

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.



Tuesday, April 10, 2001.

Met at twenty-two minutes past one o'clock P.M.

Resignation of His Excellency Argeo Paul Cellucci, Governor of the Commonwealth.

A communication from the State Secretary submitting a copy of the letter of resignation of His Excellency Argeo Paul Cellucci, Governor of the Commonwealth, was received in the office of the Clerk on Tuesday, April 10, and was placed on file, to wit:

April 10, 2001.

The Honorable William F. Galvin
Secretary of the Commonwealth
State House, Room 337
Boston, MA 02133

Dear Mr. Secretary:

I hereby resign the office of the Governor of Massachusetts, effective today, April 10, 2001 at eleven o'clock in the morning.

Sincerely,
ARGEO PAUL CELLUCCI.

Communications.

A communication was received from the President announcing the following appointments:
The Senator from Suffolk, Mr. Lynch, and the Senator from Essex and Middlesex, Ms. Tucker, to the Workforce Investment Board (pursuant to Governor's Executive Order Number 413) to develop a strategic plan for the state's workforce development system.

A communication was received from the Minority Leader announcing the following appointment:
The Senator from Essex and Middlesex, Mr. Tarr, to the Workforce Investment Board (pursuant to Governor's Executive Order Number 413) to develop a strategic plan for the state's workforce development system.

Reports.

The following reports were severally read and placed on file:

A report of the Massachusetts Turnpike Authority (under the provisions of Chapter 3 of the Acts of 1997) submitting a cost/schedule status of the Central Artery/Tunnel Project (received Tuesday, April 3, 2001); and

A report of the Massachusetts Bay Transportation Authority (under the provisions of Section 151 of Chapter 127 of the Acts of 1999) submitting its operations report for calendar year 2000 (received Thursday, April 5, 2001).

Committee Discharged.

Mr. Moore, for the committee on Health Care, reported, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 597) of Steven A. Tolman, David P. Magnani, Shirley Owens-Hicks and Harriette L. Chandler for legislation to expand the Medical Security Program,— and recommending that the same be referred to the committee on Commerce and Labor; and

Of the petition (accompanied by bill, Senate, No. 611) of Marian Walsh, Brian P. Golden, Colleen M. Garry, other members of the General Court and another for legislation to establish a health protection fund,— and recommending that the same be referred to the committee on Taxation.

**Under Senate Rule 36, the reports were severally considered forthwith and accepted.
Severally sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

Messages were referred, in concurrence, as follows:

Message from His Excellency the Governor recommending legislation relative to requiring repeat offenders to serve sentences for every crime (House, No. 4081); and

Message from His Excellency the Governor recommending legislation relative to the punishment of habitual offenders (House, No. 4082);

Severally to the committee on Criminal Justice.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4080) of Paul J. Donato, Charles E. Shannon, Vincent P. Ciampa, J. James Marzilli, Jr., and others (with the approval of the mayor and city council) that the city of Medford be authorized to issue additional licenses for the sale of wine and malt beverages to be drunk on the premises;

To the committee on Government Regulations.

Petition (accompanied by bill, House, No. 4079) of Raymond V. Mariano (mayor), Thomas R. Hoover (city manager), John J. Binienda, John P. Fresolo, Guy W. Glodis, James B. Leary, Harriette L. Chandler and Robert Spellane (with the approval of the city council) relative to street betterment assessments in the city of Worcester;

To the committee on Taxation.

A Bill establishing a sick leave bank for Michael Sylvia, an employee of the Juvenile Court Department (House, No. 4049,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill authorizing the town of Mansfield to use certain conservation land for road and bridge purposes (printed in House, No. 4002,— being a message from His Excellency the Governor),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate bills

Relative to gas or electric companies declaring stock or scrip dividend (Senate, No. 416); and

Relative to the development of an athletic facility by the Assabet Valley Regional Vocational Technical School District (Senate, No. 1815) (its title having been changed by the committee on Bills in the Third Reading);

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

Severally sent to the House for concurrence.

The Senate Bill relative to the enforcement of the safety belt law (Senate, No. 1211),— was read a third time.

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

“The executive office of public safety shall design and administer a public awareness campaign to educate the citizens of the commonwealth about the importance of wearing seatbelts. The secretary of public safety shall collaborate with the registry of motor vehicles in fulfilling the dictates of this section. The public awareness campaign shall commence no later than January 1, 2002 and shall be conducted, at the direction of the secretary, in a manner most likely to inform the public. The campaign may include community outreach at the following locations: the registry of motor vehicles, the various councils on aging, community outreach centers, senior centers and municipal offices throughout the Commonwealth. The public awareness campaign may also include the use of print, electronic and other media, as deemed necessary by the secretary of public safety.”

After remarks, the amendment was *rejected*.

Mr. Nuciforo further moved to amend the bill by striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. The second paragraph of section 13A of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:— Any evidence not in plain view that is obtained pursuant to a search that takes place after an individual is stopped for violating this section shall not be admissible.”

After remarks, the amendment was *rejected*.

Mr. Nuciforo further moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following text:—

“SECTION 1. Section 13A of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 26, the words ‘twenty-five dollars’ and inserting in place thereof the following figure:— \$5.

SECTION 2. Said section 13A of said chapter 90, as so appearing, is hereby further amended by striking out, in line 27, the words ‘twenty-five dollars’ and inserting in place thereof the following figure:— \$5.”

After remarks, the amendment was *rejected*.

Mr. Shannon moved to amend the bill by inserting after section 1 the following three sections:—

“SECTION 1A. Said section 13A of said chapter 90, as so appearing, is hereby further amended by inserting after the words ‘eighteen thousand pounds’, in line 3, the following words:— or in a school bus or van.

