

**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, April 28, 2016.

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

The Senator from Essex and Middlesex, Mr. Tarr, led the President, members, guests and staff in the recitation to the pledge of allegiance to the flag.

#### *Distinguished Guests.*

There being no objection, the President handed the gavel to Mr. Keenan for the purpose of an introduction. Mr. Keenan then introduced, in the rear of the Chamber, the Rockland High School Cheerleading Team. The team was recognized for having won the Fall 2015 and Winter 2016 Division 4 State Championship titles. The Senate applauded their accomplishments and they withdrew from the Chamber. The team was accompanied by Coach Jeanine Reardon, Jim Evers and Peggy LaPaglia.

There being no objection, the President handed the gavel to Ms. Jehlen for the purpose of an introduction. Ms. Jehlen then introduced, in the rear of the Chamber, Sherry Bayle and Uzma Wahid, representatives from the Deaf and Hard of Hearing Commission. They interpreted to a group that accompanied them, the Senate welcomed them with applause and they withdrew from the Chamber.

There being no objection, the President handed the gavel to Mr. Tarr for the purpose of an introduction. Mr. Tarr then introduced, in the rear of the Chamber, Dr. William C. Campbell of North Andover. Dr. Campbell was recognized for having earned the Nobel Prize in Medicine along with his colleagues, Dr. Satoshi Omura and Dr. Tu Youyou for their work in anti-parasitic drugs. He helped develop Ivermectin, a medicine which eradicates river blindness and reduces filariasis. In chemical form, this substance is known as Ivermectin, which has been proven to kill parasites in humans. This drug is vital as one third of the world's population is in risk of contracting parasitic diseases in regions such as Latin America, Sub-Saharan Africa and South Asia. Dr. Campbell was presented Senate Citations on the Rostrum, he signed the guest book and withdrew from the Chamber.

There being no objection, the President handed the gavel to Mr. Keenan and Ms. Gobi for the purpose of an introduction. Mr. Keenan then introduced, in the rear of the Chamber, interns Aaron Dai and Mairade Glowacky. The intern program provides students with a better understanding of public service and the legislative process in Massachusetts, and allows them gain first-hand experience working for a legislator. The Senate welcomed them with applause and they withdrew from the Chamber.

#### *Petitions.*

Petitions were severally presented and referred as follows:

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 2249) of Kenneth J. Donnelly, James J. Dwyer and Jay R. Kaufman (with approval of the mayor and city council) for legislation relative to the temporary use of the Clapp School in the City of Woburn [Local approval received]; and

By Mr. Fattman, a petition (accompanied by bill, Senate, No. 2250) of Ryan C. Fattman (by vote of the town) for legislation to authorize the town of Mendon to return a certain parcel in the town of Mendon to John D. Gannett, Jr. and Ute D. Gannett [Local

approval received]; and

**Severally, under Senate Rule 20, to the committee on Municipalities and Regional Government.  
Sent to the House for concurrence.**

By Mr. Moore, a petition (accompanied by bill) (subject to Joint Rule 12) of Michael O. Moore and Kate D. Campanale for legislation to establish a sick leave bank for Gwen Johnson, an employee of the Department of Developmental Services;  
**Under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

*Reports of Committees.*

By Ms. Chang-Diaz, for the committee on Education, on petition (accompanied by bill, Senate, No. 245), a Bill relative to the administration of diabetes medication (Senate, No. 2252);

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

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition (accompanied by bill, Senate, No. 650), a Bill relative to motor vehicle warranties (Senate, No. 2245);

By the same Senator, for the same committee, on Senate, Nos. 179 and 186, a Bill relative to robocalls and telephone solicitation (Senate, No. 2246);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 203), a Bill relative to investigators at the Alcoholic Beverages Control Commission (Senate, No. 2247);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 204), a Bill protecting consumers of sign language and oral interpretation and transliteration (Senate, No. 2248);

By Ms. Chang-Diaz, for the committee on Education, on Senate, Nos. 249 and 332, a Bill to involve youth in civic engagement (Senate, No. 2253);

By the same Senator, for the same committee, on Senate, Nos. 258, 275 and 279 and House, Nos. 345, 349, 390, 507 and 512, a Bill relative to financial literacy in schools (Senate, No. 2254);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 281), a Bill to provide equal access to the bureau of special education appeals (Senate, No. 2255);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 286), a Bill providing immediate childcare assistance to homeless families (Senate, No. 2256); and

By Mr. Timilty, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Evelena Brown, an employee of the Department of Children and Families (Senate, No. 2238);

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

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition (accompanied by bill, Senate, No. 125), a Bill relative to the sale of wine in private clubs (Senate, No. 2244);

By Ms. L'Italien, for the committee on Municipalities and Regional Government, on petition, a Bill relative to partition fences (Senate, No. 2188); and

