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.

Thursday, August 27, 1998.

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

Petition.

Mr. Keating presented a petition (subject to Joint Rule 12) of William R. Keating, John H. Rogers, Mark C. Montigny, Michael W. Morrissey and Michael G. Bellotti for legislation to amend the definition of drug induced rape and kidnapping,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Appointments.

A communication was received from the President announcing the appointment of Senators Jajuga of Essex, Panagiotakos of Middlesex and Tisei of Middlesex to the special commission established (under the provisions of Section 18 of Chapter 257 of the Acts of 1998) to make an investigation and study relative to the availability of housing for extremely-low to moderate income families and individuals in the city of Lowell.

Papers from the House

A Bill making an appropriation for the fiscal year 1999 to provide disaster relief funds (printed in House, No. 5688,— being a message from His Honor the Lieutenant-Governor, Acting Governor),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A petition (accompanied by bill, House, No. 5798) of Michael J. Albano (mayor), Dennis M. Murphy, Brian P. Lees and Linda J. Melconian (with the approval of the mayor and city council) for legislation to place a certain non-binding question on the ballot in the city of Springfield relative to a needle exchange program in said city,— **was referred, in concurrence, to the committee on Local Affairs.**

The Senate Bill making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2312),— came from the House passed to be engrossed, in concurrence, *with an amendment*, by inserting after section 45 (as printed) the following six sections:
"SECTION 46. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after paragraph (g) the following paragraph:
(g) The period or periods during which any member in service of the teachers' retirement system was on unpaid leave of absence or resigned prior to 1975 for the purposes of maternity leave from the governmental unit in which the member was employed shall be allowed as creditable service, on a proportionate basis which the board shall determine according to rules and regulations adopted by the board and approved by the commission; provided, that no credit shall be allowed until such member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for such member, in one sum, or in installments, upon such terms and conditions as the board may prescribe, an amount that is equal to the regular deductions that would have been withheld from the member's regular compensation had the member continued in service on the same terms and

conditions as immediately before said leave, plus regular interest; and provided, further, that no credit shall be allowed and no payment shall be accepted until the member shall have completed ten or more years of membership service. The maxi mum creditable service allowable under this paragraph for any member shall not exceed four years.
SECTION 47. Said subdivision (1) of said section 4 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (h) the following paragraph:
(h) A member in service of the teachers' retirement system employed in a vocational-technical school approved by the department of education pursuant to chapter 74 may receive creditable service for any period or periods of work experience in the occupational field in which the member teaches, and which was required as a condition of the member's employment pursuant to regulations of the department of education, on a proportionate basis which the board shall determine according to rules and regulations adopted by the board and approved by the commission; provided, that no credit shall be allowed until such member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for such member, in one sum, or in installments, upon such terms and conditions as the board may prescribe, an amount that is equal to the regular deductions that would have been withheld from the member's regular compensation had such member been a member of the teachers' retirement system immediately prior to the start of his service; and provided further that no credit shall be allowed and no payment shall be accepted until the member shall have completed ten or more years of membership service. The maximum creditable service allowable under this paragraph for any member shall not exceed four years.
SECTION 48. Subdivision (1) of section 22 of chapter 32 of the General Laws is hereby amended by striking out paragraph (b), as so appearing, and inserting in place thereof the following paragraph:
(b) The treasurer or other disbursing officer in charge of payroll in any governmental unit to which a system pertains, and the treasurer or other disbursing officer in charge of payrolls in any free public library the employees of which are eligible for membership in a system, shall, upon written notice from the board, withhold on each pay day five per cent of the regular compensation of each employee who is a member in service of the system, which is received on such day by such member on account of service rendered to him on or after January 1, 1946, and not later than the date of his attaining the maximum age for his group, in the case of an employee who entered the service of the commonwealth or a political subdivision thereof prior to January 1, 1975; withhold on each pay day seven per cent of the regular compensation of each employee who is a member in service of the system, which is received on such day by such member on account of service rendered by him on or after January 1, 1975, and not later than the date of his attaining the maximum age for his group, in the case of an employee who entered the service of the commonwealth or a political subdivision thereof on or after January 1, 1975, but prior to January 1, 1984; and withhold on each pay day eight per cent of the regular compensation of each employee who is a member in service of the system, which is received on such day by such member on account of service rendered by him on or after January 1, 1984, and not later than the date of his attaining the maximum age for his group in the case of an employee who entered the service of the commonwealth or a political subdivision thereof on or after January 1, 1984, but before July 1, 1996; and withhold on each pay day nine per cent of the regular compensation of each employee who is a member in service of the system, which is received on such day by such member on account of service rendered by him on or after July 1, 1996, and not later than the date of his attaining the maximum age for his group in the case of an employee who entered the service of the commonwealth or a political subdivision thereof on or after July 1, 1996; and withhold on each pay day twelve per cent of the regular compensation of each employee who is a member of the state police appointed pursuant to section 10 of chapter 22C, and is a member in service of the system, which is received on such a day by such a member on account of service rendered by him on or after July 1, 1996, and not later than the date of his attaining the maximum age for his group in the case of such employee who entered the service of said state police on or after July 1, 1996; and withhold on each pay day ten percent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit established under section 104 of chapter 32, provided, however, that in the case of any teacher who enters service on or after January 1, 1999, shall have withheld on each payday eleven percent of said employees regular compensation; and provided, however, that in the case of any teacher such withholding shall be made upon written notice from the school committee board of trustees or other employing authority, to the treasurer or other disbursing officer of the political subdivision by which such teacher is employed.
SECTION 48. Chapter 32 of the General Laws is hereby amended by adding the following section:
SECTION 104. (1) Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, there is hereby established an alternative superannuation retirement benefit for teachers who meet the requirements of membership for the teachers' retirement system and teachers employed by the city of Boston. Participation in said program shall be mandatory for all new teachers hired after the effective date of this act and for those teachers who have not vested in their retirement system as of the effective date of this act. Any non-vested member hired prior to the effective date of this act required to pay additional contributions with less than 25 years of creditable service upon retirement shall be reimbursed said additional contributions plus regular interest as determined by the teachers retirement board. Any member of the teachers' retirement system or any teacher employed by the city of Boston who has at least ten years of service may elect to participate in the alternative superannuation retirement benefit. Said election shall occur within one hundred and eighty days of the effective date of this act. Said election to participate in the alternative superannuation retirement benefit shall be irrevocable. Any member who elects to participate shall be required to make a minimum of three years of retirement contributions at the rate of ten percent; provided, however, that if said member chooses to retire before he has made said three years of contributions at ten percent, said member shall pay, in one sum, or in installments, upon such terms and conditions as the board may prescribe, an amount equal to that which would have been withheld as regular deductions from his regular compensation for such three year period.
(2) The normal yearly amount of the retirement allowance for an eligible employee who has completed at least 25 years of creditable service and has paid the full amount of regular deductions on the total amount of regular compensation as determined