SECTION 1B. The third paragraph of section 7AA of said chapter 90, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:— This section shall not apply to any such child who is: (1) riding as a passenger in a motor vehicle made before July 1, 1966, that is not equipped with safety belts; or (2) physically unable to use either a conventional child passenger restraint or a child restraint specifically designed for children with special needs, if such condition is duly certified in writing by a physician, who shall state the nature of the disability as well as the reasons such restraints are inappropriate. No such certifying physician shall be subject to liability in a civil action for the issuance of or for the failure to issue such certificate.

SECTION 1C. Said section 7AA of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:—

Notwithstanding any general or special law, rule or regulation to the contrary, any school or school district that utilizes school buses or vans to transport students under 12 years of age shall employ and provide a minimum of two monitors on each school bus or van to ensure that all students are properly restrained and are able to disengage their safety belt in the event of an accident or emergency necessitating the evacuation of the school bus or van.”

Subsequently, there being no objection, the amendment was withdrawn, on further motion of the same Senator.

After debate, the question on passing the bill to be engrossed was considered; and the bill was passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill clarifying the income tax deduction for charitable giving (Senate, No. 1826, changed and amended) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at ten minutes past two o'clock P.M., on motion of Ms. Walsh, as follows, to wit (yeas 39 — nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Jajuga, James P.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne
Menard, Joan M.	— 39.

NAYS — 0.

The yeas and nays having been completed at a quarter past two o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

There being no objection, during consideration of the Orders of the Day, the following matter was considered, as follows:

Section 3 contained in the engrossed Bill making appropriations for the fiscal year 2001 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4021, amended), which had been returned by

His Excellency the Governor, under the provisions of Article 56 of the amendments to the Constitution, comes from the House with the endorsement that the amendment recommended by the Governor has been adopted in a form recommended by the committee on Bills in the Third Reading:

By the passage of an Act relative to the school building assistance program (see House, No. 4075).

The rules were suspended, on motion of Ms. Murray, and the matter was considered forthwith.

The President stated that the matter was again before the Senate and subject to amendment and re-enactment.

Mr. Montigny moved that the Senate concur with the House amendment *with a further amendment* by striking out all after the re-enacting clause and inserting in place thereof the following text:

“Notwithstanding any general or special law to the contrary, if the town of Pembroke withdraws from the Silver Lake Regional School District, said town and district shall be eligible for the reimbursement percentage rate from the commonwealth for any school building projects resulting from the withdrawal of said town from said district at the reimbursement percentage rate which was in effect, before the effective date of chapter 159 of the acts of 2000, as set forth in chapter 645 of the acts of 1948; provided, however, that said town and district shall not be so eligible for the reimbursement percentage rate if the withdrawal of the town is so approved after June 30, 2001. The reimbursement percentage rate shall not remain in effect for any school building projects approved by the department of education pursuant to chapter 70B of the General Laws after January 1, 2005 or for any school buildings which are unrelated to the withdrawal of said town from said district if approved by said department before said date. This section shall not preclude the town nor the district from separately opting out of this section.

The district may sell and convey any or all interest in the 2 school buildings owned by the district in the town of Pembroke to the town upon its withdrawal from said district in accordance with the terms of the Silver Lake Regional School District Agreement. The town shall be eligible for the reimbursement percentage rate in effect before the effective date of said chapter 159 for the costs of the purchase and conveyance at a price not to exceed their appraised value as determined by an independent appraisal which shall be subject to the review and approval of the inspector general, less any amounts the town receives from the sale of its interest in any other regional school district buildings. The review shall include an examination of the methodology used for the appraisal. The state auditor shall prepare a report of his review and file the report with the commissioner of education, the house and senate committees on ways and means and the joint committee on state administration.

The town and the district shall be eligible for the reimbursement percentage rate in effect before the effective date of said chapter 159 for any renovation or construction costs incurred to provide educationally sound facilities for students in the new Pembroke school system or remaining in the regional school district comprised of Halifax, Kingston and Plympton. The monies paid by said town to the district for the purchase of the 2 school buildings shall be used by the district for the costs of the renovation and construction. The district's expenditure of monies for such purposes shall not be eligible for reimbursement from the commonwealth pursuant to said chapter 70B. Except for the reimbursement percentage as provided in section 10 of said chapter 70B, all other provisions of said chapter 70B shall apply to the application of said town and district for school building assistance from the commonwealth.”

After remarks, the further amendment (Montigny) was adopted. The Senate then concurred in the House amendment, as amended.

Sent to the House for concurrence in the further amendment.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill allowing victims of violent crimes to testify at Parole Board hearings (Senate, No. 1844),— was read a third time.

After debate, the question on passing it to be engrossed was determined by a call of the yeas and nays, at eighteen minutes before three o'clock P.M., on motion of Ms. Jacques, as follows, to wit (yeas 31 — nays 8):

YEAS.

Berry, Frederick E. Moore, Richard T.
Brewer, Stephen M. Morrissey, Michael W.

Chandler, Harriette L.	Murray, Therese
Clancy, Edward J., Jr.	O’Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Havern, Robert A.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Jajuga, James P.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Lynch, Stephen F.	Travaglini, Robert E.
Melconian, Linda J.	Tucker, Susan C.
Montigny, Mark C.	— 31.

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 8.

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

Sent to the House for concurrence.

Resolutions.

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

Resolutions (filed by Mr. Moore) “honoring Coach Conrad ‘Beebs’ Bibault.”

Order Adopted.

On motion of Ms. Melconian,—

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

On motion of Mr. Lees, at thirteen minutes before three o'clock P.M., the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.
