and (ix) a description of the specific financial and non-financial factors used to make the decision to increase the price of the drug.”.

2

The amendment was *rejected*.

Messrs. Kennedy and Tarr moved that the proposed new draft be amended by striking section 36 in its entirety and replacing it with the following:-

6

“SECTION 36. Section 2 of Chapter 176O of the General Laws, as so appearing, is hereby amended by adding the following subsection:

(i) The division shall conduct periodic audits of pharmacy benefit managers licensed by the division and may require that carriers that contract with a pharmacy benefit manager coordinate an audit of the operations of the pharmacy benefit manager, not less than every three years, to ensure compliance with this chapter and to examine the pricing and rebates applicable to prescription drugs that are provided.”.

The amendment was *rejected*.

Messrs. Lesser and Tarr and Ms. Gobi moved that the proposed new draft be amended in section 38 by inserting at the end thereof the following new paragraph:-

10

“(i) If a pharmacy benefit manager has consolidated or merged its business with a health carrier client, the division shall require the pharmacy benefit manager to disclose any information about the relationship between the pharmacy benefit manager and the health carrier client deemed necessary by the division to protect the interests of consumers.”.

The amendment was *rejected*.

Messrs. Cyr and Tarr, Ms. Gobi and Mr. Timilty moved that the proposed new draft

12

be amended in section 18, by inserting, in line 127, after the word “hospitals” the following text:- “, community health centers”.

After remarks, the amendment was adopted.

Mr. Tran moved that the proposed new draft be amended by inserting the following section:-

16

“SECTION 18. Section 1. Chapter 94C of the general laws is hereby amended by striking out section 18C, as so appearing in the 2016 Official Edition, and inserting in place thereof the following section: -

‘Section 18C: (a) Prior to issuing a prescription for an opioid contained in Schedule II of section 3, a practitioner registered under section 7 shall: (i) consult with a the patient regarding the quantity of the opioid and a patient's option to fill the prescription in a lesser quantity; and (ii) inform the patient of the risks associated with the opioid prescribed, including but not limited to, (A) that opioids are highly addictive even when taken as prescribed, (B) the risk of developing a physical or psychological dependence on opioids (C) the risks associated with taking opioids with alcohol, sedatives, benzodiazepines and other central nervous system depressants, (D) the reasons why the prescription is necessary, and (E) alternative treatments that may be available.

(b) Once the patient has been consulted pursuant to subsection (a) of this section, said practitioner shall record within the patient’s medical record that the patient has been consulted and informed of the information required by subclauses (A) through (E) of this section.’”.

The amendment was *rejected*.

Ms. DiZoglio moved that the proposed new draft be amended by striking section 39 in its entirety and replacing it with the following:-

19

“SECTION 39. Notwithstanding any general or special law to the contrary, there shall be a 4-year program to assess the public health utilization and cost impacts of capping co-pays and eliminating deductible and co-insurance requirements for insulin for individuals with diabetes. To implement the program any policy, contract or certificate of health insurance subject to chapters 32A, 118E, 175, 176A, 176B, 176G or 176Q of the General Laws that is delivered, issued or renewed from January 1, 2021 to December 31, 2024, inclusive, shall provide coverage for insulin for the treatment of diabetes. Such coverage shall not be subject to any deductible or co-insurance and any co-pay shall not exceed \$25 per month per insulin prescription.

The center for health information and analysis shall collect, analyze and evaluate data at the start of the program and annually thereafter, including, but not limited to: (i) rates of insulin utilization; (ii) average monthly out-of-pocket insulin costs; (iii) annual plan costs and member premiums; (iv) the average price of insulin, net of rebates or discounts received by or accrued directly or indirectly by health insurance carriers; and (v) average and total out-of-pocket expenditures on insulin delivery devices that are not included as part of an insulin prescription. The center shall file an interim 2-year report and a final 4-year report assessing the program’s impact on insulin utilization, member premiums and insulin prices, providing data on expenditures on insulin delivery devices separate from insulin prescriptions, and the impact on the state’s cost growth benchmark. If the center, in the interim 2-year report, finds significant increases in the list price of insulin that impact health care spending in the commonwealth, the health policy commission, in consultation with the center shall file a report to the clerks of the house of representatives and senate, and the joint committee on public health, the joint committee on health care financing and the house and senate committees on ways and means not later than March 1, 2023 that summarizes the center’s preliminary findings and makes recommendations to modify the requirements of this section to reduce the impact of the price increases on health care spending in the commonwealth. The final 4-year report shall be filed with the clerks of

the house of representatives and senate, the joint committee on public health, the joint committee on health care financing and the house and senate committees on ways and means not later than March 1, 2025.”.

The amendment was *rejected*.

Mr. Cyr moved that the proposed new draft be amended in section 19 by inserting after the word “plan,” in line 313, the following text:- “Public notice shall be provided by the commission on its website, identifying that the manufacturer is implementing an access improvement plan and for which eligible drug.”.

21

The amendment was *rejected*.

Mr. Lewis moved that the proposed new draft be amended in section 18, by striking out, in line 181, the words “priced at \$100 or more per wholesale acquisition cost unit by 200 per cent or more” and inserting in place thereof the following words:- “with a significant price increase as determined by the commission”; and by inserting after section 42 the following sections:-

27

“SECTION 42A. Notwithstanding subsection (b) of section 15B of chapter 6D of the General Laws, for the purposes of providing early notice under said section 15B of said chapter 6D, the health policy commission shall determine a significant price increase for a generic drug to be defined as a generic drug priced at \$100 or more per wholesale acquisition cost unit that increases in cost by 100 per cent or more during any 12-month period.

SECTION 42B. Section 42A is hereby repealed.”; and by adding the following section:-

“SECTION 43A. Section 42B shall take effect on January 1, 2022.”.