under paragraph (a) of subdivision (2) of section five, shall be based on the average annual rate of regular compensation as determined under paragraph (a) and shall be computed according to the table contained in said para graph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased by two percent per year for each full year upon completion of 25 years of creditable service. For any member who retires before completing 25 years of service said member shall receive a retirement allowance equal to the retirement allowance that said member would have been eligible for had said member not participated in the alternative superannuation retirement benefit.
The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of this section, of any employee who retires and receives an additional benefit under the alternative superannuation retirement benefit shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last three years of creditable service preceding retirement, whichever is greater.
SECTION 49. Paragraph (b) of subdivision (1) of section 22 of chapter 32, as so appearing, is hereby amended by inserting at the end thereof the following sentence:— The additional contributions required under this paragraph shall not apply to any employee who participates in the alternative superannuation retirement benefit program established under section 104.
Section 50. The public employee retirement administration commission in consultation with the teachers' retirement board shall analyze, study and evaluate the costs and actuarial liabilities attributable to the alternative retirement benefit program and the increase in the members' contribution rate. Said report and any suggested legislative changes shall be filed with the joint committee on public service and the house and senate committees on ways and means on or before December 31, 2002, and every three years thereafter.
SECTION 51. No employee shall be retired under the alternative retirement benefit program established under section 104 of chapter 32 before July 1, 2000.".
The rules were suspended, on motion of Mr. Rosenberg, and the House amendment was considered forthwith.
Pending the question on concurring in the House amendment, the same Senator moved that the amendment be amended in section 2A by striking out items 1599-2125, 1599-2126, 1599-3866, 1599-3867, 1599-3868, 1599-3870, 1599-3871, 1599-3876, 1599-3877, 1599-7008 and 1599-7009;
In section 2C.I, by striking out items 1599-2125, 1599-2126, 1599-3866, 1599-3867, 1599-3868, 1599-3870, 1599-3871, 1599-3876, 1599-3877, 1599-7008 and 1599-7009;
In section 2C.I, by inserting after item 1599-9711 the following item:—

"1599-9712
.....$1,000,000";

In section 36, by striking out the figure "448,554" and inserting in place thereof the following figure:— "488,554";
By inserting after section 44 the following section:—
"SECTION 44A. Notwithstanding the provisions of any general or special law to the contrary, if the general court overrides vetoes made by the governor which relate to the expenditure or transfer of fiscal year 1998 funds, said comptroller shall make adjustments to the fiscal year 1998 financial statements of the commonwealth to reflect the implementation of any such expenditure or transfer and shall, notwithstanding the provisions of chapter 7A or chapter 29 of the General Laws or any other general or special law to the contrary, attribute any such expenditure or transfer to said fiscal year 1998."; and
By striking out sections 46 to 51, inclusive.
The further amendment was adopted.
The Senate then concurred with the House in its amendment, as amended.
Sent to the House for concurrence in the further amendments.

