

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.

Tuesday, July 30, 2002.

Met at twenty minutes before three o'clock P.M. (Ms. Melconian in the Chair).

Communication.

A communication from the Commissioner of the Massachusetts Highway Department submitting a report (under the provisions of item 6010-1000 of Section 2 of Chapter 177 of the Acts of 2001) relative to detailing projects funded through the Statewide Transportation Improvement Program, Chapter 90 expenditures, quarterly capital payroll expenditures and listing of personnel classifications (received Monday, July 22, 2002),- **was placed on file.**

Petition.

Mrs. Sprague presented a petition (subject to Joint Rule 12) of Jo Ann Sprague, Mark J. Carron and Elizabeth Poirier for legislation to designate a certain trail in Mansfield as the World War II veterans trail,- **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Mr. O'Leary, for the committee on Counties, on petition, a Bill providing for the transfer and preservation of certain interests in land held for natural resource purposes of the abolished counties (Senate, No. 2425, changed);

By Ms. Wilkerson, for the committee on State Administration, on petition, a Bill dedicating certain lands in the towns of Pelham, Belchertown, Sunderland and Leverett under the care, custody and control of the University of Massachusetts to conservation and public recreational purposes (Senate, No. 2417); and

By the same Senator, for the same committee, on petition, a Bill authorizing the Metropolitan District Commission and the city of Worcester to take or acquire land and interests in land in the Nashua River Basin (Senate, No. 2424);
Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE.

Bills

Providing for placement of certain children without loss of custody (House, No. 207,- on House, No. 205, in part);

Relative to the "school-to-work" program (House, No. 2852, amended,- on petition);

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain easement (House, No. 4260,- on petition);

Authorizing the city of Worcester to lease a certain building for courthouse use (House, No. 4966, amended,- on House, No. 4903);

Authorizing the Division of Capital Asset Management and Maintenance to grant certain easements to the town of Plymouth (House, No. 4975,- on petition);

Providing for capital facility improvements and repairs for the Commonwealth (printed in House, No. 5037,- being a message from Her Honor the Lieutenant-Governor, Acting Governor);

Relative to creditable service in the armed forces of the United States (House, No. 5103,- on House, No. 1462) ; and

Authorizing the commissioner of the Division of Capital Asset Management and Maintenance to convey certain easements in the town of North Andover (House, No. 5200,- on House, No. 5146);

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

A Bill authorizing the city of Holyoke to enter into contracts for a sewer works system and operation (House, No. 4271, changed,- on petition) [Local approval received],- was read.

There being no objection, the rules were suspended, on motion of Ms. Chandler, 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 relative to the Brockton 21st Century Corporation (printed in Senate, No. 4),- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.**

Report of a Committee.

Ms. Resor, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill exempting the positions of school custodian and school food service worker in the town of North Andover from the civil service law (printed in House, No. 4999).

There being no objection, the rules were suspended, on motion of Ms. Resor, 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 House Bill authorizing the city of Lowell to pay a certain unpaid bill (House, No. 5112),- **was read a third time and passed to be engrossed, in concurrence.**

PAPER FROM THE HOUSE.

Bill Returned with Recommendation of Amendment.

A message from Her Honor the Lieutenant-Governor, Acting Governor, returning with recommendation of amendment the engrossed Bill relative to the employment of certain minors (see House, No. 4310, amended) [for message, see House, No. 5236] was filed in the office of the Clerk of the House on Friday, July 12,- came from the House with endorsement that the House adopted the amendment in the following form (as recommended by the committee on Bills in the Third Reading) by striking out all after the enacting clause and inserting in place thereof the following:

"Section 62 of chapter 149 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word 'description', in line 8, the following words:- except golf carts on a golf course provided such minor has been issued a license to operate motor vehicles and".

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Travaglini, and the Senate concurred in the House 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 Senate Bill providing for disclosure of certain information relating to tobacco products sold in the Commonwealth (Senate, No. 518, amended),- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House Bill relative to school committee members (House, No. 783, changed and amended),- was read third time.

Pending the question on passing the bill to be engrossed, Mr. Antonioni moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:-

"Chapter 71 of the General Laws is hereby amended by inserting after section 36 the following section:-

Section 36A. School committee members, within 1 year after their initial election or appointment, shall complete at least 8 hours of orientation concerning the responsibilities of their office at no cost to individual school committee members. The orientation shall include, but not be limited to, a review of school finance, the open meeting law, public records law, conflict of interest law, special education law, collective bargaining, school leadership standards and evaluations and the roles and responsibilities of school committee members. The orientation shall be provided by the Massachusetts Association of School Committees, Inc. or any other entity approved by the commissioner of education after consulting the Association. A certificate shall be awarded to each participant upon completion of the orientation and notice thereof shall be filed with the clerk of the city or town where the school committee member resides.", by striking out all after the enacting clause and inserting in place thereof the following text:-

"Chapter 71 of the General Laws is hereby amended by inserting after section 36 the following section:-

Section 36A. School committee members, within 1 year after their initial election or appointment, shall complete at least 8 hours of orientation concerning the responsibilities of their office. The orientation shall include, but not be limited to, a review of school finance, the open meeting law, public records law, conflict of interest law, special education law, collective bargaining, school leadership standards and evaluations and the roles and responsibilities of school committee members. The orientation shall be provided by the Massachusetts Association of School Committees, Inc. or any other entity approved by the commissioner of education after consulting the Association. The Association and any other entity providing such orientation shall offer every 2 years at least 4 orientation sessions at no required cost to eligible school committee members. A certificate shall be awarded to each participant upon completion of the orientation and notice thereof shall be filed with the clerk of the city or town where the school committee member resides.".