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new draft be amended by inserting after section 38 the following section:-

31

“SECTION 38A. Section 226 of chapter 139 of the acts of 2012 is hereby amended by striking out the figure ‘2020’, inserted by section 1 of chapter 363 of the acts of 2018, and inserting in place thereof the following figure:- ‘2021’.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at nine minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 38 – nays 1) [**Yeas and Nays No. 124**]:

YEAS.

Barrett, Michael J.	Gobi, Anne M.
Boncore, Joseph A.	Hinds, Adam G.
Brady, Michael D.	Humason, Donald F., Jr.
Brownsberger, William N.	Keenan, John F.
Chandler, Harriette L.	Kennedy, Edward J.
Chang-Diaz, Sonia	Lesser, Eric P.
Collins, Nick	Lewis, Jason M.
Comerford, Joanne M.	Lovely, Joan B.
Creem, Cynthia Stone	Montigny, Mark C.
Crighton, Brendan P.	Moore, Michael O.
Cyr, Julian	O'Connor, Patrick M.
deMacedo, Viriato M.	Pacheco, Marc R.
DiDomenico, Sal N.	Rausch, Rebecca L.
DiZoglio, Diana	Rodrigues, Michael J.
Eldridge, James B.	Rush, Michael F.
Fattman, Ryan C.	Tarr, Bruce E.
Feeney, Paul R.	Timilty, Walter F.
Finegold, Barry R.	Tran, Dean A.

Friedman, Cindy F.

Welch, James T. – 38.

NAYS.

Jehlen, Patricia D. – 1.

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

Mr. Tarr moved that the proposed new draft be amended be amended by inserting the following section: -

34

“SECTION __. Chapter 111 of the general laws is hereby amended by inserting after Section 4N, the following new language: -

Section 4M1/2 Public Disclosure of Patient prescription drug advocacy programs

(a) As used in this section, the following words shall, have the following meanings:

‘Patient advocacy program’ means a program offered by an independent nonprofit organization that advocates on behalf of patients on behalf of a specific disease.

‘Pharmaceutical manufacturer’ means a person that is engaged in the manufacturing of drugs or pharmaceutical devices that are available for purchase by residents of the state; or a person that is responsible for setting the price of a drug or device that is available for purchase by residents of the state on behalf of a person engaged in the manufacturing.

(b) On or before February 1 of each year, all pharmaceutical manufactures and all trade or advocacy groups representing pharmaceutical manufacturers shall report to the department any payment, donation, subsidy or anything else of value made to a patient advocacy program during the immediately preceding calendar year. The report required by Subsection (1) shall include each payment, donation, subsidy, or contribution of value to a patient advocacy program, the amount of the contribution and the entity that provided the contribution.

The report shall be posted on the Department of Public Health’s and the Health Policy Commission’s internet websites and filed with the clerks of the house and the senate and the house and senate chairs of the joint committee on health care financing.

(c) The Department of Public Health may impose an administrative penalty on any pharmaceutical manufactures and all trade or advocacy groups representing pharmaceutical manufacturers that fails to post or provide to the Department the report required by this Section on a timely basis, if the failure was not caused by excusable neglect, technical problems, or other extenuating circumstances, in an amount of not more than \$5,000 for each day of such failure to report.”.

The amendment was *rejected*.

Mr. Fattman moved that the proposed new draft be amended by adding the following section:-

37

“SECTION ____. Clause (2) of subsection (b) of section 3 of chapter 175H, as so appearing, is hereby amended by inserting at the end thereof the following sentence:- This clause shall not apply to any individual that cannot be medically prescribed the AB rated generic equivalent and can provide proof from a licensed medical practitioner.”.

The amendment was *rejected*.

Mr. Montigny moved that the proposed new draft be amended by inserting after section 34 the following section:-

42

“SECTION 34A. Chapter 111N of the General Laws is hereby amended by striking sections 1 through 7 in their entirety and inserting in place thereof the following:

Section 1. As used in this chapter, the following words shall have the following meanings:-

‘Department’, the department of public health.

‘Education program’, a medical school, teaching hospital, or teaching health center licensed to operate in the commonwealth.

‘Gift’, a payment, entertainment, meals, travel, honorarium, subscription, advance,

services or anything of value, unless consideration of equal or greater value is received and there is an explicit contract with specific deliverables which are not related to marketing and are restricted to medical or scientific issues. "Gift" shall not include anything of value received by inheritance, a gift received from a member of the health care practitioner's immediate family or from a relative within the third degree of consanguinity of the health care practitioner or of the health care practitioner's spouse or from the spouse of any such relative, or prescription drugs provided to a health care practitioner solely and exclusively for use by the health care practitioner's patients.

'Health care practitioner' or 'practitioner', a person who prescribes prescription drugs for any person and is licensed to provide health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to individuals.

'Immediate family', a spouse and any dependent children residing in the reporting person's household.

'Medical device', an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is: (1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them; (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

'Person', a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.

'Pharmaceutical or medical device manufacturer agent', a pharmaceutical or medical device marketer or any other person who for compensation or reward does any act to promote, oppose or influence the prescribing of a particular prescription drug, medical device, or category of prescription drugs or medical devices. The term shall not include a licensed pharmacist, licensed physician or any other licensed health care practitioner with authority to prescribe prescription drugs who is acting within the ordinary scope of the practice for which he is licensed.

'Pharmaceutical or medical device manufacturing company', any entity that participates in a commonwealth health care program and which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs or medical devices either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A of chapter 112 or a retail pharmacist registered under section 37 of chapter 112.

