

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.

Thursday, February 14, 2002.

[being the legislative session
of Tuesday, February 12, 2002.]

At twelve minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

Communication.

A communication was received from the President announcing the following appointments: The Senator from Plymouth and Bristol, Mr. Pacheco, the Senator from Middlesex, Norfolk and Worcester, Mr. Magnani, and the Senator from Plymouth and Norfolk, Mr. Hedlund, to the Special Legislative Task Force established (pursuant to section 2 of chapter 204 of the Acts of 2001) relative to the Commonwealth's Unemployment Insurance System.

Petitions.

Petitions were presented and referred, as follows:

By Mr. Antonioni (by request), a petition (subject to Joint Rule 12) of Audrey Serrano for legislation to reform Department of Social Services practices regarding children in need of services;

By Mrs. Sprague, a petition (subject to Joint Rule 12) of Jo Ann Sprague for legislation relative to skateboarding, inline skating and freestyle bicycling; and

By Mr. Tolman, a petition (subject to Joint Rule 12) of Steven A. Tolman for legislation to authorize the commissioner of the Metropolitan District Commission to lease certain land in the city of Newton;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPERS FROM THE HOUSE.

Messages were referred, in concurrence, as follows:

A message from Her Honor the Lieutenant-Governor, Acting Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating certain actions and authorizing certain reimbursements by the town of Oak Bluffs (House, No. 4906);

To the committee on Local Affairs.

A message from Her Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to further promoting public safety in the Commonwealth (House, No. 4907);

To the committee on Public Safety.

Bills

Authorizing the town of Hingham to establish a retiree healthcare liability trust fund (House, No. 4183,- on petition) [Local approval received]; and

Relative to the charter of the town of Reading (House, No. 4776,- on petition) [Local approval received];

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

A report of the committee on Public Safety, asking to be discharged from further consideration of the recommitted petition (accompanied by bill, House, No. 4885) of Thomas J. O'Brien, Michael E. Festa, Gale D. Candaras, Susan W. Pope and Rachel Kaprielian relative to the licensing of second hand motor vehicle dealers, and recommending that the same be recommitted to the committee on Government Regulations, - **was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate report recommending changes to the present rules of the Senate (Senate, No. 2239, amended), - was considered.

Pending the main question on acceptance of the report, pursuant to the provisions of Senate Rule 45, as previously moved by Mr. Lees, the Senate considered the following rule, as recommended by the committee on Rules:

The Senate Rules are hereby further amended by inserting after Rule 16 the following rule:

"16A. Reports of committees recommending that a matter be placed in a study shall be reported to the Senate if the matter being reported into a study was originally filed in the Senate. Matters which have been recommitted to a committee in session shall be reported to the branch originating the recommitment."

After remarks, the question on adoption of the rules change was determined by a call of the yeas and nays, at eight minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 35 - nays 0):

YEAS.

Antonioni, Robert A. Morrissey, Michael W.

Baddour, Steven A. Murray, Therese

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Brewer, Stephen M. O'Leary, Robert A.

Chandler, Harriette L. Pacheco, Marc R.

Creedon, Robert S., Jr. Panagiotakos, Steven C.

Creem, Cynthia Stone Resor, Pamela

Fargo, Susan C. Rosenberg, Stanley C.

Havern, Robert A. Shannon, Charles E.

Hedlund, Robert L. Sprague, Jo Ann

Jacques, Cheryl A. Tarr, Bruce E.

Knapik, Michael R. Tisei, Richard R.

Lees, Brian P. Tolman, Steven A.

Magnani, David P. Travaglini, Robert E.

Melconian, Linda J. Tucker, Susan C.

Menard, Joan M. Walsh, Marian

Montigny, Mark C. Wilkerson, Dianne - 35.

Moore, Richard T.

NAYS - 0.

PAIRED.

YEA. NAY.

Brian A. Joyce (present), Guy W. Glodis - 2.

The yeas and nays having been completed at four minutes before two o'clock P.M., the rules change was adopted.

The following proposed amendments, offered on the floor, were considered for amendment to the report.

Mr. Creedon moved to amend Senate Rule 27A by inserting after the fourth paragraph the following:

"All amendments to an appropriation bill adding outside sections must relate to a line item in said appropriation bill."

The rules change was *rejected*.

Mr. Creedon further moved to amend Senate Rule 24 by striking out the following: "(except during the last seven calendar days of formal business under Joint Rule 12A)"; and inserting in place thereof the following: "(except during the last seven calendar days of formal business under Joint Rule 12A of the second annual session of the General Court)".

After remarks, the rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund, and Mrs. Sprague moved to amend Senate, No. 2239, as follows:

4A. The Senate Rules are hereby amended by inserting after the first sentence of Rule 4A the following sentence: "This rule shall not be suspended except by vote of four-fifths of the members present and voting thereon. Rule 63 shall not apply to this case and no other rule shall supersede the requirement of four-fifths vote to suspend this rule."

After remarks, the rules change was adopted.

Mr. Rosenberg in the Chair, Mr. Tolman moved to amend the report by inserting before the words "The Senate Rules are hereby amended by inserting after Rule 54A" the following new language:- "The Senate Rules are hereby amended by inserting after Rule 4A the following Rule:-

4B. The Senate President shall, upon declaration of candidacy for any other state or federal elective office, remove himself/herself from said position."

After remarks, there being no objection, the rules change was withdrawn, on motion of Mr. Tolman.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Mrs. Sprague moved to amend Senate, No. 2239, as follows:

"59A. The Rules of the Senate are hereby amended by striking out in the first sentence of the second paragraph of Rule 59A the words 'of the Senate during which the general appropriations bill is considered,' and inserting in place thereof the words 'and informal sessions of the Senate.' This rule is further amended by inserting after the second paragraph the following paragraph:

'If, for any reason, the Senate convenes in either an informal session or formal session and such session is not televised live throughout the commonwealth, then the party under the contractual duty to provide the television broadcast shall provide to the Senate President and Minority Leader within twenty-four hours of the adjournment of such session a report including, but not limited to, a list of the areas where such broadcast was not received and an explanation for the lack of television coverage to the effected areas.' "

After debate, there being no objection, the rules change was withdrawn, on motion of Mr. Lees.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

59C. The Rules of the Senate are hereby amended by inserting after Rule 59B the following new rule:

"59C. The electronic feed that provides the television broadcast coverage of the Senate sessions shall be available to any media outlet."

The rules change was adopted.

Mr. Travaglini in the Chair, Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

59C. The Rules of the Senate are hereby amended by inserting after Rule 59B the following new rule:

59C. (1) The President of the Senate shall provide annually to each member of the Senate a copy of the contract for the television broadcast of the Senate formal and informal sessions.

(2) The party contracted to perform the duty of providing television broadcast of the formal and informal sessions of the Senate shall file an annual report with the President of the Senate. Said report shall include the following:

(a) a list of all cities and towns that receive live televised broadcasts of the sessions of the Senate;

(b) a list of each city and town that receives Senate coverage according to Rule 59C(2)(a) including the dates and times of the live and pre-recorded broadcasts of each session of the Senate;

(c) a list of cities and towns that do not receive live televised broadcasts of the sessions of the Senate and an explanation for the lack of coverage.