This amendment was adopted.

After debate, pending the main question on passing the bill to be engrossed, in concurrence, with the amendment, Mr. Lees moved that the matter be postponed until the next session.

Without further action, the matter was subsequently laid aside.

PAPERS FROM THE HOUSE.

A Bill relative to the transfer of land in the town of Sharon (House, No. 5131,- on petition) [Local approval received],- was read. **There being no objection, the rules were suspended, on motion of Mr. Hart, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The Senate Bill designating a walking path at Squantum Point Park in the city of Quincy as the Janet Niles Murphy Harbor View Walkway (Senate, No. 627),- came from the House passed to be engrossed, in concurrence, *with amendments*, in section 1 (as printed) by striking out, in line 3, the word "Walkway" and inserting in place thereof the words: "Harbor View Walking Path"; by adding the following section:

"SECTION 2. This act shall take effect upon its passage."; and

By striking out the title and inserting in place thereof the following title: "An Act designating a walking path at Squantum Point Park in the city of Quincy as the Janet Niles Murphy Harbor View Walking Path."

The rules were suspended, on motion of Mr. Joyce, and the House amendment was considered forthwith and adopted, in concurrence.

Resolutions.

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

Resolutions (filed by Mr. Birmingham) "in memory of Cyril Richard Rescorla, United States Army Colonel (Ret.) for his acts of heroism on September 11, 2001"; and

Resolutions (filed by Mrs. Sprague) "congratulating Noah Andrew Turcotte Klentak of Medfield upon his elevation to the rank of Eagle Scout."

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

July 26, 2002.

Mr. Patrick F. Scanlan
Clerk of the Massachusetts Senate
State House, Room 335
Boston, Massachusetts 02133

Dear Mr. Clerk:

Due to my attendance at the Annual Meeting of the National Conference of State Legislatures in Denver, Colorado, I was unable to attend the July 25, 2002 formal session and I was therefore unable to be present for roll call votes taken on the following matters:

Bill to further protect children [S. 2420];

Bill relative to banks and banking [S. 2433]

Bill establishing community reinvestment obligations [S. 2405];

Bill relative to enhancing English opportunities for all students in the Commonwealth [S. 2439];

Bill providing for certain transportation improvements [S.2245];

Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the city of Boston [H. 5083];

Petition that the town of Plymouth be authorized to use certain land for public way purposes [H. 4865];

Bill to authorize the town of Arlington to change the use a certain parcel of land in the town adjacent to Summer Street from park to public way purposes [S. 2023];

Bill to authorize the Division of Capital Asset Management and Maintenance to convey a certain parcel of land located in the towns of Becket and Otis in exchange for certain other land located in the town of Otis [S. 1590];

Bill authorizing the town of Wayland to convey certain park land to be used for highway purposes [H. 5059];

Had I been present, I would have voted in the affirmative on each of these matters.

I would appreciate your assistance with the printing of this communication in the Senate journal. Thank you for your assistance with this request.

Sincerely,
RICHARD T. MOORE,
State Senator.
Worcester and Norfolk District.

On motion of Mr. O'Leary, the above communication was ordered printed in the Senate Journal.

Motion to Take Out of the Orders of the Day.

The President in the Chair, a motion for unanimous consent to take the House Bill relative to the membership of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (House, No. 5142), from the Orders of the Day, - **was considered; but objection was made thereto by Mr. O'Leary.**

At twenty minutes past three o'clock P.M., at the request of Ms. Menard, for the purpose of a meeting of the committee on Rules, the President declared a recess; and, at twenty-one minutes before four o'clock P.M., the Senate reassembled, the President in the Chair.

Report of a Committee.

Ms. Menard, for the committee on Rules, reported, under the provisions of the second sentence of Senate Rule 63, and in order to facilitate the business of the Senate, commencing forthwith full consideration shall be allowed on "An Act relative to the membership of Woods Hole, Martha's Vineyard and Nantucket Steamship Authority" (House, No. 5142); and that notwithstanding any rule to the contrary all motions and amendments shall be considered forthwith.

After debate, the question on accepting the report was determined by a call of the yeas and nays, at eleven minutes before four o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 33- nays 5):

YEAS.

Antonioni, Robert A.	Jacques, Cheryl A.
Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Knapik, Michael R.
Brewer, Stephen M.	Lees, Brian A.
Chandler, Harriette L.	Magnani, David P.
Creedon, Robert S., Jr.	McGee, Thomas M.
Creem, Cynthia Stone	Melconian, Linda J.
Glodis, Guy W.	Menard, Joan M.
Hart, John A., Jr.	Montigny, Mark C.
Hedlund, Robert L.	Murray, Therese
Nuciforo, Andrea F., Jr.	Tarr, Bruce E.
Pacheco, Marc R.	Tisei, Richard R.
Panagiotakos, Steven C.	Tolman, Steven A.
Resor, Pamela	Travaglini, Robert E.
Rosenberg, Stanley C.	Tucker, Susan C.
Shannon, Charles E.	Wilkerson, Dianne - 33.
Sprague, Jo Ann	

NAYS.

Fargo, Susan C.	O'Leary, Robert A.
Moore, Richard T.	Walsh, Marian - 5.
Morrissey, Michael W.	

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at three minutes before four o'clock P.M., the report was accepted.

Matter Taken Out of the Orders of the Day.

Pursuant to the provisions of a special order adopted by the Senate, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill relative to the membership of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (House, No. 5142),- was read a second time.

Pending the main question on ordering the bill to a third reading, Mr. O'Leary moved to amend the bill by striking all after enacting clause and inserting in place thereof the text of House document numbered 4991.