'Pharmaceutical or medical device marketer', a person who, while employed by or under contract to represent a pharmaceutical or, medical device manufacturing company that participates in a commonwealth health care program, engages in detailing, promotional activities or other marketing of prescription drugs, or medical devices in the commonwealth to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, any other health care practitioner or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A of chapter 112, a representative of such a distributor who promotes or otherwise markets the services of the wholesale drug

distributor in connection with a prescription drug, or a retail pharmacist registered under section 38 of chapter 112 if such person is not engaging in such practices under contract with a manufacturing company.

‘Physician’, a person licensed to practice medicine by the board of medicine under section 2 of chapter 112 who prescribes prescription drugs for any person, or the physician’s employees or agents.

‘Prescription drugs’, any and all drugs upon which the manufacturer or distributor has placed or is required by federal law and regulations to place the following or a comparable warning: ‘Caution federal law prohibits dispensing without prescription.’

Section 2. No pharmaceutical or medical device manufacturer agent shall knowingly and willfully offer or give to a health care practitioner, a member of a health care practitioner’s immediate family, a health care practitioner’s employee or agent, a health care facility, an employee or agent of a health care facility, an education program, or an employee or agent of an education program a gift of any value.

Nothing in the section shall prohibit the provision, distribution, dissemination, or receipt of peer reviewed academic, scientific or clinical information. Nothing in this section shall prohibit the purchase of advertising in peer reviewed academic, scientific or clinical journals.

Section 3. (a)(1) By July first of each year, every pharmaceutical or medical device manufacturing company shall disclose to the department the value, nature, purpose, and recipient of any fee, payment, subsidy, or other economic benefit not prohibited in section 2, which is provided by the company, directly or through its agents, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, education program, health care practitioner or any other person in this commonwealth authorized to prescribe, dispense, or purchase prescription drugs or medical devices. Required disclosures under this section shall include, but are not limited to, any payments made for board memberships, research, or consulting services. For each expenditure, the company must also identify the recipient and the recipient’s address, credentials, institutional affiliation, and state board or DEA numbers.

(2) Each company subject to the provisions of this section also shall disclose to the department the name and address of the individual responsible for the company’s compliance with the provisions of this section, or if this information has been previously reported, any changes to the name or address of the individual responsible for the company’s compliance with the provisions of this section.

(3) Information disclosed pursuant to this section shall be accompanied by payment of a fee, to be set by the department, to pay the costs of administering these provisions.

(b)(1) Information submitted to the department of public health pursuant to this section shall be a public record except to the extent that it includes information that is protected by state or federal law as a trade secret.

(2) Notwithstanding any other provision of law, the identity of health care practitioners and other recipients of gifts, payments and materials required to be reported in this chapter shall not constitute confidential information or trade secrets protected under this section.

(3) The department shall make all disclosed data publicly available and easily searchable on its website.

(c) The department shall report to the attorney general any payment, entertainment, meals, travel, honorarium, subscription, advance, services or anything of value provided in violation of this chapter, including anything of value provided when consideration of equal or greater value was not received or anything of value provided that was not subject to an explicit contract with specific deliverables which were restricted to medical or scientific issues.

Section 4. The department, in consultation with the board of registration of pharmacy, and board of registration of medicine, shall promulgate regulations requiring the licensing of all pharmaceutical and medical device manufacturer agents. As a prerequisite to such licensing, pharmaceutical and medical device manufacturer agents shall complete such training as may be deemed appropriate by the department. As a prerequisite to the renewal of such license, pharmaceutical and medical device manufacturer agents shall complete continuing education as may be deemed appropriate by the department. The fee for such license shall be determined by the department, in conjunction with the board of registration in pharmacy and the board of registration in medicine at a rate sufficient to provide the administration and enforcement of this chapter. Revenue generated from this fee shall be divided in equal shares, 75 per cent to the department of public health and 25% to the office of attorney general, line item 0810-1205, for the administration of this chapter.

Section 5. This chapter shall be enforced by the attorney general, the district attorney with jurisdiction over a violation, or the department. A person who violates this chapter shall be punished by a fine of not less than \$10,000 for each transaction, occurrence or event that violates this chapter.”.

After remarks, the amendment was *rejected*.

Ms. Chandler and Mr. Montigny moved that the proposed new draft be amended in section 19, in proposed subsection (k) of section 21 of chapter 6D, by adding the following 2 paragraphs:-

14

“If a manufacturer is deemed to not be acting in good faith to develop an acceptable or complete access improvement plan, the commission may publicly post the proposed value of the eligible drug, hold a public hearing on the proposed value of the eligible drug and solicit public comment. The manufacturer shall appear and testify at any hearing held on the eligible drug’s proposed value. Upon the conclusion of a public hearing under this subsection, the commission shall issue recommendations on ways to reduce the cost of an eligible drug for the purpose of improving patient access to the eligible drug. The recommendations shall be publicly posted on the commission’s website and provided to the clerks of the house of representatives and senate, the joint committee on health care financing and the house and senate committees on ways and means.

Before making a determination that the manufacturer is not acting in good faith, the commission shall send a written notice to the manufacturer that the commission shall deem the manufacturer to not be acting in good faith if the manufacturer does not submit an acceptable access improvement plan within 30 days of receipt of notice; provided, however, that the commission shall not send a notice under this paragraph within 120 calendars days from the date that the commission issued its request that the manufacturer enter into the access improvement plan.”.

After remarks, the amendment was adopted.

Messrs. Lesser and Tarr, Ms. Gobi and Messrs. Feeney and Timilty moved that the proposed new draft be amended in section 38 by inserting at the end thereof the following new paragraph:-

3

“(i) A pharmacy benefit manager licensed under this section shall notify a health carrier client in writing of any activity, policy, practice contract or arrangement of the pharmacy benefit manager that directly or indirectly presents any conflict of interest with the pharmacy benefit manager’s relationship with or obligation to the health carrier client.”.