By Mr. Downing, for the committee on Telecommunications, Utilities and Energy, on petition, a Bill to prohibit misleading telemarketer calls to consumers (Senate, No. 1782);

**Severally read and, under Senate Rule 26, referred to the committee on Rules.**

*Committees Discharged.*

Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Tourism, Arts and Cultural Development to make an investigation and study of certain current Senate documents relative to tourism, arts and cultural development (Senate, No. 2236),-- **and recommending that the same be referred to the committee on Rules;**

**Under Senate Rule 36, the report was considered forthwith and accepted.**

Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration

Of the Senate Bill modernizing procedures for boards and commissions (Senate, No. 1621); and

Of the Senate Resolve relative to studying the impacts of changing the Massachusetts time zone (Senate, No. 2239);

**And recommending that the same severally be referred to the committee on Rules;**

**Under Senate Rule 36, the reports were severally considered forthwith and accepted.**

Ms. Spilka, for the committee on Ways and Means, reported, asking to be discharged from further consideration of the Senate Bill to strengthen the anti-human trafficking law (Senate, No. 872),-- **and recommending that the same be referred to the**

**committee on Rules [Estimated cost: \$12,000,000];  
Under Senate Rule 36, the reports were considered forthwith and accepted.**

#### **PAPERS FROM THE HOUSE**

A Bill establishing a sick leave bank for Miranda Marie Flanagan, an employee of the Massachusetts Department of Transportation (House, No. 4124,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill relative to kayak safety (House, No. 2180,-- on petition),-- **was read and, under Senate Rule 26, referred to the committee on Rules.**

#### *Bills*

Relative to the use of legal counsel by the town of Southbridge (House, No. 3999,-- on petition) [Local approval received];  
Relative to the Director of Public Works in the town of Southbridge (House, No. 4000,-- on petition) [Local approval received];  
Relative to the removal of the Director of Public Works in the town of Southbridge (House, No. 4001,-- on petition ) [Local approval received]; and

Relative to quasi-judicial boards in the town of Southbridge (House, No. 4002,-- on petition) [Local approval received];  
Authorizing the city of Medford to use certain land for any municipal purpose (House, No. 4246,-- on House, No. 3986) [Local approval received on House, No. 3986];

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

#### *Resolutions.*

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

Resolutions (filed by Ms. L'Italien, Mr. Tarr, Ms. O'Connor-Ives, Messrs. McGee and Eldridge, Ms. Jehlen, Mr. Lewis, Ms. Lovely, Ms. Donoghue and Messrs. Donnelly, DiDomenico and Barrett) "commending the Autism Support Center on the occasion of its twenty-fifth anniversary";

Resolutions (filed by Mr. Ross) "congratulating Ashley Lamoureux of the town of North Attleborough on receiving the Gold Award of the Girl Scouts of America";

Resolutions (filed by Mr. Ross) "congratulating Connor F. Lancaster of the town of Sherborn on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Spilka) "congratulating Samuel David Darkow of the town of Hopkinton on his elevation to the rank of Eagle Scout";

Resolutions (filed by Ms. Spilka) "congratulating Kyle Fields of the town of Framingham on his elevation to the rank of Eagle Scout";

Resolutions (filed by Ms. Spilka) "congratulating Matthew Cole Paolucci of the town of Hopkinton on his elevation to the rank of Eagle Scout"; and

Resolutions (filed by Messrs. Timilty and Ross) "congratulating Mayor Kevin Dumas on receiving the 2016 Good Scout Award from the Narragansett Council of the Boy Scouts of America."

#### **PAPERS FROM THE HOUSE**

##### *Emergency Preamble Adopted.*

An engrossed Bill establishing a sick leave bank for Leanna Babineau, an employee of the Department of Developmental Services (see House, No. 4123, 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 6 to 0.**

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

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

Petition (accompanied by bill, House, No. 4247) of F. Jay Barrows for legislation to establish additional mandated reporters for the purposes of the protection and care of children;

**Under suspension of Joint Rule 12, to the committee on Children, Families and Persons with Disabilities.**

Petition (accompanied by bill, House, No. 4248) of Claire D. Cronin relative to the punishment for the use of rental vehicles in the commission of crimes;

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

Petition (accompanied by bill, House, No. 4249) of Kevin J. Kuros and Ryan C. Fattman for legislation to establish a sick leave bank for Ceclie Ferrie, an employee of the Department of Correction;

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

Petition (accompanied by bill, House, No. 4250) of Kate D. Campanale and others for legislation to establish tax credits and personal income tax deductions for student loan assistance;

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

Petition (accompanied by bill, House, No. 4251) of Marc T. Lombardo (at the request of the town) that the town of Billerica be designated as the Yankee Doodle town;

**Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.**

*Report of a Committee.*

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill to keep siblings together (Senate, No. 104),-- ought to pass, with an amendment substituting a new draft entitled "An Act supporting the rights of children in the custody of the Department of Children and Families" (Senate, No. 2257).