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), after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes past four o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 7 - nays 31):

YEAS.

Fargo, Susan C.	Rosenberg, Stanley C.
Menard, Joan M.	Tisei, Richard R.
Moore, Richard T.	Walsh, Marian - 7.
O'Leary, Robert A.	

NAYS.

Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Jacques, Cheryl A.
Berry, Frederick E.	Joyce, Brian A.
Brewer, Stephen M.	Knapik, Michael R.
Chandler, Harriette L.	Lees, Brian P.
Creedon, Robert S., Jr.	Magnani, David P.
Creem, Cynthia Stone	McGee, Thomas M.
Glodis, Guy W.	Melconian, Linda J.
Hart, John A., Jr.	Montigny, Mark C.
Morrissey, Michael W.	Sprague, Jo Ann
Murray, Therese	Tarr, Bruce E.
Nuciforo, Andrea F., Jr.	Tolman, Steven A.
Pacheco, Marc R.	Travaglini, Robert E.
Panagiotakos, Steven C.	Tucker, Susan C.
Resor, Pamela	Wilkerson, Dianne - 31.
Shannon, Charles E.	

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

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

Mr. O'Leary moved to amend the bill by striking out section 2.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes before five o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 9 - nays 30):

YEAS.

Chandler, Harriette L.	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Hedlund, Robert L.	Tisei, Richard R.
Moore, Richard T.	Walsh, Marian - 9.
O'Leary, Robert A.	

NAYS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.

Brewer, Stephen M.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Glodis, Guy W.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
Havern, Robert A.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Wilkerson, Dianne - 30.

The yeas and nays having been completed at a quarter before five o'clock P.M., the amendment was *rejected*.

Mr. O'Leary moved to amend the bill in section 6 by striking the words "and the city of New Bedford" in lines 11-12; and, in line 13, by striking the words "New Bedford"; and by striking the sentences beginning in line 18 and ending in line 30 at the words, "Acts of 1960", and inserting in place thereof the following:-

"The city of New Bedford shall be assessed 50 percent of any losses accrued for any authority passenger and freight service run from the port of New Bedford which is directly attributable to such service for any such period of time in which service is available from that port."

After remarks, the amendment was *rejected*, by a vote of 3 to 10.

Mr. O'Leary moved to amend the bill in section 6 by striking out the sentence in line 18 and inserting in place thereof the following:-

"The city of New Bedford shall be assessed 50 percent of any net losses, not to exceed \$650,000 annually, accrued for any authority passenger and freight service run from the port of New Bedford which is directly attributable to such service, in the calendar years 2003, 2004, and 2005 and 25 percent of any such net losses, not to exceed \$650,000 annually, accrued in calendar years 2006 and 2007."

After remarks, the amendment was *rejected*, by a vote of 3 to 9.

Mr. O'Leary moved to amend the bill by inserting at the end thereof the following section:-

"SECTION . If any port community represented on the authority through a voting or nonvoting member should fail to have substantial service over the course of a two year period, which time shall begin to toll upon the enactment of this act, the full board may vote to remove the representation of that community from the authority. Such action by the board shall be effective immediately."

After remarks, the amendment was *rejected*, by a vote of 2 to 9.

Mr. O'Leary moved to amend the bill in section 12, by striking out the words after the word "management" in line 6.

After remarks, the amendment was *rejected*, by a vote of 4 to 8.

Mr. O'Leary moved to amend the bill by inserting at the end thereof the following section:-

"SECTION _____. This act shall take effect on January 1, 2003 or upon the final adjudication or dismissal with prejudice of the case of the City of New Bedford et als v. The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority pending in the United States District Court for the District of Massachusetts, whichever is sooner."

After remarks, the amendment was *rejected*, by a vote of 2 to 8.

Mr. O'Leary moved to amend the bill by inserting at the end thereof the following section:-

"SECTION _____. If for financial reasons in providing passenger ferry service from the port of New Bedford to the island of Martha's Vineyard the Authority determines it to be in their best financial interest to run private passenger ferry service from New Bedford to Martha's Vineyard the right to operate said service shall be required to first be offered to an existing private grandfathered carrier who operates year-round, provided an acceptable financial agreement can be agreed upon by both parties. Only upon unsatisfactory completion, review, and negotiation of this process shall the provision of said private passenger ferry service be offered to any other private carrier."

After remarks, the amendment was *rejected*, by a vote of 3 to 10.

Mr. O'Leary moved to amend the bill by striking out section 16 and inserting at the end thereof the following section:-

"SECTION 16. Notwithstanding the provisions of any general or special law to the contrary, the city of New Bedford and the current operator of barge service between the city of New Bedford and the islands of Martha's Vineyard and Nantucket shall enter into a memorandum of understanding not later than October fifteenth two thousand and two relative to the continuation of such service as conducted by the current operator; provided, however, that such memorandum shall be subject, but not be limited to, the current guidelines established by the United States Environmental Protection Agency, as required under chapter 91 of the General Laws and shall include a mutually agreeable location on the Acushnet river or within New Bedford Harbor in the city of New Bedford, with a ramp and bulkhead characteristics which equals or surpasses the current location in its business and physical characteristics. Any relocation of the current operator shall be within the terms equal to license no. 5130 for the existing facility, and the barge operation shall be permitted and licensed in accordance with said chapter 91. The memorandum of understanding provided for in this section between the city of New Bedford and said operator shall be legally binding document having the full force and effect of the law between the parties and shall be enforceable in a court of law by equitable relief. If said memorandum of understanding is not executed by said date, said operation of barge service between the city of New Bedford and the islands of Martha's Vineyard and Nantucket shall continue as conducted by the current operator and be subject to the provisions dictated by this section. Until said memorandum is executed and the current barge operator has been relocated to the former Herman Melville Shipyard property for the balance of the operator's current license term and on the same rental payment terms, New Bedford shall continue to allow the current operator to continue its business on the waterfront at the State Pier and such other locations as are reasonably required, and, in addition, the Harbor Development Plan submitted by the City of New Bedford shall not be approved by the Massachusetts Executive Office of Environmental Affairs."