After remarks, the amendment was adopted.

Mr. Lesser, Ms. Gobi and Messrs. Feeney, Tarr and Fattman moved that the proposed new draft be amended by inserting after section 40 the following section:-

17

“SECTION 40A. Notwithstanding any general or special law to the contrary, there shall be a special commission to examine the feasibility of: (i) establishing a system for

the bulk purchasing and distribution of pharmaceutical products with a significant public health benefit and the potential for significant health care cost savings for consumers through overall increased purchase capacity; and (ii) making bulk purchase pricing information available to purchasers in other states.

The commission shall consist of: the commissioner of public health or a designee, who shall serve as chair; the executive director of the group insurance commission or a designee; the chief of pharmacy of the state office for pharmacy services; the MassHealth pharmacy director; the secretary of technology services and security; and 7 members to be appointed by the commissioner of public health, 2 of whom shall be health care economists, 1 of whom shall be an expert in health law and policy innovation, 1 of whom shall be an academic with relevant expertise in the field, 1 of whom shall be the chief executive officer of a licensed hospital in the commonwealth, 1 of whom shall be a representative of health insurance carriers and 1 of whom shall be a member of the public with experience with health care and consumer protection.

The commission shall hold not less than 3 public hearings in different geographic areas of the commonwealth, accept input from the public and solicit expert testimony from individuals representing: health insurance carriers, pharmaceutical companies, independent and chain pharmacies, hospitals, municipalities, health care practitioners, health care technology professionals, community health centers, substance abuse disorder providers, public health educational institutions and other experts as identified by the commission.

The commission shall consider: (i) the process by which the commonwealth could make bulk purchases of pharmaceutical products with a significant public health benefit and the potential for significant health care cost savings to consumers; (ii) the process by which both governmental and nongovernmental entities may participate in a collaborative to purchase pharmaceutical products with a significant public health benefit and the potential for significant health care cost savings; (iii) the feasibility of developing an electronic information interchange system to exchange bulk purchase price information with partnering states; (iv) potential sources of funding available to implement bulk purchases; (v) potential cost savings of bulk purchases to the commonwealth or other participating nongovernmental entities; (vi) the feasibility of partnering with the federal government and or other states in the New England region; and (vii) any other factors that the commission deems relevant.

Not later than September 1, 2020, the commission shall file a report of its analysis, along with any recommended legislation, if any, to the clerks of the senate and house of representatives, the house and senate committees on ways and means, the joint committee on health care financing, the joint committee on public health, the joint committee on elder affairs and the joint committee on mental health, substance abuse and recovery.”.

After remarks, the amendment was adopted.

Messrs. Eldridge, Timilty, Collins and O'Connor and Ms. Chang-Diaz moved that the proposed new draft be amended in section 19, in the proposed last paragraph of subsection (c) of section 20 of chapter 6D, by adding the following sentence:- “If the commission relies upon a third party to provide cost-effectiveness analysis or research related to the proposed value of the eligible drug, such analysis or research shall also include, but not be limited to: (i) a description of the methodologies and models used in its analysis; (ii) any assumptions and potential limitations of research findings in the context of the results; and (iii) outcomes for affected subpopulations that utilize the drug.”; and

In section 42, by inserting after the word “organizations”, in line 746, the following words:- “, organizations representing people with disabilities and chronic health conditions”.

After remarks, the amendment was adopted.

28

Ms. Creem, Mr. Tarr, Ms. Gobi and Mr. Lesser moved that the bill be amended in section 41, by striking out, in line 728, the words “and (x)” and inserting in place thereof the following words:- “(x) assess the prevalence and appropriateness of pharmacy benefit managers requiring, or using financial incentives or penalties to incentivize, customer use of pharmacies with whom the pharmacy benefit manager has an ownership or financial interest; (xi) examine the impact of the merger or consolidation of pharmacy benefit managers and health carrier clients on drug costs; and (xii)”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at nine minutes past three o'clock P.M., on motion of Ms. Creem, as follows, to wit (yeas 39 – nays 0) [Yeas and Nays No. 125]:

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Hinds, Adam G. |
| Boncore, Joseph A. | Humason, Donald F., Jr. |
| Brady, Michael D. | Jehlen, Patricia D. |
| Brownsberger, William N. | Keenan, John F. |
| Chandler, Harriette L. | Kennedy, Edward J. |
| Chang-Diaz, Sonia | Lesser, Eric P. |
| Collins, Nick | Lewis, Jason M. |
| Comerford, Joanne M. | Lovely, Joan B. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Crighton, Brendan P. | Moore, Michael O. |
| Cyr, Julian | O'Connor, Patrick M. |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| DiDomenico, Sal N. | Rausch, Rebecca L. |
| DiZoglio, Diana | Rodrigues, Michael J. |
| Eldridge, James B. | Rush, Michael F. |
| Fattman, Ryan C. | Tarr, Bruce E. |
| Feeney, Paul R. | Timilty, Walter F. |
| Finegold, Barry R. | Tran, Dean A. |
| Friedman, Cindy F. | Welch, James T. – 39. |
| Gobi, Anne M. | |

NAYS – 0.

The yeas and nays having been completed at twelve minutes past three o'clock P.M., the amendment was adopted.

Mr. Tarr, Ms. Jehlen and Ms. Creem moved that the proposed new draft be amended by inserting in section 41, in line 730 after the word “payer” the following:-“(xi) evaluate the effect of differences between pharmacy benefit manager payments to pharmacies and charges made to health carrier clients on drug price”.

After remarks, the amendment was adopted.

