

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Thursday, September 13, 2001.

Met at seventeen minutes before two o'clock P.M.

At the request of the Senate President, the members, employees and guests joined with him in reciting the Pledge of Allegiance to the Flag.

Petition.

Mr. Brewer presented a petition (subject to Joint Rule 12) of Stephen M. Brewer and Brian Knuuttila for legislation relative to the licensing of home inspectors,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

PAPER FROM THE HOUSE.

A message from Her Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to establishing a parental leave benefit program (House, No. 4491),— **was referred, in concurrence, to the committee on Commerce and Labor.**

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate bills

Allowing certain military personnel to receive group insurance discounts (Senate, No. 773, changed);

Relative to the estate of homestead (Senate, No. 850);

Requiring the filing of birth certificates in guardianship proceedings of minors (Senate, No. 851);

Relative to registered land instruments procured by falsification of corporate office-holding (Senate, No. 855);

Relative to the appointment of guardians of minors in the district and juvenile court departments (Senate, No. 858);

Relative to the recording of certain trust instruments (Senate, No. 866);

To protect the owners of improved land (Senate, No. 869);

To require that the names and addresses of the owners of land taken by eminent domain be included in the order of taking (Senate, No. 870);

Relative to extending the rape shield law (Senate, No. 911);

Designating a portion of the Blackstone River and Canal Heritage State Park as the Honorable William A. L. Bazeley Memorial Recreation Area (Senate, No. 1089);

Requiring sealed bids or competitive proposals for the award of school transportation contracts (Senate, No. 1542);

Relative to protecting the identity of a 911 caller (Senate, No. 1568);

Relative to exempting boards of health (Senate, No. 1573);

Relative to the public records law (Senate, No. 1578);

To allow access for people raising or training dogs for the purpose of becoming service dogs to assist people with disabilities (Senate, No. 1585);

Regulating emergency contracts (Senate, No. 1610);

Relative to the water supply of the city of Brockton (Senate, No. 1848);

Relative to motor homes (Senate, No. 1896, changed);

Providing for public disclosure of ownership of a cemetery corporation (Senate, No. 1899); and

Authorizing the town of Arlington to change the use of a certain parcel of land in the town adjacent to Summer Street from park to public way purposes (Senate, No. 2023);

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

The Senate reports

Of the committee on Education, Arts and Humanities, ought NOT to pass, on the petition (accompanied by resolutions, Senate, No. 303) of Rosaire J. Rajotte for the adoption of resolutions relative to the abolition of the United States Department of Education;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 318) of Pamela P. Resor for legislation to require a minimum square footage for dormitory rooms provided by state colleges and the University of Massachusetts;

Of the committee on Local Affairs, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 710) of Charles E. Shannon, Robert M. Penta and Paul J. Donato for legislation relative to the community siting process; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1017) of Robert A. Havern and Charles A. Murphy for legislation to prohibit the issuance of comprehensive permits without the approval of local boards; **Were severally considered; and they were accepted.**

The House report of the committee on Insurance, ought NOT to pass, on so much of the recommendations of the office of Consumer Affairs and Business Regulation (House, No. 8) as relates to the organization and supervision of fraternal benefit societies (accompanied by bill, House, No. 37),— **was considered; and it was accepted, in concurrence.**

The Senate Bill relative to obscene materials (Senate, No. 214),— was read a second time and was amended, on motion of Mr. Tisei, by substituting a new draft with the same title (Senate, No. 2111).

The bill (Senate, No. 2111) was then ordered to a third reading.

Bills

Relative to an underage law enforcement agent, acting under direct control of a police officer and/or alcoholic beverages control commission enforcement officer, enabling them to lawfully purchase and take possession of an alcoholic beverage in a selective liquor enforcement program (Senate, No. 410); and

Relative to the powers of fiduciaries (Senate, No. 827);

Were severally read a second time and, after remarks, in each instance, were ordered to a third reading.

The Senate Bill providing for the annual inspection of schools, churches, hospitals, theatres, arenas and other public buildings by gas corporations in the Commonwealth (Senate, No. 419),— was read a second time.