After remarks, the amendment was *rejected*, by a vote of 2 to 9.

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

The question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at six minutes past five o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 36 - nays 3):

YEAS.

Antonioni, Robert A.	Jacques, Cheryl A.
Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Knapik, Michael R.
Brewer, Stephen M.	Lees, Brian P.
Chandler, Harriette L.	Magnani, David P.
Creedon, Robert S., Jr.	McGee, Thomas M.
Creem, Cynthia Stone	Melconian, Linda J.
Fargo, Susan C.	Menard, Joan M.
Glodis, Guy W.	Montigny, Mark C.
Hart, John A., Jr.	Moore, Richard T.
Havern, Robert A.	Morrissey, Michael W.
Hedlund, Robert L.	Murray, Therese
Nuciforo, Andrea F., Jr.	Sprague, Jo Ann
Pacheco, Marc R.	Tarr, Bruce E.
Panagiotakos, Steven C.	Tolman, Steven A.
Resor, Pamela	Travaglini, Robert E.
Rosenberg, Stanley C.	Tucker, Susan C.
Shannon, Charles E.	Wilkerson, Dianne - 36.

NAYS.

O'Leary, Robert A.
Tisei, Richard R.

Walsh, Marian - 3.

The yeas and nays having been completed at ten minutes past five o'clock P.M., the bill was passed to be engrossed, in concurrence.

Reports of a Committee.

By Mr. Montigny, for the committee on Ways and Means, that the Senate Bill authorizing the Department of Environmental Management to take or acquire conservation restrictions in and to lands of the city of Leominster (Senate, No. 2382),- ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2448).

The rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2448) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Montigny, for the committee on Ways and Means, that the Senate Bill designating certain lands in the towns of Phillipston, Royalston and Templeton for conservation and public recreational purposes in conjunction with the Department of Environmental Management (Senate, No. 2393),- ought to pass, *with an amendment*, in section 1, by inserting after the word "dedicated", in line 3, the following:- "in consultation with the division of capital asset management and maintenance"; and by striking out, in line 22, the words "(insert date)" and inserting in place thereof the following words:- "April 8, 2002".

The rules were suspended, on motion of Ms. Menard, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2393, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Montigny, for the committee on Ways and Means, that the Senate Bill to end child hunger in Massachusetts (Senate, No. 722),- ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2447).

The rules were suspended, on motion of Mr. Shannon, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2447) 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 sixteen minutes past five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 - nays 0):

YEAS.

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

Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne - 39.
Menard, Joan M.	

NAYS - 0.

The yeas and nays having been completed at twenty minutes past five o'clock P.M., the bill (Senate, No. 2447) was passed to be engrossed.

Sent to the House for concurrence.

By Mr. Montigny, for the committee on Ways and Means, that the Senate Bill establishing a commission on law, ethics and technology for the purpose of advising the governor and legislature (Senate, No. 2357),- ought to pass, *with amendments* in section 1, by striking out in line 1 the words:- "Subject to appropriation, there" and inserting in place thereof the following word:- "There"; and by adding the following paragraph:-

"The commission may seek the assistance of state agencies with expertise in issues of law, ethics, science and technology in formulating its recommendations. The agencies may provide the commission with such professional and administrative support as the agencies can reasonably provide within their existing resources. For administrative purposes, the commission, though independent, will be associated with the state ethics commission."

The rules were suspended, on motion of Mr. Travaglini, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2357, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Montigny, for the committee on Ways and Means, that the House Bill further regulating the licensing of public insurance adjusters (House, No. 1211, amended),- ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2449.

The rules were suspended, on motion of Ms. Menard, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

By Mr. Montigny, for the committee on Ways and Means, that the House Bill relative to funding for certain telecommunications programs within the Commonwealth (House, No. 1751),- ought to pass.

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.

PAPERS FROM THE HOUSE.

The Senate Bill establishing the crime of communicating a terroristic threat (Senate, No. 2122),- came from the House passed to be engrossed, in concurrence, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of House document numbered 5272, printed as amended.

The rules were suspended, on motion of Ms. Menard, and the House amendment was considered forthwith.

Pending the question on concurring in the House amendment, Ms. Creem and Ms. Jacques moved to amend the amendment (as corrected by the committee on Bills in the Third Reading), by striking out section 22 and inserting in place thereof the following eight sections:-

"SECTION 22. Chapter 269 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out section 14 and inserting in place thereof the following section:-

Section 14. (a) For the purposes of this section, the following words shall have the following meanings:

'Hijack', to commandeer or to take control without authority.

'School', any public or private preschool, headstart facility, elementary, vocational or secondary school, college or university.