Ms. DiZoglio and Ms. Creem moved that the proposed new draft be amended by inserting after section 41 the following:-

“SECTION 41A. For purposes of this section, the term ‘epinephrine injector’ shall include an auto-injector approved by the federal Food and Drug Administration for the administration of epinephrine and a pre-filled syringe approved by the federal Food and Drug Administration for the administration of epinephrine that contains a pre-measured dose of epinephrine that is equivalent to the dosages used in an auto-injector.

Notwithstanding any general or special law to the contrary, the center for health information and analysis shall provide a cost estimate review and evaluation of coverage for medically necessary appropriate weight-based dosage epinephrine injectors for persons 18 years of age or under; provided, however, that coverage shall not be subject to any deductible, co-insurance or co-pay; provided further, that the review and evaluation shall

include an estimate of costs to the commonwealth under 45 C.F.R. 155.170.

Not later than March 1, 2020, the review and evaluation shall be posted on the center’s website and shall be filed with the clerks of the senate and the house of representatives and the house and senate committees on ways and means.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-three minutes before four o'clock P.M., on motion of Ms. DiZoglio, as follows, to wit (yeas 39 – nays 0) [**Yeas and Nays No. 126**]:

YEAS.

Barrett, Michael J.	Hinds, Adam G.
Boncore, Joseph A.	Humason, Donald F., Jr.
Brady, Michael D.	Jehlen, Patricia D.
Brownsberger, William N.	Keenan, John F.
Chandler, Harriette L.	Kennedy, Edward J.
Chang-Diaz, Sonia	Lesser, Eric P.
Collins, Nick	Lewis, Jason M.
Comerford, Joanne M.	Lovely, Joan B.
Creem, Cynthia Stone	Montigny, Mark C.
Crighton, Brendan P.	Moore, Michael O.
Cyr, Julian	O'Connor, Patrick M.
deMacedo, Viriato M.	Pacheco, Marc R.
DiDomenico, Sal N.	Rausch, Rebecca L.
DiZoglio, Diana	Rodrigues, Michael J.
Eldridge, James B.	Rush, Michael F.
Fattman, Ryan C.	Tarr, Bruce E.
Feeney, Paul R.	Timilty, Walter F.
Finegold, Barry R.	Tran, Dean A.
Friedman, Cindy F.	Welch, James T. – 39 .
Gobi, Anne M.	

NAYS – 0.

The yeas and nays having been completed at twenty minutes before four o'clock P.M., the amendment was adopted.

Messrs. Tran and Tarr moved that the proposed new text be amended by inserting after section 42 the following section:-

15

“SECTION 42A. For the purposes of this section, ‘Emergency situation’ shall mean an event in which authorization for the dispensing of insulin may not be readily obtained from the practitioner.

Notwithstanding any general or special law to the contrary, the health policy commission, in consultation with the center for health information and analysis, shall provide a cost estimate review and evaluation of permitting a pharmacist, in an emergency situation, to: (i) dispense not more than a 72-hour supply of insulin; or (ii) dispense more than a 72-hour supply of insulin if the standard unit of dispensing for the drug exceeds a 72-hour supply; provided, however, that the review and evaluation shall include an estimate of costs to the commonwealth under 45 C.F.R. 155.170.

The review and evaluation shall be posted on the commission’s website and shall be filed with the clerks of the senate and the house of representatives and the house and senate committees on ways and means not later than March 1, 2020.”

After remarks, the amendment was adopted.

Mr. Welch and Ms. Chang-Diaz moved that the proposed new draft be amended in section 18, by striking out, in line 153, the words “and drug safety information” and inserting in place thereof the following words:- “, drug safety and prescription drug adherence information. The commission shall prioritize outreach and public education

24

initiatives in low-income communities”; and by inserting after section 41 the following section:-

“SECTION 41A. The health policy commission, in consultation with the department of public health, shall: (i) catalogue existing resources and services related to prescription drug safety and adherence and financial literacy for prescription drugs costs and insurance coverage; (ii) publish a list of these resources and services on the commission’s public website; and (iii) make recommendations on ways to enhance public awareness and utilization of these resources, especially among low-income residents.

Not later than July 1, 2020, the commission shall file a copy of its recommendations with the clerks of the senate and house of representatives and the house and senate committees on ways and means and post a list of current consumer programs on its website.”.

After remarks, the amendment was adopted.

Mr. Montigny moved that the proposed new draft be amended in section 29, by striking out, in line 440, the words “and (vi)” and inserting in place thereof the following words:- “(vi) research and development costs as a percentage of revenue; (vii) annual marketing and advertising costs, identifying costs for direct-to-consumer advertising; (viii) annual profits over the most recent 5-year period; (ix) cost disparities between prices charged to purchasers in the commonwealth and purchasers outside of the United States; and (x)”;

and by striking out, in line 447, the words “and (iii)” and inserting in place thereof the following words:- “(iii) annual marketing and advertising expenditures; and (iv)”;

and in section 30, by striking out, in line 490, the figure “\$1,000” and inserting in place thereof the following figure:- “\$2,000”.

30

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at three minutes before four o'clock P.M., on motion of Mr. Montigny, as follows, to wit (yeas 39 – nays 0) **[Yeas and Nays No. 127]:**

YEAS.