Pending the question on ordering the bill to a third reading, after debate, Mr. Lees moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

Bills

To clarify the definition of physician (Senate, No. 536, changed); and

Relative to the rights of adopted persons under certain instruments (Senate, No. 825);

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

The Senate Bill to minimize the effect of irrelevant lis pendens memoranda (Senate, No. 842),— was read a second time.

The question on ordering it to a third reading was determined by a call of the yeas and nays, at thirteen minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — 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.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	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 — 37.
Menard, Joan M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Havern, Robert A. Nuciforo, Andrea F., Jr. — 2.

Ms. Melconian in the Chair, The yeas and nays having been completed at eighteen minutes past two o'clock P.M., the bill was ordered to a third reading.

Bills

Relative to the First Amendment rights of judges (Senate, No. 951);

To enhance procurement expertise (Senate, No. 1574); and

Relative to tax title properties (Senate, No. 1714);

Were severally read a second time and, after remarks, in each instance, were ordered to a third reading.

Bills

Designating the official POW/MIA Memorial of the Commonwealth (Senate, No. 1607); and

Relative to handicap parking restrictions (House, No. 4171, amended);

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

The President in the Chair, 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) was read a third time.

After remarks, pending the main question on passing the bill to be engrossed, Ms. Melconian and Mr. Lees moved to amend the bill in section 5, by inserting after the word “costs”, in line 54, the following words:— “; provided, however, that this limitation shall not apply to loans provided for the creation of battered women’s shelters which loans may be provided in amounts up to 80 per cent of the financing of total development costs; and provided further, that such loans shall not exceed \$2,500,000 per project”.

The amendment was adopted.

Mr. Rosenberg and Ms. Fargo moved to amend the bill in section 2, in item 7004-7016, by inserting after the word “assessment”, in line 20, the following words:— “; provided further, that grants shall be made from this item in support of developments which create affordable living and work space for artists”.

The amendment was *rejected*.

Mr. Rosenberg and Ms. Fargo moved to amend the bill in section 2, in item 7004-7012, by adding the following words:— “; and provided further, that through this program, the department shall make grants available to promote the renovation or development of vacant land or buildings for combination living and work space for artists”.

After remarks, the amendment was adopted.

Mr. Rosenberg moved to amend the bill in section 2, by adding the following item:—

“7004-XXXX For the purpose of providing state financial assistance in the form of grants and loans in support of joint projects proposed by municipalities or housing development agencies and Massachusetts colleges and universities to produce affordable housing units pursuant to a program described in section 21 25,000,000”; and by adding the following 2 sections:—

“SECTION 21. The department of housing and community development shall create a program of grants and loans in support of projects which seek to mitigate the adverse impact on housing affordability in communities with high concentrations of college or university students. The projects may include joint projects between municipalities or housing development agencies and institutions of higher education designed to create or preserve affordable units within those areas.

SECTION 22. The department shall promulgate regulations for the purpose of implementing section 21 within 180 days of the effective date of this act. The state treasurer shall issue general obligation bonds to cover the costs of such a program”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2, in item 7004-7014, by adding the following words:— “; and provided further, that funds from this program shall be used to support joint projects proposed by municipalities or housing development agencies and Massachusetts colleges and universities”. and, in section 6, by inserting after the word “reinvestment”, in line 14, the following words:— “; provided further, that the programs shall include projects which seek to mitigate the adverse impact on housing affordability in communities with high concentrations of college or university students; provided further, that projects may include joint projects between municipalities or housing development agencies and institutions of higher education designed to create or preserve affordable units within those areas”.

The amendment was *rejected*.

Mr. Rosenberg moved to amend the bill in section 2, in item 7004-7013, by adding the following words:— “; and provided further, that funds from this program shall be used to support joint projects proposed by municipalities or housing development agencies and Massachusetts colleges and universities”.; and, in section 5, by inserting after the word “receivership”, in line 17, the following words:— “; innovative forms of housing which seek to mitigate the adverse impact on housing affordability in communities with high concentrations of college or university students; provided, that the projects may include joint projects between municipalities or housing development agencies and institutions of higher education designed to create or preserve affordable units within those areas”.

After remarks, the amendment was adopted.