*Order Adopted.*

Ms. Spilka offered the following order, to wit:

*Ordered*, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to keep siblings together (Senate, No. 104) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft with a new title, Senate, No. 2257) shall be placed in the Orders of the Day for a second reading on Thursday, May 5, 2016.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, May 2, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2257), 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, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Ms. L'Italien, and the order was considered forthwith and adopted.**

**The bill will be placed in the Orders of the Day for Thursday, May 5, for a second reading, with the amendment pending.**

*Report of a Committee.*

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill to promote agriculture in the Commonwealth (Senate, No. 2171),-- ought to pass, with an amendment substituting a new draft entitled "An Act promoting agriculture in the Commonwealth" (Senate, No. 2258).

*Order Adopted.*

Ms. Spilka offered the following order, to wit:

*Ordered*, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to promote agriculture in the Commonwealth (Senate, No. 2171) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft with a new title, Senate, No. 2258) shall be placed in the Orders of the Day for a second reading on Thursday, May 5, 2016.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, May 2, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2258), 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, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Mr. Fattman, and the order was considered forthwith and adopted. The bill will be placed in the Orders of the Day for Thursday, May 5, for a second reading, with the amendment pending.**

*Report of a Committee.*

By Ms. Spilka, for the committee on Ways and Means, that the House Bill relative to non-conforming structures (House, No. 3611),-- **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2259.**

*Order Adopted.*

Ms. Spilka offered the following order, to wit:

*Ordered,* That notwithstanding Senate Rule 7 or any other rule to the contrary, the House Bill relative to non-conforming structures (House, No. 3611) (the committee on Ways and Means 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 2259) shall be placed in the Orders of the Day for a second reading on Thursday, May 5, 2016.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, May 2, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new text (Senate, No. 2259), 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, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Ms. Lovely, and the order was considered forthwith and adopted.**

**The bill will be placed in the Orders of the Day for Thursday, May 5, for a second reading, with the amendment pending.**

**PAPERS FROM THE HOUSE.**

The following House Orders (approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

*Ordered,* That, notwithstanding the provisions of Joint Rule 10, the committee on Municipalities and Regional Government be granted until Monday, May 16, 2016, within which time to make its final report on House document numbered 3906.

**The rules were suspended, on motion of Ms. L'Italien, and the order (House, No. 4174) was considered forthwith; and, after remarks, was adopted, in concurrence.**

*Ordered,* That, notwithstanding the provisions of Joint Rule 10, the committee on Elder Affairs be granted until Tuesday, May 3, 2016 within which time to make its final report on current Senate document numbered 2139.

**The rules were suspended, on motion of Ms. Jehlen, and the order (House, No. 4119) was considered forthwith; and, after remarks, was adopted, in concurrence.**

*Ordered,* That, notwithstanding the provisions of Joint Rule 10, the committee on Elder Affairs be granted until Thursday, June 2, 2016, within which time to make its final report on current Senate document numbered 370 and House documents numbered 518, 535 and 3404.

**The rules were suspended, on motion of Ms. Jehlen, and the order (House, No. 4229) was considered forthwith; and, after remarks, was adopted, in concurrence.**

*Orders of the Day.*

The Orders of the Day were considered as follows:

**Bills**

Authorizing the town of Tolland to continue the employment of police officer Lester M. Walker (Senate, No. 1372);

Relative to liquor licenses within the town of Salisbury (Senate, No. 2201);

Relative to the form of representative town government in the town of North Attleborough (House, No. 3853); and

Amending the charter of the city known as the town of Greenfield (House, No. 4003);

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

The Senate Bill relative to self-storage insurance (Senate, No. 533),-- **was read a second time.**

Mr. Donnelly in the Chair, after remarks, and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means substituting a new draft with the same title (Senate, No. 2233) and pending the main question on ordering the bill to a third reading, Mr. Keenan moved that the proposed new draft be amended by striking out, in lines 52 and 53, the words "in a form approved by the insurer is provided to each occupant who purchases the coverage" and inserting in place thereof the following words:- "or a voluntary declination of coverage, in a form approved by the insurer, is provided to each occupant to whom coverage is offered; provided, however, that if insurance is required as a condition of rental under subclause (3) of clause (i), the requirement of evidence of a voluntary declination of coverage shall not apply".