'Serious bodily injury', bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

(b) Whoever willfully communicates or causes to be communicated, either directly or indirectly, orally, in writing, by mail, by use of a telephonic or telecommunication device including, but not limited to, electronic mail, Internet communications and facsimile communications, through an electronic communication device or by any other means, a threat:

(1) that a firearm, rifle, shotgun, machine gun or assault weapon, as defined in section 121 of chapter 140, an explosive or incendiary device, a dangerous chemical or biological agent, a poison, a harmful radioactive substance or any other device, substance or item capable of causing death, serious bodily injury or substantial property damage, will be used at a place or location, or is present or will be present at a place or location, whether or not the same is in fact used or present; or

(2) to hijack an aircraft, ship or common carrier thereby causing anxiety, unrest, fear, or personal discomfort to any person or group of persons shall be punished by imprisonment in the state prison for not more than 20 years or imprisonment in the house of correction for not more than 2½ years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(c) Whoever willfully communicates or causes to be communicated such a threat thereby causing either the evacuation or serious disruption of a school, school related event, school transportation, or a dwelling, building, place of assembly, facility of public transport, or an aircraft, ship or common carrier, or willfully communicates or causes serious public inconvenience or alarm, shall be punished by imprisonment in the state prison for not less than 3 years nor more than 20 years or imprisonment in the house of correction for not less than 6 months nor more than 2½ years, or by a fine of not less than \$1,000 nor more than \$50,000, or by both such fine and imprisonment.

(d) The court shall, after conviction, conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered by an individual, public or private entity and the amount of property damage caused as a result of that defendant's crime. A person found guilty of violating this section shall, in all cases, in addition to any other punishment, be ordered to make restitution to the individual, public or private entity for any costs incurred, damages and financial loss sustained as a result of the commission of the crime. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof, however, the court shall consider the defendant's present and future ability to pay in its determinations regarding a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant.

SECTION 23. Chapter 271 of the General Laws is hereby amended by striking out section 17B, as so appearing, and inserting in place thereof the following section:-

Section 17B. Except as otherwise prohibited under 18 U.S.C., whenever the attorney general or a district attorney has reasonable grounds to believe that records in the possession of (i) a common carrier subject to the jurisdiction of the department of telecommunications and energy, as defined in paragraph (d) of section 12 of chapter 159; or (ii) a provider of electronic communication service as defined in 18 U.S.C. sections 2701 to 2711, inclusive; or (iii) a provider of remote computing service as defined in 18 U.S.C. sections 2701 to 2711, inclusive, are relevant and material to an ongoing criminal investigation, the attorney general or district attorney may issue an administrative subpoena demanding all such records in the possession of such common carrier or service, and such records forthwith shall be delivered to the attorney general or district attorney. No such common carrier or service, or employee thereof shall be civilly or criminally responsible for furnishing any records or information in compliance with such demand. Nothing in this section shall limit the right of the attorney general or a district attorney otherwise to obtain records from such a common carrier or service pursuant to a search warrant, a court order or a grand jury or trial subpoena otherwise allowed by law.

Notwithstanding the preceding paragraph, a subpoena issued pursuant to this section shall not be used to obtain records disclosing the content of electronic communications, or subscriber account records disclosing Internet locations which have been accessed including but not limited to websites, chat channels and newsgroups, but excluding servers used to initially access the Internet. The recipient of such a subpoena shall not provide any such records disclosing the content of electronic communications or such subscriber account records disclosing Internet locations which have been accessed, in response to such a subpoena.

SECTION 24. Chapter 276 of the General Laws is hereby amended by inserting after section 1A, as so appearing, the following section:-

Section 1B. (a) As used in this section, the following terms shall have the following meanings:

'Adverse result', occurs when notification of the existence of a search warrant results in:

danger to the life or physical safety of an individual;

a flight from prosecution;

the destruction of or tampering with evidence;
the intimidation of a potential witness or witnesses; or
serious jeopardy to an investigation or undue delay of a trial.

'Electronic communication services', shall be construed in accordance with 18 U.S.C. sections 2701 to 2711, inclusive. This definition shall not apply to corporations that do not provide those services to the general public.

'Foreign corporation', any corporation or other entity that makes a contract or engages in a terms of service agreement with a resident of the commonwealth to be performed in whole or in part by either party in the commonwealth. The making of the contract or terms of service agreement is considered to be the agreement of the foreign corporation that a search warrant or subpoena properly served on it has the same legal force and effect as if served personally within the commonwealth.

'Massachusetts corporation', any corporation or other entity that is subject to chapter 155 or chapter 156B.

'Properly served', that a search warrant or subpoena has been delivered by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of the corporation or its general manager in the commonwealth, to any natural person designated by it as agent for the service of process, or if the corporation has designated a corporate agent, to any person named in the latest certificate filed pursuant to section 4 of chapter 181.

'Remote computing services', shall be construed in accordance with 18 U.S.C. sections 2701 to 2711, inclusive. This definition shall not apply to corporations that do not provide those services to the general public.

'Subpoena', a grand jury or trial subpoena issued in the course of a criminal proceeding or an administrative subpoena issued pursuant to section 17B.

(b) A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the records named in this subsection are actually or constructively possessed by a foreign corporation that provides electronic communication services or remote computing services, if satisfied that probable cause has been established for such belief, issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation:

- (1) those records which would reveal the identity of a customer using those services;
- (2) data stored by or on behalf of a customer;
- (3) records of a customer's usage of those services;
- (4) records of the source of communications sent to or the recipient or destination of communications sent from a customer; or
- (5) the content of those communications stored by an electronic communication or remote computing service.