The President of the Senate shall distribute said report to each member of the Senate on the first day of the annual session.

After remarks, there being no objection, the rules change was withdrawn, on motion of Mr. Lees.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

36. The Rules of the Senate are hereby amended by striking out the first and second sentences of Rule 36.

After debate, the rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

32A. The Rules of the Senate are hereby amended by striking out Rule 32A and inserting in place thereof the following rule:

32A. (1) The Senate Committee on Bills in the Third Reading may be discharged from the further consideration of matters referred to it pursuant to the following procedure:

(a) The consideration of a motion to discharge said committee from further consideration of a certain matter shall be postponed without question to the day after that on which the motion is made.

(b) The adoption of such motion shall require a simple majority vote of the members present and voting thereon.

(2) When the committee is directed to discharge a certain matter pursuant to this rule, the committee shall either report or be discharged of said matter within five legislative days of the vote calling for such discharge. A matter discharged under the provisions of this rule shall be designated as "discharged" and the matter shall be placed in the Orders of the Day for the next sitting. On the motion to discharge the committee, not more than fifteen minutes shall be allowed for debate and no member shall speak more than three minutes.

After remarks, the rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

26. The Rules of the Senate are hereby amended by striking out Rule 26 and inserting in place thereof the following rule:

26. Bills and resolves from the House, after they are read a first time, shall be referred to a committee of the Senate, unless they have been reported by a joint committee or substituted for a report of a joint committee. Any matter reported in the Senate or received from the House concerning or restricted to a particular city or town which has received the approval of the voters of the city or town or of the town meeting shall appear on the calendar for the next session for a second reading notwithstanding any other provision of this rule.

The rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

7. The Rules of the Senate are hereby amended by striking out in the first sentence of Rule 7 the words "and the Committee on Steering and Policy", and by striking out in the fourteenth sentence the words "and the Committee on Steering and Policy."

The rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague further moved to amend Senate, No. 2239, as follows:

12B. The Rules of the Senate are hereby amended by striking out Rule 12B.

The rules change was *rejected*.

The report (Senate, No. 2258, printed as amended) was then considered; and it was accepted.

Ms. Melconian in the Chair, the Senate Report recommending that the Joint Rules of the preceding General Court be adopted as the permanent Joint Rules of the present General Court with recommended changes (Senate, No. 2240),- was considered.

Pending the main question on accepting the report of the committee, on motion of Mr. Lees, each rule enumerated in the report was considered separately , under the provisions of Senate Rule 45.

The first proposed rules change was considered, as follows:

Joint Rule 1B is hereby amended by adding the following sentence: "A joint standing committee may provide for the electronic publication of its hearing schedule and the listing of bills scheduled for hearings as well as for the submission of testimony regarding legislation through the internet or other electronic means prior to the time set for the hearing at which any such legislation is scheduled to receive a public hearing, in addition to all oral and written testimony."

After remarks, the rules change was adopted.

The following proposed rules change was considered, as follows:

The Joint Rules are hereby further amended by inserting after Rule 3A the following Rule:

"3B. When, in the opinion of the Senate President and Speaker of the House of Representatives, legislation is proposed that transcends the jurisdiction of any 1 joint committee, an order may be adopted to establish a task force consisting of the House and Senate chairs, vice chairs and ranking minority party members of the several relevant committees and such additional members as the Senate President and Speaker of the House of Representatives may appoint. The House chair of the task force shall be designated by the Speaker and the Senate chair shall be designated by the President. The Joint Rules governing standing committees relative to legislative procedure shall apply as well to any task force so appointed."

After remarks, the question on adoption of the rules change was determined by a call of the yeas and nays, at seven minutes past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 28 - nays 7):

YEAS.

Baddour, Steven A. Morrissey, Michael W.

Berry, Frederick E. Murray, Therese

Brewer, Stephen M. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. O'Leary, Robert A.

Creedon, Robert S., Jr. Pacheco, Marc R.

Creem, Cynthia Stone Panagiotakos, Steven C.

Fargo, Susan C. Resor, Pamela

Havern, Robert A. Rosenberg, Stanley C.

Jacques, Cheryl A. Shannon, Charles E.
Magnani, David P. Tolman, Steven A.
Melconian, Linda J. Travaglini, Robert E.
Menard, Joan M. Tucker, Susan C.
Montigny, Mark C. Walsh, Marian
Moore, Richard T. Wilkerson, Dianne - 28.

NAYS.

Antonioni, Robert A. Sprague, Jo Ann
Hedlund, Robert L. Tarr, Bruce E.
Knapik, Michael R. Tisei, Richard R. - 7.
Lees, Brian P.

PAIRED.

YEA. NAY.

Brian A. Joyce (present), Guy W. Glodis - 2.

The yeas and nays having been completed at eleven minutes past three o'clock P.M., the rules change was adopted.

The following proposed rules change was considered, as follows:

Joint Rule 4 is hereby amended by inserting after the word "House" in line 4, the following words:- "and favorable reports recommending that a matter be placed into a study shall be reported into the branch in which it was originally filed unless the matter was recommitted to a committee in session by either branch."

The rules change was adopted.

The following proposed rules change was considered, as follows:

The Joint Rules are hereby further amended by inserting after Rule 9 the following Rule:

"9A. In the event that no final action has been taken with regard to the General Appropriations Bill on or before July 1, the Senate and House of Representatives shall adopt, in concurrence, a resolution indicating the minimum amount of Chapter 70 aid, lottery aid, and additional assistance which shall be available to cities, towns, and regional school districts for the fiscal year beginning July 1."

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

YEAS.

Antonioni, Robert A. Moore, Richard T.
Baddour, Steven A. Morrissey, Michael W.
Berry, Frederick E. Murray, Therese

Brewer, Stephen M. Nuciforo, Andrea F., Jr.
Chandler, Harriette L. O'Leary, Robert A.
Creedon, Robert S., Jr. Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Fargo, Susan C. Resor, Pamela
Havern, Robert A. 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.
Melconian, Linda J. Tucker, Susan C.
Menard, Joan M. Walsh, Marian
Montigny, Mark C. Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at twenty-six minutes past three o'clock P.M., the rules change was adopted.

The following proposed rules changes were considered as one, as follows:

The second paragraph of Joint Rule 11 is hereby amended by adding the following 2 sentences:

"All meetings of committees of conference shall be open to the public. All recommendations of Committees of Conference shall be acted upon during open meetings."

Joint Rule 11A is hereby amended by adding the following paragraph:

"All meetings of committees of conference shall be open to the public. All recommendations of Committees of Conference shall be acted upon during open meetings."

After remarks, the question on adoption of the rules change was determined by a call of the yeas and nays, at a half past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 34 - nays 1):

YEAS.

Antonioni, Robert A. Morrissey, Michael W.
Baddour, Steven A. Murray, Therese
Brewer, Stephen M. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. O'Leary, Robert A.
Creedon, Robert S., Jr. Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Fargo, Susan C. Resor, Pamela
Havern, Robert A. Rosenberg, Stanley C.
Hedlund, Robert L. Shannon, Charles E.
Jacques, Cheryl A. Sprague, Jo Ann
Knapik, Michael R. Tarr, Bruce E.
Lees, Brian P. Tisei, Richard R.
Magnani, David P. Tolman, Steven A.
Melconian, Linda J. Travaglini, Robert E.
Menard, Joan M. Tucker, Susan C.
Montigny, Mark C. Walsh, Marian
Moore, Richard T. Wilkerson, Dianne - 34.