Pending the question on adoption of the amendment, Mr. Timilty moved that the amendment (Keenan) be amended by striking it in its entirety and inserting in place thereof the following:-

That the bill be amended by striking in line 1 the words "Chapter 175 of the General Laws is hereby amended by adding the following section" and inserting in place thereof the words:-

"SECTION 1. Chapter 105A of the General Laws is hereby amended by inserting after Section 9 the following new Section:-  
Section 10. Every operator shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name or name in ordinary use and last known address of every occupant in the self-service storage facility, together with a true and accurate record of the unit assigned to such person and of time frame when such unit is assigned under the rental agreement. The entry of the names of the occupants of said unit shall be made by said occupant, except that when five or more members of a business, fraternal, or social group or other group having a common interest are engaging units, they may designate one person to make said entry on their behalf and prior to occupancy. Until the entry of such name and the record of the unit has been made, such person shall not be allowed to occupy privately any unit upon the licensed premises. Such register shall be retained by the operator for a period of at least one year after the date of the last entry therein, and shall be open to the inspection of the licensing authorities, their agents and the police. Whoever violates any provision of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than three months, or both.

Section 2. Chapter 175 of the General Laws is hereby amended by adding the following section.";

By striking in lines 52 and 53 the words "(iii) evidence of coverage in a form approved by the insurer is provided to each occupant who purchases the coverage" and inserting in place thereof the words:-

"(iii) evidence of coverage or a voluntary declination of coverage, in a form approved by the insurer, is provided to each occupant to whom coverage is offered".

After remarks, the further amendment was *rejected*.

After further remarks, the pending amendment (Keenan) was again considered, and it was **adopted**.

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

**The bill (Senate, No. 2233, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.**

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

The House Bill regulating secondary metals dealings (House, No. 3806, amended),-- **was read a second time.**

After remarks, and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means (striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2235) and pending the main question on ordering the bill to a third reading, Mr. Keenan moved that the proposed new text be amended by inserting at the end of the proposed chapter 140B ½ the following new section:-

"SECTION \_\_. In addition to the provisions of this chapter, any local ordinances pertaining to secondary raw metals dealing in effect prior to the effective date of this chapter, consistent with and that may exceed the requirements established under this chapter, may remain in effect notwithstanding implementation of this chapter."

After remark, the amendment was **adopted**.

Mr. Timilty, Ms. Chandler and Ms. L'Italien moved that the proposed new text be amended in section 5, in proposed section 10 of chapter 140B½ by striking in lines 193 and 194 the words "or (iv) consumer electronics retailers primarily engaged in the business of selling new consumer electronics" and inserting in place thereof the following:

"(iv) consumer electronics retailers primarily engaged in the business of selling new consumer electronics; or (v) providers of commercial mobile services as defines in 47 U.S.C. 332(d), and such providers' authorized agents and retailers that have contractual relationships with the provider to sell the providers' authorized products and services"; and

In section 5, in proposed section 9 of chapter 140B¾ by striking in lines 344 and 345 the words "or (iv) consumer electronics retailers primarily engaged in the business of selling new consumer electronics" and inserting in place thereof the following:

"(iv) consumer electronics retailers primarily engaged in the business of selling new consumer electronics; or (v) providers of commercial mobile services as defines in 47 U.S.C. 332(d), and such providers' authorized agents and retailers that have contractual relationships with the provider to sell the providers' authorized products and services".

After remark, the amendment was **adopted**.

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

**The bill, as 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 two minutes before twelve o'clock noon, on motion of Ms. L'Italien, as follows, to wit (*yeas 34 – nays 0*) [**Yeas and Nays No. 283**]:

**YEAS.**

Barrett, Michael J.	Joyce, Brian A.
Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Creem, Cynthia Stone	Lovely, Joan B.
deMacedo, Viriato M.	McGee, Thomas M.
DiDomenico, Sal N.	Montigny, Mark C.
Donnelly, Kenneth J.	Moore, Michael O.
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T. – 34.

**NAYS – 0.**

**ABSENT OR NOT VOTING.**

Chang-Diaz, Sonia	Wolf, Daniel A. – 3.
Lesser, Eric P.	

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

*Recess.*

There being no objection, at four minutes past twelve o'clock noon, the Chair (Mr. Donnelly) declared a recess subject to the call of the Chair; and, at twenty-four minutes past one o'clock P.M., the Senate reassembled, the President in the Chair. There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

**PAPERS FROM THE HOUSE**

*Engrossed Bills — Land Taking for Conservation Etc.*

An engrossed Bill authorizing the town of Sterling to grant certain nitrogen loading easements (see House, No. 3244) (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 twenty-five minutes past one o'clock P.M., as follows, to wit (*yeas 35 - nays 0*) [**Yeas and Nays No. 284**]:

**YEAS.**

Barrett, Michael J.	Joyce, Brian A.
Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	McGee, Thomas M.
deMacedo, Viriato M.	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.

Forry, Linda Dorcena

Tarr, Bruce E.

Gobi, Anne M.

Timilty, James E.

Humason, Donald F., Jr.

Welch, James T. – 35.

Jehlen, Patricia D.

**NAYS – 0.**

**ABSENT OR NOT VOTING.**

Lesser, Eric P.

Wolf, Daniel A. – 2.