- | | |
|--------------------------|------------------------------|
| Barrett, Michael J. | Hinds, Adam G. |
| Boncore, Joseph A. | Humason, Donald F., Jr. |
| Brady, Michael D. | Jehlen, Patricia D. |
| Brownsberger, William N. | Keenan, John F. |
| Chandler, Harriette L. | Kennedy, Edward J. |
| Chang-Diaz, Sonia | Lesser, Eric P. |
| Collins, Nick | Lewis, Jason M. |
| Comerford, Joanne M. | Lovely, Joan B. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Crighton, Brendan P. | Moore, Michael O. |
| Cyr, Julian | O'Connor, Patrick M. |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| DiDomenico, Sal N. | Rausch, Rebecca L. |
| DiZoglio, Diana | Rodrigues, Michael J. |
| Eldridge, James B. | Rush, Michael F. |
| Fattman, Ryan C. | Tarr, Bruce E. |
| Feeney, Paul R. | Timilty, Walter F. |
| Finegold, Barry R. | Tran, Dean A. |
| Friedman, Cindy F. | Welch, James T. – 39. |
| Gobi, Anne M. | |

NAYS – 0.

The yeas and nays having been completed at four o'clock P.M., the amendment was adopted.

Recess.

There being no objection, at five minutes past four o'clock P.M., the Chair (Mr. Brownsberger) declared a recess subject to the call of the Chair; and at five minutes before five o'clock P.M., the Senate reassembled, Mr. Brownsberger in the Chair.

Recess.

Statement of Senator Brendan P. Crighton.

The Senator from Third Essex, Mr. Crighton, submitted the following statement:

Jacob Seilheimer was born on December 23, 1980 in Ladysmith, Wisconsin to Allen Van Seilheimer and Sandra Hatch Seilheimer. He was raised with his loving family on Clear Lake in New Auburn, Wisconsin. After excelling in athletics and academics at New Auburn High School, Jacob attended Colby College in Waterville, Maine, where he was well known as “the Bear” for his dominating performance as an offensive lineman for the Mules, his fierce loyalty to his teammates and friends, and his epic bear hugs. If you were lucky, he would bestow upon you a nickname that you would have for the rest of your life. If you were truly lucky, you would have shared time and conversation with him in class, at the pub, or on the football field.

Jacob Seilheimer.

After graduating from Colby College in 2003 with a degree in environmental policy, Jacob returned to Wisconsin to work for the family beekeeping business and follow through on a promise to repay his college debt to his parents. After two years, Jacob came back to New England to attend UNH School of Law. In the fall of 2005, during Jacob's first semester of law school, his father passed away and shortly thereafter, Jacob went home to be with his mom and ensure that the family beekeeping business transitioned smoothly to a family friend. Determined to finish what he started, he returned to law school in the fall of 2006.

In an effort to keep moving forward, and perhaps ignoring the fact that he was a blocker and not a runner, Jacob's friends convinced him to run the Boston Marathon. In 2007, Jacob ran Boston as a bandit runner. His inspiring and humbling tale of determination was chronicled in a story written by Peter Sagal (of NPR Fame) and published in Runner's World Magazine 9 years later.

In law school, Jacob added to his collection of friends, and met his soul mate and eventual wife, Megan Yaple. The two became fast friends while bonding over their love of sports and Megan's alma mater's (SMU) ill-fated football team, as well as their mutual love for laughter and joy. In the spring of 2012, only weeks after purchasing Megan's engagement ring, Jacob suffered a seizure that revealed a malignant brain tumor growing in the left frontal lobe of his brain. After surgery and a year of chemo and radiation, Megan and Jacob were married in Playa del Carmen, Mexico.

Unfortunately, 2 years later, his tumor returned and he was diagnosed with a Grade 4 glioblastoma. Approaching this new challenge like the Bear he was, Jacob bravely and fiercely fought the tumor over the course of four years, another brain surgery, and five clinical trials. He made himself comfortable at Massachusetts General Hospital by delighting nurses, doctors, and fellow patients and his refusal to take anything seriously always lightened the mood. During this time Jacob was a participant and guest speaker at the annual Brain Tumor Awareness Month ceremony at the State House. He joined the National Brain Tumor Society, a doctor from MGH, and brain tumor survivors to share his tale and help raise awareness of this horrible disease. His will to live his life to the fullest allowed him to spend meaningful, quality time with his friends and family across the country. Jacob left an incredible impact on the people in his life and the rest of the world. Sadly, Jacob's fight with his brain tumor came to an end and he passed away on September 11, 2019 in the loving arms of his brother and his devoted wife.

The tale of Jacob's short but incredibly full 38-year-life is best told through the strength of the bonds that he made with those around him. To know Jacob was to laugh with him and to love him. His superior intelligence, quick wit, booming laugh, and larger than life presence will be sorely missed and remembered forever. Jacob is survived by his loving wife, Megan Yaple; his mother, Sandra of New Auburn, Wisconsin; his brother, Titus, sister-in-law, Amy, and two nephews, Tor and Leif of Manitowoc, Wisconsin; and aunt, Elaine Hatch of Portsmouth, New Hampshire, as well as an incredibly large in-law family (mostly in California), all of whom love and miss him dearly. He was predeceased by his father, Allen; aunt, Kathy; and both sets of grandparents.

On motion of Mr. Lewis, the above statement was printed in the Journal of the Senate, under the provisions of Senate Rule 6.

PAPER FROM THE HOUSE.

Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of state land in the town of Needham now under the care and control of the department of conservation and recreation (see House, No. 4077) (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 five o'clock P.M., as follows, to wit (yeas 39 - nays 0) [**Yeas and Nays No. 128**]:

Needham,-- land acquisition.

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Hinds, Adam G. |
| Boncore, Joseph A. | Humason, Donald F., Jr. |
| Brady, Michael D. | Jehlen, Patricia D. |
| Brownsberger, William N. | Keenan, John F. |
| Chandler, Harriette L. | Kennedy, Edward J. |
| Chang-Diaz, Sonia | Lesser, Eric P. |
| Collins, Nick | Lewis, Jason M. |
| Comerford, Joanne M. | Lovely, Joan B. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Crighton, Brendan P. | Moore, Michael O. |
| Cyr, Julian | O'Connor, Patrick M. |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| DiDomenico, Sal N. | Rausch, Rebecca L. |
| DiZoglio, Diana | Rodrigues, Michael J. |
| Eldridge, James B. | Rush, Michael F. |
| Fattman, Ryan C. | Tarr, Bruce E. |
| Feeney, Paul R. | Timilty, Walter F. |
| Finegold, Barry R. | Tran, Dean A. |
| Friedman, Cindy F. | Welch, James T. - 39. |
| Gobi, Anne M. | |

NAYS - 0.