NAY.

Berry, Frederick E. - 1.

PAIRED.

YEA. NAY.

Brian A. Joyce (present), Guy W. Glodis - 2.

The yeas and nays having been completed at twenty-five minutes before four o'clock P.M., the rule changes were adopted.

The following proposed rules changes were considered as one, as follows:

Joint Rule 11B is hereby amended by striking out the figure, "12" and inserting in place thereof the following figure:- "24."

The second paragraph of Joint Rule 12 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- "No such matter shall be admitted for consideration prior to the expiration of 45 days after the matter has been deposited with the Clerk of either branch, except on report of the committees on Rules of the 2 branches, acting concurrently, and then upon the approval of 2/3 of the members of each branch voting thereon" and in the third paragraph, in the last sentence, by striking out the word "four-fifths" and inserting in place thereof the following figure:- "2/3."

After remarks, the rules changes were adopted.

The following proposed rules change was considered, as follows:

Joint Rules are hereby amended by striking Rule 12A, and inserting in place thereof the following Rule:

"12A. All formal business of the first annual session of the General Court, except as provided in this rule, shall be concluded not later than the third Wednesday in November of that calendar year and all formal business of the second annual session, except as provided in this rule, shall be concluded not later than the last day of July of that calendar year. Not less than 10 days nor more than 30 days following the date in either the first or second annual session on which formal business must be concluded, the

General Court shall convene to conduct formal business limited to consideration of vetoes filed by the Governor subsequent to the conclusion of formal business of the General Court, amendments to legislation recommended by the Governor pursuant to Article LVI of the Amendments to the Constitution or enactments pursuant to Articles LXII, LXXXIV and XCVII of the amendments to the Constitution. In order to assist the Senate and House in its analysis and appraisal of laws enacted by the General Court, each joint standing committee shall, as authorized by Joint Rule 1 and upon the conclusion of the formal business of the annual sessions or at such other times as the committee chairs shall determine, initiate such oversight hearings as may be necessary for the purpose of evaluating the effectiveness, application and administration of the subject matter of laws within the jurisdiction of that committee."

After debate, the question an adoption of the rules change was determined by a call of the yeas and nays, at three minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 29 - nays 6):

YEAS.

Antonioni, Robert A. Morrissey, Michael W.

Baddour, Steven A. Murray, Therese

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Brewer, Stephen M. O'Leary, Robert A.

Chandler, Harriette L. Pacheco, Marc R.

Creedon, Robert S., Jr. Panagiotakos, Steven C.

Creem, Cynthia Stone Resor, Pamela

Fargo, Susan C. Rosenberg, Stanley C.

Havern, Robert A. Shannon, Charles E.

Jacques, Cheryl A. Tolman, Steven A.

Magnani, David P. Travaglini, Robert E.

Melconian, Linda J. Tucker, Susan C.

Menard, Joan M. Walsh, Marian

Montigny, Mark C. Wilkerson, Dianne - 29.

Moore, Richard T.

NAYS.

Hedlund, Robert L. Sprague, Jo Ann

Knapik, Michael R. Tarr, Bruce E.

Lees, Brian P. Tisei, Richard R. - 6.

PAIRED.

YEA. NAY.

Brian A. Joyce (present), Guy W. Glodis - 2.

The yeas and nays having been completed at one minute past four o'clock P.M., the rules change was adopted.

The following proposed rules change was considered, as follows:

The Joint Rules are hereby further amended by inserting after Rule 31 the following Rule:

"31A. Upon a vacancy in the office of Senator or Representative of the General Court, the presiding officer of the branch in which the vacancy occurs shall, on order of the body, issue precepts to fill the vacancy. The precepts calling for the election shall be adopted and issued not later than 14 days after the vacancy occurs unless the vacancy occurs after April 1 in an even-numbered year."

The rules change was adopted.

The following proposed amendments, offered on the floor, were considered for amendment to the report.

Messrs. Tarr, Lees, Tisei and Knapik, Mrs. Sprague and Mr. Hedlund moved to amend the report by inserting after the figure "2/3" on page 2, the following:-

The Joint Rules are hereby amended by adding the following new rule:-

"11C. Committees of Conference on the General Appropriations Bill for each fiscal year shall make final report not later than the second Wednesday of June. This rule shall not be rescinded, amended or suspended except by a concurrent vote of two-thirds of each branch present and voting thereon. Notwithstanding the provisions of this rule or Joint Rule 30, this rule shall not be rescinded, suspended or amended more than once, except by unanimous consent."

The rules change was *rejected*.

Messrs. Tarr, Lees, Tisei and Knapik, Mrs. Sprague and Mr. Hedlund moved to amend the report by inserting after the word "testimony." on page 1, line 6, the following:-

Joint Rule 3 is hereby amended by inserting, at the end thereof, the following:-

"All such bills shall be a matter of public record and be available for inspection within a reasonable period following a request submitted in writing."

The rules change was *rejected*.

Messrs. Moore, Montigny, Lees, Tarr, Tisei, Knapik, Hedlund and Mrs. Sprague moved to amend the report by adding after Joint Rule 10A the following new Joint Rule:-

"Joint Rule 10B: The General Appropriations Bill for each fiscal year shall be engrossed by the House of Representatives and referred to the Senate not later than the second Wednesday in April, and in the Senate not later than the last Wednesday in May. The Committee of Conference on the General Appropriation Bill for each fiscal year shall make their final report not later than the fourth Wednesday of June. This rule shall not be rescinded, amended, or suspended except by a concurrent vote of two-thirds of each branch present and voting thereon."

After remarks, the question on adoption of the rules change was determined by a call of the yeas and nays, at thirteen minutes past four o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 36 - nays 0):

YEAS.

Antonioni, Robert A. Moore, Richard T.

Baddour, Steven A. Morrissey, Michael W.

Berry, Frederick E. Murray, Therese

Brewer, Stephen M. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. O'Leary, Robert A.

Creedon, Robert S., Jr. Pacheco, Marc R.

Creem, Cynthia Stone Panagiotakos, Steven C.

Fargo, Susan C. Resor, Pamela
Havern, Robert A. 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.
Melconian, Linda J. Tucker, Susan C.
Menard, Joan M. Walsh, Marian
Montigny, Mark C. Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at seventeen minutes past four o'clock P.M., the rules change was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend Senate, No. 2240, as follows:

"12C. The Joint Rules are hereby amended by inserting after Joint Rule 12B, the following new rule:

12C. The House of Representatives shall undertake consideration of the General Appropriations Bill for the ensuing fiscal year no later than the second week of April of every calendar year. The Senate shall undertake consideration of the General Appropriations Bill for the ensuing fiscal year no later than the second week of May of every calendar year. This rule shall not be rescinded, amended or suspended except by a vote of two-thirds of the respective branch present and voting thereon."

The rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund, and Mrs. Sprague moved to amend Senate, No. 2240, as follows:

"11C. The Joint Rules are hereby amended by inserting after Joint Rule 11B, the following new rule:

11C. If the Committees of Conference on the General Appropriations Bill fail to report by the deadline as mandated under Joint Rule 10B, then the base compensation of the legislature shall be held in escrow by the Treasurer and Receiver-General of the Commonwealth until the Committees of Conference on the General Appropriations Bill make final report. This rule shall not be rescinded, amended or suspended except by a concurrent vote of two-thirds of each branch present and voting thereon. Notwithstanding the provisions of this rule or Joint Rule 30, this rule shall not be rescinded, amended or suspended more than once, except by unanimous consent.

After debate, the question on adoption of the rules change was determined by a call of the yeas and nays, at twenty-nine minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 13 - nays 22):

YEAS.

Baddour, Steven A. Murray, Therese
Chandler, Harriette L. Sprague, Jo Ann

Hedlund, Robert L. Tarr, Bruce E.

Knapik, Michael R. Tisei, Richard R.

Lees, Brian P. Tolman, Steven A.

Moore, Richard T. Tucker, Susan C. - 13.

Morrissey, Michael W.

NAYS.

Antonioni, Robert A. Montigny, Mark C.

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Brewer, Stephen M. O'Leary, Robert A.

Creedon, Robert S., Jr. Pacheco, Marc R.

Creem, Cynthia Stone Panagiotakos, Steven C.

Fargo, Susan C. Resor, Pamela

Havern, Robert A. Rosenberg, Stanley C.

Jacques, Cheryl A. Shannon, Charles E.

Magnani, David P. Travaglini, Robert E.

Melconian, Linda J. Walsh, Marian

Menard, Joan M. Wilkerson, Dianne - 22.

PAIRED.

YEA. NAY.

Brian A. Joyce (present), Guy W. Glodis - 2.

The yeas and nays having been completed at twenty-six minutes before five o'clock P.M., the rules change was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend Senate, No. 2240, as follows:

"1D. The Joint Rules are hereby amended by inserting after Joint Rule 1C, the following new rule:

1D. All the written testimony, including communications from members of the General Court or Executive Branch, shall be accompanied by a diskette for the publication on-line of testimony provided to joint committees in support of or opposition to any legislation. The testimony submitted relative to each bill scheduled for hearing and any subsequent action of the committee shall be made available on-line within five working days of the committee hearing. Within two working days of any executive session of a committee, the action of the committee, including the record of votes taken or polling of committee members shall be made available on-line."

The rules change was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend Senate, No. 2240, as follows:

"11B. The Joint Rules are hereby amended by striking out the words 'the calendar day', and inserting in place thereof, the words 'two calendar days,' and by inserting after the word 'print' the words 'and electronically,' and by striking out the word 'twenty-four' (previously changed by amendment) and inserting in place thereof, the word 'forty-eight.' "

After debate, the question on adoption of the rules change was determined by a call of the yeas and nays, at twenty-three minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 19 - nays 17):

YEAS.

Baddour, Steven A. Morrissey, Michael W.

Chandler, Harriette L. Murray, Therese

Creedon, Robert S., Jr. O'Leary, Robert A.

Creem, Cynthia Stone Sprague, Jo Ann

Fargo, Susan C. Tarr, Bruce E.

Hedlund, Robert L. Tisei, Richard R.

Knapik, Michael R. Tolman, Steven A.

Lees, Brian P. Tucker, Susan C.

Magnani, David P. Walsh, Marian - 19.

Moore, Richard T.

NAYS.

Antonioni, Robert A. Nuciforo, Andrea F., Jr.

Berry, Frederick E. Pacheco, Marc R.

Brewer, Stephen M. Panagiotakos, Steven C.

Havern, Robert A. Resor, Pamela

Jacques, Cheryl A. Rosenberg, Stanley C.

Joyce, Brian A. Shannon, Charles E.

Melconian, Linda J. Travaglini, Robert E.

Menard, Joan M. Wilkerson, Dianne - 17.

Montigny, Mark C.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at eleven minutes before five o'clock P.M., the rules change was adopted.

Senator Menard moved to amend the report in Joint Rule 12 by striking out the words: "third sentence" and inserting in place thereof the following: "second sentence."

After debate, the question on adoption of the rules change was determined by a call of the yeas and nays, at six minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 30 - nays 6):

YEAS.

Antonioni, Robert A. Jacques, Cheryl A.
Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Magnani, David P.
Brewer, Stephen M. Melconian, Linda J.
Chandler, Harriette L. Menard, Joan M.
Creedon, Robert S., Jr. Montigny, Mark C.
Creem, Cynthia Stone Moore, Richard T.
Fargo, Susan C. Morrissey, Michael W.
Havern, Robert A. Murray, Therese
Nuciforo, Andrea F., Jr. Shannon, Charles E.
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 - 30.

NAYS.

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

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at three minutes before five o'clock P.M., the rules change was adopted.

The report (Senate, No. 2259, printed as amended) was then considered; and it was accepted.

Sent to the House for concurrence.

At three minutes past five o'clock P.M., the President, for the purpose of a Democratic caucus, declared a recess; and, at thirteen minutes before seven o'clock P.M., the Senate reassembled, the President in the Chair.

Order Adopted.

The following order (filed by Mr. Nuciforo) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of an order previously adopted, the temporary Joint Rules of the General Court shall remain in effect until Thursday, February 28, 2002, as the temporary Joint Rules of the present General Court; and be it further ordered that, notwithstanding the provisions of Joint Rule 10, joint standing committees and the committees on Rules of the two branches, acting concurrently, be granted until Thursday, February 28, 2002, within which to make reports on matters referred to them.

Subsequently, Ms. Menard, for the said committees on Rules of the two branches, acting concurrently, reported that the order ought to be adopted; and, there being no objection, the order was considered forthwith; and it was adopted.

Sent to the House for concurrence.

Resolutions.

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

Resolutions (filed by Ms. Jacques) "honoring David Baier on the occasion of the celebration of his 20th year with the Massachusetts Municipal Association";

Resolutions (filed by Mr. Knapik) "on the fiftieth anniversary of the Westfield River Watershed Association"; and

Resolutions (filed by Ms. Murray) "honoring Ellen Stillman upon the celebration of her ninetieth birthday."

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS SENATE

STATE HOUSE, BOSTON 02133-1053

February 13, 2001.

Patrick F. Scanlan, *Clerk*

Massachusetts State Senate

State House, Room 335

Boston, Massachusetts 02133

Dear Mr. Clerk:

On Tuesday, February 12th, I was away from the State House, due to a scheduling conflict, and I was therefore unable to be present for roll call votes taken on the following items:

An Act Providing For Civil Service Commission Review of State Police Disciplinary Proceedings (H. 1808 - Question being "Shall this bill pass, the. objections of Her Honor the Lieutenant-Governor, Acting Governor, to the contrary notwithstanding).

An Act Regulating the Sale of Mercury Thermometers (H.3772)

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

In addition, I would have voted in the negative on Senator Lees' motion to adjourn.