**The yeas and nays having been completed at twenty-seven minutes before two 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.**

An engrossed Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land to the town of Acton (see House, No. 3792, changed and amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-six minutes before two o'clock P.M., as follows, to wit (*yeas 35 - nays 0*) [**Yeas and Nays No. 285**]:

**YEAS.**

Barrett, Michael J.

Joyce, Brian A.

Brady, Michael D.

Keenan, John F.

Brownsberger, William N.

Lewis, Jason M.

Chandler, Harriette L.

L'Italien, Barbara A.

Chang-Diaz, Sonia

Lovely, Joan B.

Creem, Cynthia Stone

McGee, Thomas M.

deMacedo, Viriato M.

Montigny, Mark C.

DiDomenico, Sal N.

Moore, Michael O.

Donnelly, Kenneth J.

O'Connor Ives, Kathleen

Donoghue, Eileen M.

Pacheco, Marc R.

Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T. – 35.
Jehlen, Patricia D.	

**NAYS – 0.**

**ABSENT OR NOT VOTING.**

Lesser, Eric P.	Wolf, Daniel A. – 2.
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**The yeas and nays having been completed at twenty-two minutes before two 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.**

*Matter Taken Out of the Notice Section of the Calendar.*

There being no objection, the following matters was taken out of the Notice Section of the Calendar and considered as follows: The House Bill relative to the date of town elections in the town of Southbridge (House, No 3998),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

*Recess.*

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

At three minutes past three o'clock A.M., Mr. Tarr doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

*Distinguished Guest.*

There being no objection, during consideration of the Orders of the Day, the following guest was recognized:

The President handed the gavel to Mr. Rush for the purpose of an introduction. Mr. Rush then introduced in the rear of the Chamber, Consul-General of Ireland Fionnuala Quinlan. Consul-General Quinlan was escorted to the rostrum by the Sergeant-at Arms and the Boston Police Gaelic Column.

Senate President Rosenberg and Senators Timilty, Forry and Tarr read the Proclamation of the Republic in recognition of the 100th Anniversary of the Easter Rising of 1916.

Consul-General Quinlan then briefly addressed the Chamber, signed the guest book and withdrew from the Chamber under escort of the Sergeant-at Arms.

*Orders of the Day.*

The Orders of the Day were further considered as follows:

The Senate Bill to protect youth from the health risks of tobacco and nicotine addiction (Senate, No. 2152),-- **was read a second time.**

Mr. Pacheco in the Chair, after remarks, and pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means substituting a new draft with the same title (Senate, No. 2234) and pending the main question on ordering the bill to a third reading, Messrs. Tarr and Moore moved that the proposed new draft be amended by inserting after section 6 the following new section:-

“SECTION \_\_. Section 7 of chapter 270 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following new paragraph:-

The owner or other person in charge of a shop or other place used to sell any tobacco products at retail shall conspicuously post signage provided by the Department of Public Health that discloses current referral information about smoking cessation which may include but not be limited to the website of the Massachusetts Tobacco Cessation & Prevention Program ([www.makesmokinghistory.org](http://www.makesmokinghistory.org)) and The Smokers Helpline at 1-800-Quit-Now (1-800-784-8669).”

After remarks, the amendment was **adopted.**

Messrs. Tarr and Moore moved that the proposed new draft be amended by inserting at the end thereof the following new section:-

"SECTION \_\_. Section 5 shall take effect on January 1, 2018."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at thirteen minutes past three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 9 — nays 25*) [**Yeas and Nays No. 286**]:

#### YEAS.

deMacedo, Viriato M.

Moore, Michael O.

Fattman, Ryan C.

Ross, Richard J.

Flanagan, Jennifer L.

Tarr, Bruce E.

Gobi, Anne M.

Timilty, James E. — **9.**

Humason, Donald F., Jr.

#### NAYS.

Barrett, Michael J.

Joyce, Brian A.

Brady, M  
ch  
el D.

Keenan, John F.

Brownsberger, William N.

Lewis, Jason M.

Chandler, Harriette L.

Lovely, Joan B.

Chang-Diaz, Sonia

McGee, Thomas M.

Creem, Cynthia Stone

Montigny, Mark C.

DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rush, Michael F.
Eldridge, James B.	Spilka, Karen E.
Forry, Linda Dorcena	Welch, James T. – 25.
Jehlen, Patricia D.	

**ABSENT OR NOT VOTING.**

Lesser, Eric P.	Wolf, Daniel A. – 3.
L'Italien, Barbara A.	