(c) The following provisions shall apply to any search warrant issued pursuant to this section and to any subpoena issued in the course of a criminal investigation or proceeding directed to a foreign corporation that provides electronic communication services or remote computing services:

- (1) When properly served with a search warrant issued by a Massachusetts court or justice pursuant to this section or a subpoena, a foreign corporation subject to this section shall provide all records sought pursuant to that warrant or subpoena within 5 business days of receipt, including those records maintained or located outside the commonwealth;
- (2) If an applicant makes a showing and the court or justice finds that failure to produce records within less than 5 business days would cause an adverse result, a warrant may require production of records within less than 5 business days;
- (3) A court or justice may reasonably extend the time required for production of the records upon finding that the foreign corporation has shown good cause for that extension and that an extension of time would not cause an adverse result;
- (4) A foreign corporation seeking to quash a warrant or subpoena served on it pursuant to this section must seek relief from the court that issued the warrant or the court, which has jurisdiction over the subpoena within the time required for production of records pursuant to this section. The Court shall hear and decide that motion no later than 5 court days after the motion is filed;
- (5) In the case of an administrative subpoena issued by the attorney general, the superior court for Suffolk county shall have jurisdiction; in the case of an administrative subpoena issued by a district attorney, the superior court in any county in which the district attorney maintains an office shall have jurisdiction; and

(6) The foreign corporation shall verify the authenticity of records that it produces by providing an affidavit from the person in custody of those records certifying that they are true and complete.

(d) A Massachusetts corporation that provides electronic communication services or remote computing services, when served with a warrant or subpoena issued by another state to produce records that would reveal the identity of the customers using those services, data stored by, or on behalf of the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant or subpoena had been issued under Massachusetts law.

(e) No cause of action shall lie against any foreign or Massachusetts corporation subject to this section, its officers, employees, agents or other specified persons for providing records, information, facilities or assistance in accordance with the terms of a warrant or subpoena issued pursuant to this section.

SECTION 25. Section 58½ of chapter 277 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the word 'or'.

SECTION 26. Said section 58½ of said chapter 277, as so appearing, is hereby further amended by inserting after the word 'violation', in line 8, the following words:- or where any sort of remote access device used by the defendant was physically located at the time of the violation.

[A] SECTION 27. Notwithstanding any general or special law to the contrary, the validity of an identification card issued under section 8E of chapter 90 of the General Laws without an expiration date shall expire and the registrar of motor vehicles shall cancel the identification card after September 2, 2002, but no later than November 1, 2002." ; and

The amendment was adopted.

Mr. Tolman moved to amend the House amendment (as corrected by the committee on Bills in the Third Reading) by striking out sections 2 to 12, inclusive, and inserting in place thereof the following 2 sections:

"SECTION 2. Section 8 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the word 'require.', in line 19, the following sentence:- If the registrar has reasonable cause to suspect that any document presented by an applicant as proof of identity or age is altered, false or otherwise invalid, the registrar shall refuse to grant the license until the registrar is satisfied as to the applicant's true identity or age.

SECTION 3. Section SB of said chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the word 'require.', in line 7, the following sentence:- If the registrar has reasonable cause to suspect that any document presented by an applicant as proof of identity or age is altered, false or otherwise invalid, the registrar shall refuse to grant the permit until the registrar is satisfied as to the applicant's true identity or age." ; and

By striking out at "A" section 27 (as amended by Ms. Creem and Ms. Jacques).

The amendment was adopted.

After remarks, the question on concurring in the House amendment, as amended, was determined by a call of the yeas and nays, at twenty-three minutes before six o'clock P.M., on motion of Mr. Creem, as follows, to wit (yeas 37 - nays 0):

YEAS.

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

Jacques, Cheryl A.
Joyce, Brian A.
Knapik, Michael R.
Lees, Brian P.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.
Menard, Joan M.

Sprague, Jo Ann
Tarr, Bruce E.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne -
37.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A.

Tisei, Richard R. - 2.

The yeas and nays having been completed at eighteen minutes before six o'clock P.M., the Senate concurred in the House amendment, as amended.

Sent to the House for concurrence in the further Senate amendments.

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 her approbation, to wit:

Relative to complaints of sexual harassment and other forms of discrimination (see Senate, No. 915);

Relative to the conveyance of a certain parcel of land in the town of Grafton (see Senate, No. 2330);

Relative to the enhanced emergency telephone system in the city known as the town of Weymouth (see House, No. 4012);

Relative to certain food products and dietary supplements (see House, No. 4353);

Establishing a sick leave bank for Rachel A. Joyce, an employee of the trial court (see House, No. 4553, amended);

Relative to the implementation of a housing improvement plan in the city of Fall River (see House, No. 4971); and

Authorizing the town of Canton to appoint police officers (see House, No. 5096).

An engrossed Bill further regulating advertising on motor fuel dispensing devices (see Senate, No. 2327) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

After remarks, the question on passing the bill to be enacted was determined by a call of the yeas and nays, at nine minutes before six o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 -nays 0):

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Fargo, Susan C.

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Nuciforo, Andrea F., Jr.
O'Leary, Robert A.
Pacheco, Marc R.

Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A.	Walsh, Marian - 3.
Tisei, Richard R.	

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

A Bill authorizing the town of Dedham to reimburse certain sewer use fees (House, No. 5058,- on petition) [Local approval received],- was read.

There being no objection, the rules were suspended, on motion of Ms. Jacques, 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 House Bill providing for recall elections in the town of Newbury (House, No. 4288, changed),- **was read a third time and passed to be engrossed, in concurrence.**

Recess.

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

Committee of Conference Report.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendment to the Senate Bill providing for the preservation and improvement of the environmental assets of the Commonwealth (Senate, No. 2319, printed as amended) (*amended by the House* by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 5177; and striking out the emergency preamble and inserting in place thereof the following preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for preservation and improvement of the environmental assets of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; reported, recommending that the Senate recede from its non-concurrence in the House amendments and concur therein with a further amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2437.

After remarks, the question on accepting the report of the committee of conference was determined by a call of the yeas and nays, at a half past seven o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 36 - nays 0):

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.

Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A.	Walsh, Marian - 3.
Tisei, Richard R.	

The yeas and nays having been completed at seventeen minutes before eight o'clock P.M., the report of the committee of conference was accepted.

Subsequently, Mr. Lees moved that this vote be reconsidered.

During remarks on the motion to reconsider, Mr. Pacheco arose to a point of order, which, being stated, was that the motion to reconsider was a dilatory tactic at this time since the time for debate would go beyond the hour of eight o'clock P.M., and the Senate would not be allowed to take a vote to continue meeting beyond that hour as required by the Senate rules.

The President stated that the point of order was well taken, that the motion was dilatory in context of the timing in which it was offered and was thus preventing the Senate to proceed to necessary business.

Suspension of Senate Rule 38A.

Pursuant to the point of order, Mr. Pacheco moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M., and this question was determined by a call of the yeas and nays, at three minutes before eight o'clock P.M., as follows, to wit (yeas 30 - nays 6):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Jacques, Cheryl A.	Rosenberg, Stanley C.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.

McGee, Thomas M.
Melconian, Linda J.
Menard, Joan M.

Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne - 30.

NAYS.

Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R. - 6.

ABSENT OR NOT VOTING.

Berry, Frederick E.
Havern, Robert A.
Shannon, Charles E. - 3.

The yeas and nays having been completed at one minute past eight o'clock P.M., Senate Rule 38A was suspended, and the Senate session was allowed to continue.

The pending motion, previously moved by Mr. Lees, to reconsider the vote by which the Senate had accepted the report of the committee of conference of the disagreeing votes of the two branches, with reference to the House amendment to the Senate Bill providing for the preservation of the environmental assets of the Commonwealth (for the report of the committee, see the text of Senate document numbered 2437),- was further considered.

After further remarks, the question on reconsideration was determined by a call of the yeas and nays at three minutes past eight o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 0 -nays 36):

YEAS - 0.

NAYS.

Antonioni, Robert A.	Jacques, Cheryl A.
Baddour, Steven A.	Joyce, Brian A.
Brewer, Stephen M.	Knapik, Michael R.
Chandler, Harriette L.	Lees, Brian P.
Creedon, Robert S., Jr.	Magnani, David P.
Creem, Cynthia Stone	McGee, Thomas M.
Fargo, Susan C.	Melconian, Linda J.
Glodis, Guy W.	Menard, Joan M.
Hart, John A., Jr.	Montigny, Mark C.
Hedlund, Robert L.	Moore, Richard T.
Morrissey, Michael W.	Sprague, Jo Ann
Murray, Therese	Tarr, Bruce E.
Nuciforo, Andrea F., Jr.	Tisei, Richard R.
O'Leary, Robert A.	Tolman, Steven A.
Pacheco, Marc R.	Travaglini, Robert E.
Panagiotakos, Steven C.	Tucker, Susan C.
Resor, Pamela	Walsh, Marian
Rosenberg, Stanley C.	Wilkerson, Dianne - 36.

ABSENT OR NOT VOTING.

Berry, Frederick E.
Havern, Robert A.
Shannon, Charles E. - 3.

The yeas and nays having been completed at seven minutes past eight o'clock P.M., the motion to reconsider was *negatived*.
The conference committee report was then sent to the House for concurrence.

Report of a Committee.

Ms. Resor, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill to prevent employers from restricting the sale of employer securities held in employee pension accounts (printed as House, No. 5219) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft entitled "An Act protecting workers and small investors" (Senate, No. 2442).

There being no objection, the bill was read a second time.

Pending the main question on ordering the bill to a third reading, and pending the question on adopting the amendment previously recommended by the committee on Ways and Means, Ms. Chandler moved that the pending amendment (Senate, No. 2442) be amended by inserting after section 2 the following new section:-

"SECTION 2A. Paragraph (e) of subdivision (2A) of section 23 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out clause (xiii) and inserting in place thereof the following 2 clauses:-

(xiii) Acts as treasurer-custodian of the PRIT Fund and shall have the custody of the funds and securities of said fund;

(xiv) put a mechanism in place to monitor current market conditions to detect and immediately notify the board of potential high-risk corporate investments, so that the board can take action, when possible, to prevent investment losses."; in paragraph (4) of section (10) by inserting after the word "company", in the last line, the following words:- "as specified under rules or regulations to be promulgated by PRIM."; and in paragraph (4) of section 11 by inserting after the word "company", in the last line, the following words:- "as specified under rules or regulations to be promulgated by PERAC".

This amendment was adopted.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft entitled "An Act protecting workers and small investors" (Senate, No. 2442, amended (Chandler),- was then considered.

After remarks, the question on adoption of the Ways and Means amendment, as amended, was determined by a call of the yeas and nays, at twenty-one minutes past eight o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 35 - nays 2):

YEAS.

Antonioni, Robert A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Joyce, Brian A.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Travaglini, Robert E.
Melconian, Linda J.	Tucker, Susan C.
Menard, Joan M.	Wilkerson, Dianne -35.
Montigny, Mark C.	

NAYS.

Baddour, Steven A. Walsh, Marian - 2.

ANSWERED "PRESENT".

Creem, Cynthia Stone - 1.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at twenty-eight minutes past eight o'clock P.M., the amendment (Senate, No. 2442, amended) was adopted.

**The bill was then ordered to a third reading, read a third time and passed to be engrossed.
Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

Engrossed Bills - Land Taking for Conservation, Etc.