The yeas and nays having been completed at five 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. Brownsberger) and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were further considered as follows:

The Senate Bill relative to consumer protection for prescription drug purchases (Senate, No. 733),-- was further considered.

Prescription drug,--
consumer protection.

Pending the question on adoption on the amendment previously recommended by the committees on Ways and Means, and pending the main question on ordering the bill to a third reading, Mr. Rodrigues moved that the proposed new draft be amended by striking out section 10 and inserting in place thereof the following 4 sections:-

43

“SECTION 10. Section 6 of said chapter 6D, as so appearing, is hereby amended by inserting after the word ‘center’, in line 1, the following words:- , pharmaceutical and biopharmaceutical manufacturing company, pharmacy benefit manager.

SECTION 10A. Said section 6 of said chapter 6D, as so appearing, is hereby further amended by striking out, in lines 5 and 36 the figure ‘33’ and inserting in place thereof, in each instance, the following figure:- 25.

SECTION 10B. Said section 6 of chapter 6D, as so appearing, is hereby further amended by striking out, in lines 8 and 39, the words ‘and (iii)’ and inserting in place thereof, in each instance, the following words:- (iii) expenses related to the academic detailing program established in section 15A; and (iv).

SECTION 10C. Said section 6 of said chapter 6D, as so appearing, is hereby further amended by adding the following paragraph:-

The assessed amount for pharmaceutical and biopharmaceutical manufacturing companies and pharmacy benefit managers shall be not less than 25 per cent of the amount appropriated by the general court for the expenses of the commission minus amounts collected from: (i) filing fees; (ii) fees and charges generated by the commission's publication or dissemination of reports and information; and (iii) federal matching revenues received for these expenses or received retroactively for expenses of predecessor agencies; provided, however, that the assessed amount for pharmaceutical and biopharmaceutical manufacturing companies shall include 100 per cent of the expenses related to the academic detailing program created by section 15A. Pharmaceutical and biopharmaceutical manufacturing companies and pharmacy benefit managers shall, in a manner and distribution determined by the commission, pay to the commonwealth an amount of the estimated expenses of the commission attributable to the commission's activities under sections 8, 9, 15A, 15B, 20 and 21. A pharmacy benefit manager that is a surcharge payor subject to the preceding paragraph and manages its own prescription drug benefits shall not be subject to additional assessment under this paragraph.”;

In section 19, in proposed subsection (a) of section 20 of chapter 6D, by striking out the words “section 239 of chapter 111”, each time they appear, and inserting in place thereof, in each instance, the following words:- “subsection (f) of section 13 of chapter 17”;

In said section 19, by striking out, in line 294, the figure “(g)” and inserting in place thereof the following figure:- “(f)”;

By striking out section 28 and inserting in place thereof the following 3 sections:-

“SECTION 28. The first paragraph of section 7 of said chapter 12C, as so appearing, is hereby amended by adding the following sentence:- Each pharmaceutical and biopharmaceutical manufacturing company and pharmacy benefit manager shall pay to the commonwealth an amount for the estimated expenses of the center and for the other purposes described in this chapter.

SECTION 28A. Said section 7 of said chapter 12C, as so appearing, is hereby further amended by striking out, in lines 8 and 42, the figure ‘33’ and inserting in place thereof, in

each instance, the following figure:- ‘25’.

SECTION 28B. Said section 7 of said chapter 12C, as so appearing, is hereby further amended by adding the following paragraph:-

The assessed amount for pharmaceutical and biopharmaceutical manufacturing companies and pharmacy benefit managers shall be not less than 25 per cent of the amount appropriated by the general court for the expenses of the center minus amounts collected from: (i) filing fees; (ii) fees and charges generated by the commission's publication or dissemination of reports and information; and (iii) federal matching revenues received for these expenses or received retroactively for expenses of predecessor agencies. Pharmaceutical and biopharmaceutical manufacturing companies and pharmacy benefit managers shall, in a manner and distribution determined by the center, pay to the commonwealth an amount of the estimated expenses of the center attributable to the center’s activities under sections 3, 10A, 12 and 16. A pharmacy benefit manager that is a surcharge payor subject to the preceding paragraph and manages its own prescription drug benefits shall not be subject to additional assessment under this paragraph.”;

By inserting after section 32 the following section:-

“SECTION 32A. Section 13 of chapter 17 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

‘(f) As used in this subsection, the following words shall have the following meanings unless the context clearly requires otherwise:

“Public health essential drug”, a prescription drug, biologic or biosimilar approved by the federal Food and Drug Administration that: (i) appears on the Model List of Essential Medicines most recently adopted by the World Health Organization; or (ii) is deemed an essential medicine by the commission due to its efficacy in treating a life-threatening health condition or a chronic health condition that substantially impairs an individual's ability to engage in activities of daily living or because limited access to a certain population would pose a public health challenge.

The commission shall identify and publish a list of public health essential prescription drugs. The list shall be updated not less than annually and be made publicly available on the department’s website; provided, however, that the commission may provide an interim listing of a public health essential drug prior to an annual update. The commission shall also notify and forward a copy of the list to the health policy commission established under chapter 6D.’”:

By striking out section 34; and

In section 38, by striking out, in line 641, the words “notify the pharmacy benefit manager and advise, in writing,” and inserting in place thereof the following words:- “provide written notice to the pharmacy benefit manager and advise in writing”.