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

Ms. Flanagan and Mr. Moore moved that the proposed new draft be amended in section 1 by inserting after the word "shall" in line 4, the words "possess or";

In said line of said section by inserting after the word "products", the words "alternative nicotine products or vapor products";

In line 9 of said section by inserting after the word "products", the words "alternative nicotine products or vapor products";

In section 2 by inserting after "-", in line 11, the words "alternative nicotine products or vapor products";

In Section 3 by inserting after the word "shall" in line 15, the words "possess or";

In said line of said section by inserting after the word "products", the words "alternative nicotine products or vapor products";

In line 20 of said section by inserting after the word "products", the words "alternative nicotine products or vapor products";

In section 6 by adding the following definition to section 6 (a) of chapter 270:

"'Alternative Nicotine Product', any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term 'alternative nicotine product', does not include any vapor product, tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.";

In said section by striking out the definition of "Retail tobacco store";

In said section by striking out the definition of "Tobacco Product" and inserting in place thereof the following definition:

"'Tobacco Product', any product containing tobacco, including cigarettes, cigars, little cigars, pipe tobacco and snuff and provided further, that 'tobacco product' shall not include an alternative nicotine product or vapor product as defined in this section nor shall it include a product that has been approved by the United States Food and Drug Administration for the sale or use as a tobacco cessation product and is marketed and sold exclusively for the approved purpose.";

In said section by adding the following definition:

"'Vapor Product', any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term 'vapor product' shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term 'vapor product' shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.";

In subsection (b) of said section by inserting after the word "product" on lines 71 and 72, the words ", alternative nicotine product or vapor product";

In said section by striking out paragraph (c) and inserting in place thereof the following:

"(c) No manufacturer or retailer shall distribute or cause to be distributed a free sample of a tobacco product, alternative nicotine product or vapor product in a retail or other commercial establishment.";

In section 7 by deleting the definition of “Smoking” and inserting in place thereof the following definition:

“‘Smoking’, the inhaling, exhaling, burning or carrying of a lighted or heated cigar, cigarette, pipe or other tobacco product or plant product intended for inhalation in any manner or form; provided, however, that “smoking” shall not include the use of vapor products as defined section 6 of chapter 270.”;

In said section 7 by adding the following paragraph to subsection (b) of chapter 22 of chapter 270:

“(4) The use or possession of cigarettes, tobacco products, alternative nicotine products, or vapor products in any form in or on the grounds of any schools, preschools, group child care centers, school age child care centers, family child care centers shall be prohibited. For the purposes of applying this paragraph, ‘grounds’ shall include, but not be limited to, any buildings, parking lots, playing fields, playgrounds, school buses or other school vehicles, or any off-campus school sponsored or sanctioned events. ‘School’ shall mean any public, charter or private school where children attend classes in kindergarten programs or grades one through twelve.”;

In section 9 by deleting lines 124 and 125;

In section 14 by deleting in lines 156, 160, 163 and 166 the terms “electronic nicotine delivery products” and inserting in place thereof the term “vapor products”;

In said section by deleting in line 162 the number “6” and inserting in place thereof the number “8”;

By striking out in line 165 the term “electronic nicotine products” and inserting in place thereof the term “vapor products”; and

In line 164 after the words “e-liquid,” by adding the words “2 of whom shall be representatives of domestic manufacturers of vapor products.”.

The amendment was *rejected*.

Ms. Flanagan and Mr. Moore moved that the proposed new draft be amended in section 6, by inserting after proposed section 6A of chapter 270 of the General Laws the following section:-

“SECTION 6B. (a) No person under 21 years of age shall knowingly purchase, possess, transport or carry on the person a tobacco product as defined in section 6 or tobacco rolling papers; provided, however, this section shall not apply to a person who knowingly possesses, transports or carries a tobacco product or tobacco rolling papers in the course of the person’s employment.

(b) A law enforcement officer shall provide notice of a violation, by telephone or by first-class mail, to a parent or guardian of a person 17 years of age or under who violates this section within a reasonable time period after the violation occurs if the contact information of a parent or guardian is reasonably ascertainable by the officer. No record of such notification shall be logged in any report or file or kept in a person’s record by a law enforcement officer and no violation under this section shall be used in the furtherance of an ongoing or future criminal investigation.

(c) A person who violates this section shall forfeit the tobacco product or tobacco rolling papers in that person’s possession upon the request of a law enforcement officer.”

The amendment was **adopted**.

Mr. Moore moved that the proposed new draft be amended in section 5, by adding at the end thereof the following new subsection:-

“(c) The provision of this Section shall not apply to any retail establishment whose direct prescription pharmaceutical sales are below ten percent (10%) of total gross retail sales.”

The amendment was *rejected*.

Ms. O’Connor Ives moved that the proposed new draft be amended by inserting the following section:-

“SECTION 14A. The special commission established in section 206 of chapter 139 of the acts of 2012, and extended by section 24A of chapter 118 of the acts of 2013 is hereby revived and continued. The commission shall file a report of its recommendations to the clerks of the senate and house of representatives, 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 December 31, 2017.”

After remarks, the amendment was **adopted**.