Ms. Melconian in the Chair, an engrossed Bill releasing certain land in the town of Hadley from the operation of an agricultural preservation restriction (see Senate, No. 2386) (which originated in the Senate), 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 a half past eight o'clock P.M., as follows, to wit (yeas 38 - nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne -38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at twenty-six minutes before nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

An engrossed Bill releasing certain land in Hatfield from the operation of an agricultural preservation restriction (see Senate, No. 2368) (which originated in the Senate), 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 before nine o'clock P.M., as follows, to wit (yeas 38 - nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne-38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at three minutes before nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

Motion to Adjourn.

Mr. Lees moved that the Senate adjourn; and this question was determined by a call of the yeas and nays at twenty-two minutes before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 - nays 32):

YEAS.

Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. - 6.

NAYS.

Antonioni, Robert A.	Hart, John A., Jr.
Baddour, Steven A.	Jacques, Cheryl A.
Berry, Frederick E.	Joyce, Brian A.
Brewer, Stephen M.	Magnani, David P.
Chandler, Harriette L.	McGee, Thomas M.
Creedon, Robert S., Jr.	Melconian, Linda J.
Creem, Cynthia Stone	Menard, Joan M.
Fargo, Susan C.	Montigny, Mark C.
Glodis, Guy W.	Moore, Richard T.
Morrissey, Michael W.	Rosenberg, Stanley C.
Murray, Therese	Shannon, Charles E.
Nuciforo, Andrea F., Jr.	Tolman, Steven A.
O'Leary, Robert A.	Travaglini, Robert E.
Pacheco, Marc R.	Tucker, Susan C.
Panagiotakos, Steven C.	Walsh, Marian
Resor, Pamela	Wilkerson, Dianne - 32.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at nineteen minutes before nine o'clock P.M., the motion to adjourn was negatived.

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to liquor liability insurance (see House, No. 1787, 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.

After remarks, the question on passing the bill to be enacted was determined by a call of the yeas and nays, at a quarter before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0):

YEAS.

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

Melconian, Linda J. Walsh, Marian
Menard, Joan M. Wilkerson, Dianne - 38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at twelve minutes before nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

An engrossed Bill relative to community residency tenancy protections (see House, No. 3741, 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.

After remarks, the question on passing the bill to be enacted was determined by a call of the yeas and nays, at ten minutes before nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne - 38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at six minutes before nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

An engrossed Bill increasing the penalties for speed limit violations in marked construction zones (see House, No. 867) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President and laid before the Acting Governor for her approbation.**

An engrossed Bill further regulating motor vehicle rental agreements (see House, No. 5174) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at five minutes past nine o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 - nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne - 38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at nine minutes past nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

An engrossed Bill further regulating business practices between motor vehicle manufacturers, distributors and dealers (see House, No. 4997, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at eleven minutes past nine o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 38 - nays 0):

YEAS.

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

Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne - 38.

NAYS - 0.

ABSENT OR NOT VOTING.

Havern, Robert A. - 1.

The yeas and nays having been completed at thirteen minutes past nine o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the Acting President and laid before the Acting Governor for her approbation.

PAPERS FROM THE HOUSE.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill relative to the production and preservation of affordable housing in the Commonwealth (House, No. 4284, printed as amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2119), reported, in part, a Bill relative to the production and preservation of affordable housing in the Commonwealth (House, No. 5288),- came from the House, and was read.

After debate, the question on accepting the report, in concurrence, was determined by a call of the yeas and nays, at twenty-one minutes before eleven o'clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (yeas 24 - nays 14):

YEAS.

Antonioni, Robert A.	Hart, John A., Jr.
Baddour, Steven A.	Havern, Robert A.
Berry, Frederick E.	Joyce, Brian A.
Chandler, Harriette L.	Magnani, David P.
Creem, Cynthia Stone	McGee, Thomas M.
Glodis, Guy W.	Melconian, Linda J.
Menard, Joan M.	Resor, Pamela
Montigny, Mark C.	Rosenberg, Stanley C.
Morrissey, Michael W.	Tolman, Steven A.
Nuciforo, Andrea F., Jr.	Travaglini, Robert E.
O'Leary, Robert A.	Walsh, Marian
Panagiotakos, Steven C.	Wilkerson, Dianne - 24.

NAYS.

Brewer, Stephen M. Moore, Richard T.

Creedon, Robert S., Murray, Therese
Jr.
Fargo, Susan C. Pacheco, Marc R.
Hedlund, Robert L. Sprague, Jo Ann
Jacques, Cheryl A. Tarr, Bruce E.
Knapik, Michael R. Tisei, Richard R.
Lees, Brian P. Tucker, Susan C. - 14.

ABSENT OR NOT VOTING.

Shannon, Charles E.

- 1.

The yeas and nays having been completed at eighteen minutes before eleven o'clock P.M., the report was accepted, in concurrence.

Engrossed Bill.

An engrossed Bill relative to enhancing English opportunities for all students in the Commonwealth (see House, No. 5010, amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Acting Governor for her approbation.**

Committee of Conference Report.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill relative to authorizing the financing of the production and preservation of affordable housing in the Commonwealth (House, No. 4274, printed as amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2113; and inserting before the enacting clause the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the financing of the production and preservation of affordable housing in the Commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.".), reported, recommending that the House recede from its non-concurrence with the Senate in its amendments and concur therein with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4930; and that the Senate concur in the further amendment.

The report was considered forthwith and accepted, in concurrence.

Report of a Committee.

The President in the Chair, by Mr. Montigny, for the committee on Ways and Means, that the Senate Bill directing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land located in the town of Randolph (Senate, No. 2443),- ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Joyce, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Travaglini,-

Ordered, That when the Senate adjourns today, it adjourn to meet again on Wednesday next at one o'clock P.M. in full formal session without a calendar.