Ms. Wilkerson and Messrs. Moore, Lynch and Travaglini moved to amend the bill in section 2, in item 7004-7011, by adding the following words:— “; and provided further, that not less than \$3,540,600 shall be available for the provision of a supportive services program for youths living in public housing pursuant to section 60 of chapter 121B”; and by adding the following section:—

“SECTION 21. The department of housing and community development, in accordance with this section, may make grants to local housing authorities for use in the provision of supportive services programs to complement improvements to the physical environment of public housing developments. Grants under this section may be used in public housing developments for:

- (1) programs, including salaries and expenses for staff of those programs, designed to reduce use of drugs in and around public housing developments, including drug prevention, intervention, referral and treatment programs;
- (2) programs, including salaries and expenses for staff of those programs, designed for outreach and recruitment of public housing development youth into employment, tutorial or job training programs; and
- (3) programs, including salaries and expenses for staff of those programs, designed for outreach and recruitment of public housing development youth into sports and recreation programs; provided, that those sports and recreation programs shall be designed to appeal to youths as alternatives to drug use.

To receive a grant under this section, a local housing authority shall submit an application to the department at such time, in such manner and accompanied by such additional information as the department may reasonably require. The application shall include a plan for addressing the identified supportive services needs of youths residing in local housing developments.

The department shall approve all applications from local housing authorities in accordance with a grant formula which makes available a sum not to exceed \$225 per unit for every unit of state-aided chapter 200 and chapter 705 low income family housing owned and operated by an applicant local housing authority. The department shall approve applications on the basis of threshold criteria that shall include, but not be limited to:

- (a) the quality of the plan to address the supportive services needs of youths residing in housing developments, including the extent to which the plan includes initiatives that can be sustained over a period of several years;
- (b) the capability of the applicant to carry out the plan; and
- (c) the extent to which tenants, the local government and the local community support the activities proposed to be funded under the application.

A local housing authority may apply for a one-year grant under this section that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 additional years, except that such renewal shall be contingent upon the department finding, upon an annual or more frequent review, that the grantee local housing authority is performing under the terms of the grant and applicable laws in a satisfactory manner and meets other such requirements as the department may prescribe. The department may adjust the amount of any grant received or renewed under this paragraph to take into account increases or decreases in amounts appropriated for these purposes or such other factors as the director determines to be appropriate.

Each local housing authority shall be equally eligible for funding and may make application to the department for funding under this section.

The department shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in this section, and any other pertinent information as reasonably required.

The department shall audit and monitor the programs funded under this section to ensure that assistance provided is administered in accordance with this section.

The department may issue such rules and regulations as are reasonably necessary to carry out the provisions of section.”
After remarks, the amendment was adopted.

Mr. Lees moved to amend the bill in section 2, in item 7004-7014, by adding the following words:— “; and provided further, that if the department has not been able to meet the spending allowable under the bond cap for this program, at the end of each year following the effective date of this act, the department shall be allowed to award the remaining funds to projects that serve households earning more than 30 per cent of the area median income, as defined by said United States Department of Housing and Urban Development”.

The amendment was adopted.

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at three minutes past three o’clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (yeas 38 — nays 0):

YEAS.

Antonioni, Robert A.

Menard, Joan M.

Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Clancy, Edward J., Jr.	Murray, Therese
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 — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Nuciforo, Andrea F., Jr. — 1.

Ms. Melconian in the Chair, the bill was passed to be engrossed, in concurrence, with the amendments.
[For text of Senate amendments, printed as amended, see S. 2113.]
Sent to the House for concurrence in the amendments.

The House Bill relative to the production and preservation of affordable housing in the Commonwealth (House, No. 4284, printed as amended),— was read a third time.

The President in the Chair, pending the main question on passing the bill to be engrossed, there being no objection, on motion of Mr. Panagiotakos, the further consideration thereof was postponed until the next session; and, notwithstanding the provisions of an order previously adopted, further amendments to this bill will be accepted until five o'clock P.M. on Friday, September 14.

The Senate report of the committee on Election Laws, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 347) of Brian P. Lees, Bruce E. Tarr, Richard R. Tisei and other members of the General Court for legislation relative to voting list access and distribution,— was considered, the question being on accepting the report.

On motion of Mr. Lees, the further consideration thereof was postponed until the next session.