Mr. Rush moved that the proposed new draft be amended in section 5, in proposed subsection (b) of proposed section 61A of chapter 112 of the General Laws, by striking out the last sentence and inserting in place thereof the following sentence:- “For the purposes of this section, a retail establishment shall be considered a health care institution if it operates at a health care institution or has a health care institution located on or within its premises; provided however, a retail establishment that provides optician, optometric, hearing aid or audiology services but is not subject to regulation by the board of registration in pharmacy shall not be considered a health care institution.”.

After remarks, the amendment was **adopted**.

Mr. Timilty, Ms. Gobi and Mr. Moore moved that the proposed new draft be amended in section 6, in proposed section 6 of chapter 270 of the General Laws, by adding the following subsection:-

“(f) Notwithstanding subsection (b), a retailer operating from a fixed location within 3 miles of a state or territory where the age of those prohibited from buying tobacco products is under 21 years of age may sell a tobacco product to a person not less than 18 years of age in accordance with the law in the neighboring state.”

The amendment was *rejected*.

Mr. Keenan moved that the proposed new draft be amended in section 10, by inserting after the word "manufactured", in line 137, the words "or used".

After remarks, the amendment was **adopted**.

Mr. Keenan moved that the proposed new draft be amended by striking the words "the sale or use" in line 69 and inserting in place thereof the words "sale".

After remarks, the amendment was **adopted**.

Messrs. Downing and Moore moved that the proposed new draft be amended by striking section 14.

After remarks, the amendment was **adopted**.

Ms. Forry moved that the proposed new draft be amended in section 9, by inserting after the word "shall", in line 123, the following word:- "knowingly".

After remarks, the amendment was **adopted**.

Mr. Tarr moved that the proposed new draft be amended by striking out, in line 85, the word "tobacco" and inserting in place thereof the following word: - "cigarette".

After remarks, the amendment was *rejected*.

Messrs. Timilty and Rush, Ms. Gobi and Mr. Moore moved that the proposed new draft be amended in section 6, by inserting after the figure "21", in line 72, the following words:- "unless that person presents valid military identification".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at eleven minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 14 — nays 19*) [**Yeas and Nays No. 287**]:

#### **YEAS.**

Barrett, Michael J.

Moore, Michael O.

Brady, Michael D.

Rodrigues, Michael J.

Chang-Diaz, Sonia

Ross, Richard J.

Fattman, Ryan C.

Rush, Michael F.

Forry, Linda Dorcena

Tarr, Bruce E.

Gobi, Anne M.

Timilty, James E.

Humason, Donald F., Jr.

Welch, James T. — **14**.

#### **NAYS.**

Brownsberger, William N.

Joyce, Brian A.

Chandler, Harriette L.

Keenan, John F.

Creem, Cynthia Stone

Lewis, Jason M.

DiDomenico, Sal N.

Lovely, Joan B.

Donnelly, Kenneth J.

McGee, Thomas M.

Donoghue, Eileen M.

Montigny, Mark C.

Downing, Benjamin B.

O'Connor Ives, Kathleen

Eldridge, James B.

Pacheco, Marc R.

Flanagan, Jennifer L.

Spilka, Karen E. – **19**.

Jehlen, Patricia D.

**ANSWERED “PRESENT”.**

deMacedo, Viriato M. (*present*) – **1**.

**ABSENT OR NOT VOTING.**

Lesser, Eric P.

Wolf, Daniel A. – **3**.

L'Italien, Barbara A.

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

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

**The bill (Senate, No. 2234, printed as 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 twenty-four minutes past four o'clock P.M., on motion of Mr. Lewis, as follows, to wit (*yeas 32 – nays 2*) [**Yeas and Nays No. 288**]:

**YEAS.**

Barrett, Michael J.

Keenan, John F.

Brady, Michael D.

Lewis, Jason M.

Brownsberger, William N.

Lovely, Joan B.

Chandler, Harriette L.

McGee, Thomas M.

Chang-Diaz, Sonia

Montigny, Mark C.

Creem, Cynthia Stone

Moore, Michael O.

DiDomenico, Sal N.

O'Connor Ives, Kathleen

Donnelly, Kenneth J.

Pacheco, Marc R.

Donoghue, Eileen M.

Rodrigues, Michael J.

Downing, Benjamin B.

Rosenberg, Stanley C.

Eldridge, James B.

Ross, Richard J.

Flanagan, Jennifer L.

Rush, Michael F.

Forry, Linda Dorcena

Spilka, Karen E.

Gobi, Anne M.

Tarr, Bruce E.

Jehlen, Patricia D.

Timilty, James E.

Joyce, Brian A.

Welch, James T. – **32.**

**NAYS.**

Fattman, Ryan C.

Humason, Donald F., Jr. – **2.**

**ANSWERED “PRESENT”.**

deMacedo, Viriato M. (*present*) – **1.**

**ABSENT OR NOT VOTING.**

Lesser, Eric P.