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

Sincerely,

ROBERT E. TRAVAGLINI,

Senate Majority Whip.

On motion of Mr. Rosenberg, the above communication was ordered printed in the Journal of the Senate.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4915) of Mark J. Carron and other members of the General Court relative to civil commitment of sexually dangerous persons,- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Criminal Justice.**

Reports of Committees.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Marian Walsh, Richard T. Moore, Patricia A. Walrath and other members of the General Court for legislation to protect children from physical and sexual abuse.

Senate Rule 36 was suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Criminal Justice.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael R. Knapik and Michael F. Kane for legislation to designate a certain parcel of land within the Holyoke Heritage State Park as the DiNapoli Plaza.

Senate Rule 36 was suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stanley C. Rosenberg, Cory Atkins, Marian Walsh, Richard T. Moore and other members of the General Court for legislation to provide for a tax amnesty program.

Senate Rule 36 was suspended, on motion of Mr. Baddour, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Taxation.

Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (all 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:

Providing for a board of public works in the town of Pepperell (see House, No. 4585);

Protecting the privacy of elderly persons (see House, No. 4735); and

Exempting Herbert Stacey and Timothy Getchell from the maximum age requirements as a police officer in the city of Methuen (see House, No. 4853).

Emergency Preamble Adopted.

An engrossed Bill regulating the sale of mercury thermometers (see House, No. 3772, 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 10 to 0.

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

Suspension of Senate Rule 38A.

Mr. Nuciforo 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 the question on suspension of the rule was determined by a call of the yeas and nays, at seven minutes before seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 28 - nays 8):

YEAS.

Antonioni, Robert A. Montigny, Mark C.

Baddour, Steven A. Moore, Richard T.

Berry, Frederick E. Murray, Therese

Brewer, Stephen M. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. O'Leary, Robert A.

Creedon, Robert S., Jr. Pacheco, Marc R.

Creem, Cynthia Stone Panagiotakos, Steven C.

Fargo, Susan C. Resor, Pamela

Havern, Robert A. Rosenberg, Stanley C.

Jacques, Cheryl A. Shannon, Charles E.

Joyce, Brian A. Travaglini, Robert E.

Magnani, David P. Tucker, Susan C.

Melconian, Linda J. Walsh, Marian

Menard, Joan M. Wilkerson, Dianne - 28.

NAYS.

Hedlund, Robert L. Sprague, Jo Ann

Knapik, Michael R. Tarr, Bruce E.

Lees, Brian P. Tisei, Richard R.

Morrissey, Michael W. Tolman, Steven A. - 8.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at two minutes before seven o'clock P.M., the rule was suspended.

Mr. Tolman moved that the Senate adjourn; and the motion was *negatived*.

PAPER FROM THE HOUSE.

The House Bill relative to the environmental protection of the Massachusetts Military Reservation (Senate, No. 2180, amended),- came from the House passed to be engrossed, in concurrence, *with amendments* in section 3, line 7, by striking out the following: "January 1, 2002" and inserting in place thereof the following: "August 1, 2002";

In section 11 by adding at the end thereof the following three paragraphs:

"The Massachusetts National Guard shall comply with all decisions and orders of the Commission, provided such decisions or orders do not conflict with federal or state law.

The Massachusetts National Guard and any other user of the Reserve shall immediately cease or adjust any activity that, in the determination of the Massachusetts National Guard, causes or threatens to cause imminent and substantial damage to the drinking water supply or the wildlife habitat.

In the case of an order by the Commission to abate an activity that causes or threatens to cause imminent and substantial damage to the drinking water supply or wildlife habitat, the Massachusetts National Guard shall cease the activity while any request for reconsideration is pending."; and

By adding at the end thereof the following section:

"SECTION 16. The Massachusetts Army National Guard shall have priority in the traditional training areas within the northern 15,000 acres of the Massachusetts Military Reservation."

The rules were suspended on motion of Mr. O'Leary, and the House amendments were considered forthwith.

After remarks, the question on concurring in the House amendments was determined by a call of the yeas and nays, at one minute past seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 - nays 0): concurrence.

YEAS.

Antonioni, Robert A. Moore, Richard T.

Baddour, Steven A. Morrissey, Michael W.

Berry, Frederick E. Murray, Therese
Brewer, Stephen M. Nuciforo, Andrea F., Jr.
Chandler, Harriette L. O'Leary, Robert A.
Creedon, Robert S., Jr. Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Fargo, Susan C. Resor, Pamela
Havern, Robert A. 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.
Melconian, Linda J. Tucker, Susan C.
Menard, Joan M. Walsh, Marian
Montigny, Mark C. Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at four minutes past seven o'clock P.M., the House amendments were adopted, in concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, Ms. Murray moved that the following matter be taken out of the Orders of the Day and considered, as follows:

The House Bill promoting energy efficiency and conservation (House, No. 4006, amended),- was considered, the main question being on passing the bill to be engrossed, in concurrence.

The pending motion to lay on the table, previously moved by Ms. Murray, was considered; and it was *negatived*.

Pending the main question on passing the bill to be engrossed, in concurrence, Ms. Murray moved that the bill be amended by striking out section 5 (inserted by amendment by the Senate) and inserting in place thereof the following 2 sections:-

"SECTION 5. Section 2 of chapter 166A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:-

As of December 31, 2001, and annually thereafter, the department shall report to the general court concerning the appeals that came before the division for that particular calendar year. The report shall detail the nature of each appeal and its outcome. Each annual report shall be filed with the clerks of the senate and house of representatives who shall forward the same to the joint

committee on energy and the house and senate committees on ways and means. The report shall be made available to the public by the department.

SECTION 6. Sections 4 and 5 shall take effect as of December 31, 2001."

After remarks, the amendment was adopted.

The question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at eleven minutes past seven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 - nays 0):

YEAS.

Antonioni, Robert A. Magnani, David P.

Baddour, Steven A. Melconian, Linda J.

Berry, Frederick E. Menard, Joan M.

Brewer, Stephen M. Montigny, Mark C.

Chandler, Harriette L. Moore, Richard T.

Creedon, Robert S., Jr. Morrissey, Michael W.

Creem, Cynthia Stone Murray, Therese

Fargo, Susan C. Nuciforo, Andrea F., Jr.

Havern, Robert A. O'Leary, Robert A.

Hedlund, Robert L. Pacheco, Marc R.

Jacques, Cheryl A. Panagiotakos, Steven C.

Joyce, Brian A. Resor, Pamela

Knapik, Michael R. Rosenberg, Stanley C.

Lees, Brian P. Shannon, Charles E.

Sprague, Jo Ann Travaglini, Robert E.

Tarr, Bruce E. Tucker, Susan C.

Tisei, Richard R. Walsh, Marian

Tolman, Steven A. Wilkerson, Dianne - 36.

NAYS - 0.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

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

Sent to the House for concurrence in the amendment.

Report of a Committee.