The amendment was adopted.

Moment of Silence.

There being no objection, during consideration of the Orders of the Day, at the request of the President, the members, guests and staff stood in a moment of silence and reflection to the memory of Margaret Dexter Xifaras

Moment of silence.

Orders of the Day.

The President in the Chair, the Orders of the Day were further considered as follows: The Senate Bill relative to consumer protection for prescription drug purchases (Senate, No. 733),-- was further considered.

Prescription drug,--
consumer protection.

The pending Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2397, amended) was then ordered to a third reading and read a

third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at nine minutes past five o'clock P.M., on motion of Ms. Friedman, as follows to wit (yeas 40 – nays 0) **[Yeas and Nays No. 129]:**

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Hinds, Adam G. |
| Boncore, Joseph A. | Humason, Donald F., Jr. |
| Brady, Michael D. | Jehlen, Patricia D. |
| Brownsberger, William N. | Keenan, John F. |
| Chandler, Harriette L. | Kennedy, Edward J. |
| Chang-Diaz, Sonia | Lesser, Eric P. |
| Collins, Nick | Lewis, Jason M. |
| Comerford, Joanne M. | Lovely, Joan B. |
| Creem, Cynthia Stone | Montigny, Mark C. |
| Crighton, Brendan P. | Moore, Michael O. |
| Cyr, Julian | O'Connor, Patrick M. |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| DiDomenico, Sal N. | Rausch, Rebecca L. |
| DiZoglio, Diana | Rodrigues, Michael J. |
| Eldridge, James B. | Rush, Michael F. |
| Fattman, Ryan C. | Spilka, Karen E. |
| Feeney, Paul R. | Tarr, Bruce E. |
| Finegold, Barry R. | Timilty, Walter F. |
| Friedman, Cindy F. | Tran, Dean A. |
| Gobi, Anne M. | Welch, James T. – 40. |

NAYS – 0.

The yeas and nays having been completed at ten minutes past five o'clock P.M., the bill was passed to be engrossed [For bill, printed as amended, see Senate, No. 2309].

Sent to the House for concurrence.

Recess.

There being no objection, at eleven minutes past five o'clock P.M., the President declared a recess subject to the call of the Chair; and at two minutes before eight o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

Suspension of Senate Rule 38A.

Mr. Brownsberger moved that Senate Rule 38A be suspended to allow the Senate to meet beyond the hour of 8:00 P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted

Senate Rule 38A.

Resolutions.

The Senate Resolutions resolving the investigation of the conduct of the Honorable Michael D. Brady, Senator from the Second Bristol and Plymouth District (Senate, No. 2405, Appendix D),-- **were read; and they were adopted.**

Senator Brady,--
conduct.

Order Adopted.

On motion of Mr. Barrett,--
Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday

Time of meeting.

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 Margaret Dexter Xifaras

The Senator from Plymouth and Bristol, Mr. Pacheco, the Senator from Cape and Islands, Mr. Cyr, the Senator from Middlesex and Norfolk, Ms. Creem, and the Senator from Bristol and Plymouth, Mr. Montigny moved that when the Senate adjourns today, it do so in memory of Margaret Dexter Xifaras.

Margaret Dexter Xifaras, better known as MarDee, died shortly after midnight on October 8, 2019 of metastatic breast cancer at the age of 74. She leaves behind an indelible legacy as a lawyer, citizen activist, and stalwart Democrat dedicated to the party and her community.

MarDee was born in Rapid City, South Dakota, but was raised in Winnetka, Illinois. She graduated from the University of Illinois in 1967 and then became a member of the first generation to serve in the Peace Corps.

MarDee came to Massachusetts on a fellowship to study international relations at the prestigious Fletcher School of Law and Diplomacy at Tufts in Medford. She took a leave of absence to work in New Bedford on the congressional campaign of Gerry E Studds in 1970 and 1972, where she met her future husband John Xifaras. Her political activism continued throughout her life, she played key roles on a number of presidential campaigns, including those of Bill Clinton, Michael Dukakis, Al Gore, John Kerry and Barack Obama. She also served on the Democratic State Committee for 48 years and was a delegate or super delegate to the Democratic National Convention for 30 years.

Extremely dedicated to the practice of law, MarDee was a longtime member of the Massachusetts, Bristol County, and New Bedford Bar Associations. A leader in her field, MarDee received the Massachusetts Bar Associations President's Award, served as chair of its Family Law section, and served on the State Board of Bar Overseers.

MarDee's passion for the law drove her to give others the opportunity to participate in her field. To that end, she worked tirelessly to found UMass Law, the Commonwealth's first and only public law school. She described the establishment of this school as her greatest achievement. In January of 2011, she was named SouthCoast Woman of the Year by The Standard-Times, with the paper describing her as "instrumental" in the school's founding.

MarDee Xifaras is survived by her husband, retired Judge John M. Xifaras of Marion; her three children: Michael John ("M.J.") Xifaras and his wife Rachel of Tallahassee, Florida; Juliet Dexter Xifaras and her husband Thomas Cooney of Mattapoisett; Attorney Dena Xifaras and her husband Michael Papadakis of Mattapoisett; six grandchildren: Yanni, Zoe, Spiros, Stella, Thomas and Theo; two brothers: John Strahorn of Maryland and James Strahorn of California and many nieces and nephews.

MarDee Xifaras was a remarkable combination of dedication, warmth, friendship, zeal, compassion, and activism; she will be missed by all.

Accordingly, as a mark of respect to the memory of Margaret Dexter Xifaras and Jacob Seilheimer, at eight o'clock P.M, on motion of Mr. Humason, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.