Wolf, Daniel A. – **3.**

L'Italien, Barbara A.

**The President in the Chair, the yeas and nays having been completed at twenty-seven minutes past four o'clock P.M., the bill was passed to be engrossed. [For bill, printed as amended, see Senate, No. 2269]. Sent to the House for concurrence.**

*Order Adopted.*

Mr. McGee offered an Order relative to granting the committee on Transportation until May 16, 2016, within which time to make its final report on current Senate document numbered 1895, and House documents numbered 2985 and 3814 (Senate, No. 2260). **There being no objection, the rules were suspended, on motion of Mr. McGee, and the order was considered forthwith, and after remarks, was adopted. Sent to the House for concurrence.**

**PAPERS FROM THE HOUSE.**

The following House Orders (approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on Education be granted until Friday, May 6, 2016, within which time to make its final report on current Senate documents numbered 262 and 336, and House documents numbered 327, 422, 498, and 3225.

**The rules were suspended, on motion of Ms. Chang-Diaz, and the order (House, No. 4224) was considered forthwith; and, after remarks, was adopted, in concurrence.**

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on Education be granted until Friday, June 3, 2016, within which time to make its final report on current Senate documents numbered 253, 266, 267, and 268, and House documents numbered 326, 336, 341, 462, 489, and 3402.

The rules were suspended, on motion of Ms. Chang-Diaz, and the order (House, No. 4225) was considered forthwith; and, after remarks, was adopted, in concurrence.

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on State Administration and Regulatory oversight be granted until Friday, April 29, 2016, within which time to make its final report on current House document numbered 4101.

The rules were suspended, on motion of Ms. Lovely, and the order (House, No. 4223) was considered forthwith. Pending the question on adoption of the order, Ms. Lovely presented an amendment striking out the date "Friday, April 29th, 2016" and inserting in place thereof "Friday, May 27th, 2016".

**The amendment was adopted.**

**The order, as amended, was then adopted.**

**Sent to the House for concurrence in the amendment.**

*Orders Adopted.*

Mr. Welch offered an Order relative to granting the committee on Health Care Financing until June 1, 2016, within which time to make its final report on current Senate document numbered 1048 (Senate, No. 2261).

**There being no objection, the rules were suspended, on motion of Mr. Welch, and the ordered was considered forthwith, and after remarks, was adopted.**

**Sent to the House for concurrence.**

Mr. Welch offered an Order relative to granting the committee on Health Care Financing until June 22, 2016, within which time to make its final report on current Senate documents numbered 77, 82, 574, 598, 617, 635, 644, 1207, 1407, 2212, and 2231, and House documents numbered 267, 528, 791, 827, 923, 949, 950, 989, 993, 999, 1007, 1008, 1018, 1025, 1037, 1996, 1998, 2203, 4198, 4202, 4205, 4206, and 4207 (Senate, No. 2243).

**There being no objection, the rules were suspended, on motion of Mr. Welch, and the ordered was considered forthwith, and after remarks, was adopted.**

**Sent to the House for concurrence.**

*Order Adopted.*

On motion of Mr. Tarr,--

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

*Moment of Silence*

At the request of Ms. Chang-Diaz, the members, guests and staff stood in a moment of silence and reflection to the memory of Robert L. Keung.

*Adjourn In Memory of Robert L. Keung*

The Senator from Suffolk, Ms. Chang-Diaz, moves that when the Senate adjourns today, it adjourn in memory of Robert L. Keung of Watertown.

Ms. Chang-Diaz in the Chair, Robert L. Keung of Watertown passed away one year ago this week.

Robert L. Keung was born in Lowell on January 21, 1981 to Kariuki Kimungu and Emily Babu of Kenya. At the age of 11, his family moved to the City of Leominster, where Robert spent his childhood with his two sisters. As a student at Leominster High School, Robert was a competitive player for the Leominster Blue Devils Basketball Team. Academically, he was a strong student who developed a passion for math and science. This passion would eventually lead him to pursue a civil engineering degree at northeastern University in Boston. At Northeastern, Robert was a strong student and is remembered by his peers as the one who never needed to study.

After graduating from Northeastern, Robert would go on to work as a civil engineer for several Massachusetts engineering firms, but would call the Massachusetts Department of Transportation home. There his projects included the Old Town House Road/Forest Road in Yarmouth, the Route 140 reconstruction project in Taunton, and the Melnea Cass Boulevard design project in Roxbury. Robert worked for the Department of Transportation for just over 5 years until his passing.

Robert is remembered by his family and friends for his fun-loving personality, sense of humor, and his willingness to put others before himself. His dedication to family and public service will live on among the many lives he touched.

The President in the Chair, accordingly, as a mark of respect in memory of Robert L. Keung, at eleven minutes before five o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.