Bill Previously Recalled from the Acting Governor Laid Before the Senate.

The engrossed Bill further regulating medical malpractice insurance (see House, No. 1143, amended) which, at a previous session, had been returned by His Honor the Lieutenant-Governor, Acting Governor, at the request of the Senate,— was laid before the Senate.
There being no objection, on motion of Ms. Melconian, the Senate reconsidered the vote by which, at a previous session, it had passed the bill to be enacted.
On motion of the same Senator, Senate Rule 49 was suspended.
Mr. Berry presented an amendment striking out section 12.
The amendment was adopted.
Sent to the House for concurrence in the amendment.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:
The House Bill authorizing the town of Tyngsborough to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 5543),— **was read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to a certain payment in lieu of taxes in the town of Charlton (House, No. 5596),— **was read a second time and ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill providing for the leasing and construction of improvements to the East Building in the town of Watertown (House, No. 5728),— **was read a second time and ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing the leasing and construction of improvements to the East Junior High School Building in the city known as the town of Watertown."**

Paper from the House

A Bill relative to certain nongroup health insurance products (House, No. 5797,— on House, No. 5691, in part),— was read.
There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:
The Senate Bill establishing the position of town administrator in the town of Manchester-by-the-Sea (Senate, No. 2244),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

Papers from the House.

A Bill making an appropriation to fund a collective bargaining agreement between the Middlesex Sheriff's Office and the Middle sex Sheriff's Superior Officer's Association (printed in House, No. 5783, being a message from His Honor the Lieutenant-Governor, Acting Governor).
There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee in Bills in the Third Reading to read as follows: "An Act making an appropriation to fund a collective bargaining agreement between the Middlesex Sheriff's Office and the Middlesex Sheriff's Superior Officers Association."

Recess.

There being no objection, at ten minutes past eleven o'clock A.M., the President declared a recess subject to the call of the Chair; and, at three minutes before three o'clock P.M., the Senate reassembled, Ms. Melconian in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Senate Bill making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2312, amended),— came from the House with the endorsement that the House had concurred in the Senate amendments:
In section 2A by striking out items 1599-2125, 1599-2126, 1599-3866, 1599-3867, 1599-3868, 1599-3870, 1599-3871, 1599-3876, 1599-3877, 1599-7008 and 1599-7009;
In section 2C.I by striking out items 1599-2125, 1599-2126, 1599-3866, 1599-3867, 1599-3868, 1599-3870, 1599-3871, 1599-3876, 1599-3877, 1599-7008 and 1599-7009;
In section 36 by striking out, in line 00, the figures "448,554" and inserting in place thereof the figures "488,554"; inserting after section 44 the following section:
"SECTION 44A. Notwithstanding the provisions of any general or special law to the contrary, if the general court overrides vetoes made by the governor which relate to the expenditure or transfer of fiscal year 1998 funds, the comptroller shall make adjustments to the fiscal year 1998 financial statements of the commonwealth to reflect the implementation of such expenditures or transfers and shall, notwithstanding the provisions of chapter 7A or chapter 29 of the General Laws or the provisions of any other general or special law to the contrary, attribute such expenditures or transfers to said fiscal year 1998."; and striking out sections 46 to 51, inclusive; and that the House NON-concurred with the Senate in section 2C.I inserting after item 1599-9711 the following item:

"1599-9712
.....$1,000,000".

On motion of Mr. Rosenberg, the Senate receded from its amendment in section 2C.I, adding a new item 1599-9711.

Recess.

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

Emergency Preamble Adopted.

An engrossed Bill making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects (see Senate, No. 2312, 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 2 to 0.**
The bill was signed by the Acting President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first two 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 and laid before the Acting Governor for his approbation, to wit:
Relative to the uniform transfer on death security registration act (see Senate, No. 747, changed);
Making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects (see Senate, No. 2312, amended);
Establishing a board of registration of hearing instrument specialists (see House, No. 4760, amended); and
Requiring the establishment of senior citizen safety zones in the city of Malden (see House, No. 5222).

Order Adopted.

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

On motion of Mr. Knapik, at half past three o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.