Ms. Menard, for the committee on Rules, reported, under the provisions of the second sentence of the Senate Rule 63, and in order to facilitate the business of the Senate, recommending that notwithstanding any other rule to the contrary full consideration may commence forthwith on "An Act repealing the Clean Elections Law and establishing a limited financing of campaigns for statewide elective office" (Senate, No. 2257); and that during consideration of said bill that motions to lay on the table, to take from the table, or motions to reconsider shall not be postponed without question to the next day, or placed in the Orders of the Day for the succeeding day, as the case may be, but shall be considered at the time they are made; and provided further that during consideration of the aforementioned bill the provisions of Senate Rule 31 shall not apply.

After debate, the question on acceptance of the report was determined by a call of the yeas and nays, at twenty-four minutes before eight o'clock P.M., on motion of Mr. Tolman, as follows, to wit (yeas 29 - nays 7):

YEAS.

Antonioni, Robert A. Moore, Richard T.
Baddour, Steven A. Morrissey, Michael W.
Berry, Frederick E. Murray, Therese
Brewer, Stephen M. Nuciforo, Andrea F., Jr.
Chandler, Harriette L. O'Leary, Robert A.
Creedon, Robert S., Jr. Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Fargo, Susan C. Resor, Pamela
Havern, Robert A. Rosenberg, Stanley C.
Jacques, Cheryl A. Shannon, Charles E.
Joyce, Brian A. Travaglini, Robert E.
Magnani, David P. Tucker, Susan C.
Melconian, Linda J. Walsh, Marian
Menard, Joan M. Wilkerson, Dianne - 29.
Montigny, Mark C.

NAYS.

Hedlund, Robert L. Lees, Brian P.
Knapik, Michael R. Sprague, Jo Ann
Tarr, Bruce E. Tolman, Steven A. - 7.
Tisei, Richard R.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at twenty-two minutes before eight o'clock P.M., the report was accepted.

Report of a Committee.

By Mr. Shannon, for the committee on Election Laws, under the provisions of Joint Rule 3A, a Committee Bill relative to repealing the clean elections law and establishing a limited public financing of campaigns for statewide elective office (Senate, No. 2257).

The bill was read and, pursuant to the order previously adopted, the bill was read a second time.

After debate, the question on ordering the bill to a third reading was determined by a call of the yeas and nays, at eighteen minutes before eight o'clock P.M., on motion of Mr. Shannon, as follows, to wit (yeas 10 - nays 27):

YEAS.

Antonioni, Robert A. Montigny, Mark C.

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Knapik, Michael R. Travaglini, Robert E.

Melconian, Linda J. Walsh, Marian

Menard, Joan M. Wilkerson, Dianne - 10.

NAYS.

Baddour, Steven A. Morrissey, Michael W.

Birmingham, Thomas F. Murray, Therese

Brewer, Stephen M. O'Leary, Robert A.

Chandler, Harriette L. Pacheco, Marc R.

Creedon, Robert S., Jr. Panagiotakos, Steven C.

Creem, Cynthia Stone Resor, Pamela

Fargo, Susan C. 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.

Lees, Brian P. Tolman, Steven A.

Magnani, David P. Tucker, Susan C. - 27.

Moore, Richard T.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

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

Mr. Pacheco moved that this vote be reconsidered; and the motion to reconsider prevailed.

Pending the recurring question on ordering the bill to a third reading, Mr. Pacheco moved that the bill be amended by substituting a new draft entitled "A Bill amending the clean election laws" (Senate, No. 2260).

Ms. Melconian in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before eight o'clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 11 - nays 25):

YEAS.

Brewer, Stephen M. O'Leary, Robert A.

Fargo, Susan C. Pacheco, Marc R.

Hedlund, Robert L. Resor, Pamela

Magnani, David P. Rosenberg, Stanley C.

Moore, Richard T. Tisei, Richard R. - 11.

Morrissey, Michael W.

NAYS.

Antonioni, Robert A. Montigny, Mark C.

Baddour, Steven A. Murray, Therese

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. Panagiotakos, Steven C.

Creedon, Robert S., Jr. Shannon, Charles E.

Creem, Cynthia Stone Sprague, Jo Ann

Havern, Robert A. Tarr, Bruce E.

Jacques, Cheryl A. Tolman, Steven A.

Joyce, Brian A. Travaglini, Robert E.

Knapik, Michael R. Tucker, Susan C.

Lees, Brian P. Walsh, Marian

Melconian, Linda J. Wilkerson, Dianne - 25.

Menard, Joan M.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at one minute past eight o'clock P.M., the amendment was *rejected*.

Mr. Tolman moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2261.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes past eight o'clock P.M., on motion of Mr. Tolman, as follows, to wit (yeas 17 - nays 19):

YEAS.

Baddour, Steven A. Morrissey, Michael W.

Brewer, Stephen M. O'Leary, Robert A.

Chandler, Harriette L. Pacheco, Marc R.

Creem, Cynthia Stone Panagiotakos, Steven C.

Fargo, Susan C. Resor, Pamela

Hedlund, Robert L. Rosenberg, Stanley C.

Lees, Brian P. Tolman, Steven A.

Magnani, David P. Tucker, Susan C. - 17.

Moore, Richard T.

NAYS.

Antonioni, Robert A. Murray, Therese

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Creedon, Robert S., Jr. Shannon, Charles E.

Havern, Robert A. Sprague, Jo Ann

Jacques, Cheryl A. Tarr, Bruce E.

Joyce, Brian A. Tisei, Richard R.

Knapik, Michael R. Travaglini, Robert E.

Melconian, Linda J. Walsh, Marian

Menard, Joan M. Wilkerson, Dianne - 19.

Montigny, Mark C.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

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

Ms. Walsh, Ms. Wilkerson and Mr. Nuciforo moved that the bill be amended by substituting, in part, a Bill "relative to public financing of campaigns for public office" (Senate, No. 2262).

Pending the question on adoption of the amendment (Senate, No. 2262), Mr. O'Leary moved that the amendment be further amended by adding the following 2 sections:-

"SECTION [A]. Chapter 10 of the General Laws is hereby amended by striking out section 42, as appearing in the 2000 Official Edition, and inserting in place thereof the following three sections:-

Section 42. There shall be established on the books of the commonwealth a separate fund to be known as the State Election Campaign Fund, consisting of all revenues received under section 6C of chapter 62 and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The state treasurer shall deposit the fund in accordance with sections 33 and 34A of chapter 29 in such a manner so as to secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit shall be available for immediate withdrawal at any time within 9 weeks prior to a primary election.

The state election campaign fund shall be expended only for the payout of eligible candidates, as determined under chapters 55C and 55D of amounts due on account of public financing of campaigns for statewide and state elective offices and any unexpended balances shall be redeposited, as provided in this section, pending the next year in which elections are held for statewide or state elective offices.

Section 42A. on or before the tenth Tuesday before the primary election in any year in which elections are held for statewide or state elective offices, the balance of the State Election Campaign Fund shall be determined by the comptroller and the state election campaign fund shall then be divided by the comptroller into election accounts as follows:

(a) 50 per cent of the balance shall be allocated to the statewide election campaign account which shall be further divided into primary and general election accounts; provided, that the director shall be responsible for dividing the account into as many candidate accounts as there are candidates for statewide office.

(b) 50 per cent of the balance shall be allocated to the state elective office campaign account, which shall be used to provide eligible candidates with matching funds pursuant to section 7 of chapter 55D.