Mr. Rosenberg in the Chair, the Senate Bill limiting the amount of fees that staffing agencies may charge employees for transportation (Senate, No. 2095),— **was considered; and, after remarks, it was passed to be engrossed.**

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (both of which originated in the House), 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 President and laid before the Acting Governor for her approbation, to wit:

Relative to persons holding the office of selectman in the town of Westborough (see House, No. 4146); and

Authorizing the town of Lancaster to place certain questions relative to the sale of alcoholic beverages on the town's election ballot (see House, No. 4181, amended).

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Rena C. Pelletier, an employee of the Trial Court of the Commonwealth (see House, No. 3760, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 17 to 0.**

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

Resolutions.

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

Resolutions (filed by Ms. Fargo) “recognizing September, 2001 as National Alcohol and Drug Addiction Recovery Month and September 26, 2001 as the Commonwealth of Massachusetts alcohol and drug addiction recovery celebration day”;

Resolutions (filed by Mr. Moore) “supporting civic education and observing the week of September 17, 2001 as America’s Legislators Back To School Week”;

Resolutions (filed by Mrs. Sprague) “honoring the late Corporal Frank William Hewitt”; and

Resolutions (filed by Mr. Tisei) “honoring the memory of Marie Jean Turner on the dedication of Turner’s Corner in the city of Melrose.”

Resignation of Senator James P. Jajuga of Third Essex.

The following communication, received by the Clerk of the Senate from the President of the Senate, was read by the Clerk, to wit:—

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

September 13, 2001.

The Honorable Thomas F. Birmingham
President, Massachusetts State Senate
State House, Room 332
Boston, MA 02133

Dear Mr. President:

This is to inform you that I will be resigning as State Senator for the 3rd Essex District, effective Wednesday, September 19, 2001 at 2:00 P.M. As you know, Governor Swift has asked me to serve as her Secretary of Public Safety, and I will take office effective that date and time.

It has been my great honor and privilege to serve as a member of the Massachusetts State Senate for the past eleven years. My thanks to you, my Senate colleagues, and the highly capable Senate staff for everything you have done for me during that period of time.

Sincerely,
JAMES P. JAJUGA,

*State Senator,
3rd Essex District.*

On motion of Mr. Travaglini, the above communication was ordered printed in the Journal of the Senate and placed on file.

Remarks on the Resignation of Senator James P. Jajuga.

The President recognized Senator Travaglini, who briefly addressed the Senate and paid tribute to Senator James P. Jajuga, who is resigning from the Massachusetts State Senate effective September 19, 2001 at two o'clock P.M. Senator Travaglini noted that Senator Jajuga will be missed for his passion for those issues important to him as well as his fine service to the citizens of the Commonwealth. He was a good friend to his colleagues in the Senate.

Subsequently, the President recognized Senator Jajuga, who briefly addressed the Senate and thanked the President, his fellow Senators and others for their help and support during his tenure in the Massachusetts Senate.

Resolutions.

The Clerk read the text of "Resolutions (offered by Ms. Chandler) condemning the September 11, 2001 terrorist attack against the United States and expressing condolences to the victims of the tragedy and their families"; and it was considered forthwith and adopted, to wit:

"Whereas, On September 11, 2001, many innocent victims in the United States were killed and injured in unprecedented terrorist actions in New York, Washington, D.C. and Pennsylvania involving 4 aircraft; and

Whereas, Two of the airplane flights involved in the attack originated from our capitol, Boston, Massachusetts and involved many residents of the Commonwealth; and

Whereas, As Americans we must guard against targeting our anger toward any racial, ethnic or religious minority and must not succumb to the hatred which is at the heart of terrorism nor persecute members of a minority group; and

Whereas, The victims of those attacks and their families are in the thoughts and prayers of our entire nation; now therefore be it

Resolved, That the Massachusetts Senate hereby condemns the senseless violence perpetrated on September 11, 2001, in New York, Washington, D.C. and Pennsylvania, honors the memory of the victims of this tragedy and expresses its condolences to their families and loved ones; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States and to the Governor of the State of New York and the Governor of the Commonwealth of Pennsylvania."

Order Adopted.

On motion of Ms. Melconian,—

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

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