Section 42B. Upon request by the director of campaign and political finance and with further appropriation, the state treasurer shall distribute from each election account the amounts certified by the director to be due to each eligible candidate.

42C. The state auditor shall conduct a post-audit of all accounts and transactions involving the state election campaign fund for any year in which elections are held for statewide or state elective offices and shall conduct such other special audits and post-audits as he or she may deem necessary. The state auditor shall publish a report of any post-audit required by this section on or before April 1 the year in which elections are held for statewide or state elective offices.

SECTION [B]. The General Laws are hereby further amended by inserting after chapter 55B the following chapter:-

Chapter 55C.

LIMITED PUBLIC FINANCING FOR STATE OFFICES.

Section 1. Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

'Director', director of campaign and political finance as established by chapter 55.

'Candidate', any candidate as described by chapter 55.

'Constituent expenditures', those expenditures, as defined in section 1 of chapter 55, except that constituent expenditures are expenditures made by state senators and state representatives which are directly related to the performance of their official duties, and provided further, that constituent expenditures shall not expressly advocate for or against a candidate or ballot question.

'Contribution', any contribution as described by chapter 55.

'Election Cycle', the period starting January 1 of the year immediately following a state election and ending on December 31 of the year of an election.

'Fundraising', any money raised through either private means or through public matching funds for the purpose of state elective offices.

'Minimum qualifying amount', the amount of money a participant shall raise in allowable contributions before becoming a certified candidate and becoming eligible to receive clean elections funds.

'Qualifying contribution', any contribution made by an individual and deposited into a candidate's depository account as required by chapter 55 during an election cycle for state offices except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director of campaign and political finance; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds \$250, or would exceed \$250 when added to any such contribution previously made by the same individual during a given election cycle.

'State office', the office of councillor, state senator and state representative.

Section 2. On or before the ninth Tuesday before the primary election in any year in which state elections are held, the state secretary shall determine and certify the names and addresses of all candidates for state office who qualify for the primary ballot and who are opposed by 1 or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter, any candidate for state office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur following the filing of such certificates of nominations and nomination papers other than caused by withdrawal of a candidate within the time allowed by law. On or before the sixth Tuesday before a general election in any year in which state elections are held, the state secretary shall determine and certify the names and addresses of all candidates for state office who qualify for the general election ballot and who are opposed by 1 or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter, any candidate for state office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot, as provided with respect to candidates for the primary election, and any such candidate nominated at the primary election shall be considered qualified for the ballot, notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur other than caused by withdrawal of a candidate within the time allowed by law. The state secretary shall promptly determine and certify to the director and state treasurer the name and address of any candidate who no longer qualifies for the primary or general election or who no longer has opposition because of death, withdrawal or ineligibility for office or because objections to certificates of nominations or nomination papers have been sustained because of a recount or for any like reason.

Section 3. Statement of Intent.

(a) On or before the last day for filing a candidate's nomination papers with the state secretary pursuant to chapter 53, every candidate for state office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree with the following fundraising limits, along with the applicable exemptions set forth in section 4, for the entire election cycle:

Councillor \$40,000

State Senator \$90,000

State Representative \$30,000

(b) The name of any candidate who fails to file any statement within the time required by this section shall not appear on the state primary ballot nor on the general election ballot and the director shall notify the state secretary of such failure.

Section 4. All candidates for state office shall set up a new depository account pursuant to section 19 of chapter 55 for each 2 year election cycle for state office. Each candidate shall file a statement, in a form prescribed by the director, that the candidate or candidate's committee has opened a new depository account and that the balance of the account is at zero at the time that nomination papers are submitted to the state secretary. All fundraising money shall be deposited in this account and all campaign related expenditures shall be deducted from this account. For the purposes of this chapter, all money transferred from a prior existing campaign account or deposited by some other means to the new depository account shall be considered a fundraising deposit by the director and shall be counted against the limits set forth in subsection (a) of section 3.

Section 5. A legislator may raise money beyond the limits outlined in subsection (a) of section 3 to cover expenditures as follows:

(a) constituent expenditures may not exceed the following amounts for any given election cycle:

State Senator \$15,000

State Representative \$ 5,000

(b) rent and utility payments for a district office maintained by a state senator or a state, provided that rent does not exceed the reasonable fair market value paid for rent in similar office space. For the purposes of this clause, utility payments shall include only heat and electricity.

Section 6. The director shall promulgate regulations and forms governing the submission of reports on constituent expenditures separate and distinct from other expenditures.

Section 7. The director shall certify a candidate for state office as a participating clean elections candidate once the candidate has met the criteria set forth in section 3, has been certified as a candidate by the state secretary pursuant to section 2 and has raised, from qualifying contributions, the following minimum qualifying amounts:

Councillor \$6,000

State Senator \$9,000

State Representative \$3,000

Section 8. (a) A participating candidate for state office shall be eligible to receive matching funds at such time as the candidate has been certified by the director. A certified candidate shall receive \$1 of public funding for every \$1 raised through private fundraising in excess of the amounts specified for the applicable minimum qualifying amounts.

(b) The director shall release matching funds to participating candidates in increments of \$1,000. The funds shall be deposited into the participating candidate's depository account through direct deposit.

(c) The maximum amount of matching funds a qualified candidate for state office shall receive per election cycle is as follows:

Councillor \$17,500

State Senator \$40,500

State Representative \$18,500

(d) If a nonparticipating candidate raises money in excess of the fundraising limits set forth in subsection (a) of section 3, he shall be required to file an excess fundraising report with the director, on a form prescribed by the director, stating the amount of money raised in excess of the fundraising limits including allowable expenditures as set forth in section 5; provided further, that once a nonparticipating candidate has filed an excess fundraising report, shall be required to file an additional excess fundraising report when a minimum of \$1,000 has been raised in excess of the amount reported in the previous excess fundraising report. In the 3 weeks prior to a primary election or general election, nonparticipating candidates who have exceeded the limits set forth in subsection (a) of section 3 shall file excess fundraising reports with the director every 4 days.

(e) A participating candidate running unopposed in the primary shall not be eligible for state matching funds but if the participating candidate has at least 1 opponent in the general election, he shall be eligible for a match on money raised during the primary election campaign and the general election, up to the limits set forth in section 3, immediately upon a determination by the state secretary that the candidate has an opponent in the general election.

(f) Participating candidates shall not be eligible for additional public money in the event that a nonparticipating candidate raises in excess of the limits outlined in subsection (a) of section 3. Upon the determination that a nonparticipating candidate has raised money in excess of the limits set forth in said subsection (a) of said section 3, section 1A and as allowed in section 5, the director shall notify the participating candidate that he shall raise private money in excess of the amounts outlined in said subsection (a) of said section 3. If the participating candidate is so notified, the participant shall be permitted to raise private money only in amounts that match the excess fundraising of the nonparticipating candidate.

Section 9. Within 2 weeks following a primary or general election for state office, any candidate who has received public matching funds under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository account as of the primary or general election. Except as herein provided, any candidate having a surplus balance following any such primary or general election shall pay to the state treasurer for deposit to the state election campaign fund an amount determined by subtracting an amount equal to the minimum qualifying amount for the office sought and then dividing the remaining balance by 2. No participating candidate having a surplus balance following the primary shall be required to make payment on account of such surplus if the candidate is certified by the state secretary under section 2 as having qualified for the ballot and having opposition in the general election and is certified by the director as eligible for public matching funds for the general election."

Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment (O'Leary) to the pending amendment (Walsh, et al) was determined by a call of the yeas and nays, at twenty-eight minutes before nine o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 14 - nays 22):

YEAS.

Brewer, Stephen M. Murray, Therese

Fargo, Susan C. O'Leary, Robert A.

Hedlund, Robert L. Pacheco, Marc R.

Lees, Brian P. Resor, Pamela

Magnani, David P. Rosenberg, Stanley C.

Moore, Richard T. Tisei, Richard R.

Morrissey, Michael W. Tucker, Susan C. - 14.

NAYS.

Antonioni, Robert A. Menard, Joan M.

Baddour, Steven A. Montigny, Mark C.

Berry, Frederick E. Nuciforo, Andrea F., Jr.

Chandler, Harriette L. Panagiotakos, Steven C.

Creedon, Robert S., Jr. Shannon, Charles E.

Creem, Cynthia Stone Sprague, Jo Ann

Havern, Robert A. Tarr, Bruce E.

Jacques, Cheryl A. Tolman, Steven A.

Joyce, Brian A. Travaglini, Robert E.

Knapik, Michael R. Walsh, Marian

Melconian, Linda J. Wilkerson, Dianne - 22.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at twenty-five minutes before nine o'clock P.M., the amendment to the pending amendment was *rejected*.

The President in the Chair, Mr. Tolman moved that the pending amendment (Senate, No. 2262) be amended in section 4 by inserting after the word "commonwealth" the following: "; provided not more than 1/10 of 1 percent of the budget is expended".

Pending the question on the adoption of the amendment, after debate, Mr. Nuciforo moved that the pending amendment, previously moved by Mr. Tolman, be further amended by substituting the following: in section 4, by inserting after the word "commonwealth" the following words:- "in an amount up to \$90 million per statewide election cycle".

After further debate, the further amendment (Nuciforo) to the pending amendment (Tolman) was considered; and it was adopted.

The pending amendment (Tolman), as amended (Nuciforo) to the proposed new draft (Walsh, et al) (Senate, No. 2262), was then considered; and it was adopted.

The question on adoption of the pending amendment, previously moved by Ms. Walsh, Ms. Wilkerson and Mr. Nuciforo, as amended, substituting, in part, a Bill "relative to public financing of campaigns for public office" (Senate, No. 2262, printed as amended), was determined by a call of the yeas and nays, at eighteen minutes past nine o'clock P.M., on motion of Ms. Wilkerson, as follows, to wit (yeas 19 - nays 18):

YEAS.

Antonioni, Robert A. Morrissey, Michael W.

Berry, Frederick E. Murray, Therese

Brewer, Stephen M. Nuciforo, Andrea F., Jr.

Havern, Robert A. O'Leary, Robert A.

Joyce, Brian A. Pacheco, Marc R.

Knapik, Michael R. Shannon, Charles E.

Magnani, David P. Travaglini, Robert E.

Melconian, Linda J. Walsh, Marian

Menard, Joan M. Wilkerson, Dianne - 19.

Montigny, Mark C.

NAYS.

Baddour, Steven A. Moore, Richard T.

Birmingham, Thomas F. Panagiotakos, Steven C.

Chandler, Harriette L. Resor, Pamela

Creedon, Robert S., Jr. Rosenberg, Stanley C.

Creem, Cynthia Stone Sprague, Jo Ann

Fargo, Susan C. Tarr, Bruce E.

Hedlund, Robert L. Tisei, Richard R.

Jacques, Cheryl A. Tolman, Steven A.

Lees, Brian P. Tucker, Susan C. - 18.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at twenty-minutes past nine o'clock P.M., the amendment was adopted.

The bill (Senate, No. 2262, printed as amended) was then read, read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to repealing the clean elections law and establishing a limited public financing of campaigns for statewide elective office (Senate, No. 2257),- was then considered, the recurring question being on ordering the bill to a third reading.

Ms. Walsh, Ms. Wilkerson and Mr. Nuciforo moved that the bill be amended by substituting a new draft entitled "An Act funding campaigns for public office" (Senate, No. 2263).

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past nine o'clock P.M., on motion of Ms. Walsh, as follows, to wit (yeas 19 - nays 17):

YEAS.

Antonioni, Robert A. Havern, Robert A.

Berry, Frederick E. Joyce, Brian A.

Brewer, Stephen M. Knapik, Michael R.

Magnani, David P. O'Leary, Robert A.

Melconian, Linda J. Pacheco, Marc R.

Menard, Joan M. Shannon, Charles E.

Montigny, Mark C. Travaglini, Robert E.

Morrissey, Michael W. Walsh, Marian

Murray, Therese Wilkerson, Dianne - 19.

Nuciforo, Andrea F., Jr.

NAYS.

Baddour, Steven A. Panagiotakos, Steven C.

Chandler, Harriette L. Resor, Pamela

Creedon, Robert S., Jr. Rosenberg, Stanley C.

Creem, Cynthia Stone Sprague, Jo Ann

Fargo, Susan C. Tarr, Bruce E.

Hedlund, Robert L. Tisei, Richard R.

Jacques, Cheryl A. Tolman, Steven A.

Lees, Brian P. Tucker, Susan C. - 17.

Moore, Richard T.

ABSENT OR NOT VOTING.

Glodis, Guy W. - 1.

The yeas and nays having been completed at a half past nine o'clock P.M., the amendment (Senate, No. 2263) was adopted.

The bill (Senate, No. 2263) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, Mr. Lees moved that the following matter be taken out of the Orders of the Day and considered, as follows:

The Senate Bill promoting efficiency and fairness in environmental law enforcement (Senate, No. 2242) - was considered, the main question being on passing the bill to be engrossed.

The pending motion, previously moved by Mr. Lees, to postpone the matter to the next session was *withdrawn*.

The question on passing it to be engrossed was then determined by a call of the yeas and nays, at twenty-eight minute before ten o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 35 - nays 0):

YEAS.

Antonioni, Robert A. Hedlund, Robert L.

Baddour, Steven A. Jacques, Cheryl A.

Berry, Frederick E. Knapik, Michael R.

Brewer, Stephen M. Lees, Brian P.

Chandler, Harriette L. Magnani, David P.

Creedon, Robert S., Jr. Melconian, Linda J.

Creem, Cynthia Stone Menard, Joan M.

Fargo, Susan C. Montigny, Mark C.

Havern, Robert A. 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 - 35.

Shannon, Charles E.

NAYS - 0.

ABSENT OR NOT VOTING.

Glodis, Guy W. Joyce, Brian A. - 2.

The yeas and nays having been completed at twenty-six minutes before ten o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill regulating the sale of mercury thermometers (see House, No. 3772, 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.**

Order Adopted.

On motion of Ms. Melconian,-

Ordered, That when the Senate adjourns today, it adjourn to meet again on Tuesday 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 twenty-five minutes before ten o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.