

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, March 14, 2002.

Met at twenty-two minutes before three o'clock P.M.

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President introduced, seated in the rear of the Chamber, Lieutenant John Murphy, a retired member of the Massachusetts State Police. Lieutenant Murphy was the guest of Senator Tolman.

There being no objection, during the consideration of the Orders of the Day, the President introduced Cory York of Middleton. Cory who is a 7-years old and hearing-impaired, helped save his mother's life when he called 911 after his mother slipped into a diabetic coma. Cory was accompanied by his parents, Kelly and William York, and his grandparents, Ken and Carol Horsman. They were the guests of Senator Tarr.

Opinions of the Justices of the Supreme Judicial Court.

A communication from the Honorable the Justices of the Supreme Judicial Court on important questions of law with relation to "An Act relative to profits from crime" (see Senate, No. 1939) [for opinions, see Senate document numbered 2284] (received in the office of the Clerk of the Senate on Thursday, March 14, 2002 at a quarter past two clock P.M.),— **was read and placed on file.**

Reports of a Committee.

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

The Senate Bill relative to the sale of wines at auctions (Senate, No. 2238); and

The House Bill relative to name changes by inmates (House, No. 144).

Committee Discharged.

Ms. Resor, for the committee on Steering and Policy, reported, asking to be discharged from further consideration of the House Bill authorizing the assumption of certain utility costs by lessees and tenants (House, No. 408),— and recommending that the same be referred to the committee on Housing and Urban Development.

**Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence in the reference to the joint committee.**

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4950) of Marie J. Parente and Richard T. Moore (by vote of the town) that the town of Mendon be authorized to offer health insurance to certain elected officials and employees,— **was referred, in concurrence, to the committee on Public Service.**

The House Bill making appropriations for the fiscal year 2002 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4914, amended),— came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2279, *with further amendments:*

In section 4, in line 12, by striking out “March 22, 2002” and inserting in place thereof the following: “March 29, 2002”;

In lines 15 to 18, inclusive, by striking out the following: “March 29, 2002; provided further, that the salary savings by trial court employee participation in the early retirement program as a result of sections 3 and 4 of this act shall be used only to rehire employees of the trial court laid off on March 1, 2002” and inserting in place thereof the following: “April 5, 2002. Notwithstanding section 71 of chapter 177 of the acts of 2001, any salary savings accrued to the trial court as a result of trial court employee participation in the retirement program established pursuant to this act shall be used to rehire and recall employees of the trial court laid off on March 1, 2002 in a ratio which rehires and recalls 1 employee laid off from a statutorily established position with 2 union employees laid off from a union position; provided, however, that the recall of union employees shall be accomplished in a manner negotiated between the trial court and the applicable union. The amount of salaries restored pursuant to this section shall not exceed \$240,000 in fiscal year 2002 and \$960,000 in fiscal year 2003. The chief justice for administration and management of the trial court shall transfer amounts to the items of appropriation from which personnel savings due to layoffs were achieved during fiscal year 2002 in order to effectuate the rehire and recall of employees pursuant to this section. Any employee rehired and recalled pursuant to this section shall be recalled forthwith and restored effective April 1, 2002. Notwithstanding any general or special law to the contrary, said chief justice, when filing a position vacated due to layoffs

effective March 1, 2002, shall first offer a restored position to the employee who held it before the layoff. Said chief justice may transfer any remaining savings accrued during fiscal year 2002 due to the implementation of this act to any other item of appropriation in deficiency. Employees rehired and recalled to positions pursuant to this section shall be deemed to have remained in continuous service without loss of creditable service for retirement purposes and for the purposes of group health or life insurance, but shall not receive compensation or accrue vacation or sick time for any period during which he did not perform the duties of his office due solely to such layoff. This section shall not apply to a short-term layoff or temporary furlough of a specified duration, whether voluntary or pursuant to a collective bargaining agreement”;

In section 6, in line 14, by striking out “March 22, 2002” and inserting in place thereof the following: “April 19, 2002”; and by striking out section 8 and inserting in place thereof the following section:

“SECTION 8. Section 14 of said chapter 219 is hereby amended by adding the following 2 paragraphs:—

Notwithstanding clause (v) of section 1 of chapter 219 of the acts of 2001, employees of the Massachusetts Development Finance Agency who are contributing members of the state retirement system and who otherwise meet the eligibility provided in section 1 may apply with the state board of retirement, not later than May 15, 2002 and shall be eligible for the retirement incentive program; provided, however, that the Massachusetts Development Finance Agency shall be responsible for all costs associated with payments in lieu of accrued vacation time, unused sick leave and other benefits for those eligible members of the state retirement system who elect to retire under the retirement incentive program; and provided further, that the effective retirement date for such employees shall be not later than June 30, 2002.

Notwithstanding said clause (v) of said section 1 of chapter 219, employees of educational collaboratives who are contributing members of the state retirement system, who have attained the age of 55 and who have 25 years of creditable service in said state retirement system may apply with the board of retirement, not later than May 15, 2002, and shall be eligible for the retirement incentive program; provided, however, that the educational collaborative from which the employee retires shall be responsible for all costs associated with payments in lieu of accrued vacation time, unused sick leave and other benefits for those eligible members of the state retirement system who elect to retire under the retirement incentive program; and provided further, that the effective retirement date for such employees shall not be later than June 30, 2002.”.

The rules were suspended, on motion of Mr. Travaglini, and, after remarks, the House amendments were considered forthwith and adopted, in concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Authorizing the town of Hingham to establish a retiree healthcare liability trust fund (House, No. 4183); and

Authorizing the city of Salem to grant easements in certain park land (House, No. 4842);
Were severally read a second time and ordered to a third reading.

The Senate Bill mandating coverage for ectodermal dysplasia (Senate, No. 2280),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House bills

Authorizing the State Board of Retirement to grant creditable service to Harvey J. Chopp (House, No. 869, changed and amended) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the terms of certain notes issued by the Commonwealth (printed in House, No. 4765);

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

The Senate Bill further regulating change of name or address notices to the Registry of Motor Vehicles (Senate, No. 2278),— **was considered; and it was passed to be engrossed.**

Sent to the House for concurrence.

The House Bill relative to jury exemptions for parents of children under the age of two years (House, No. 3567, amended),— **was read a second time and, after remarks, was ordered to a third reading.**

The Senate Bill protecting the natural and historic resources of the Commonwealth (Senate, No. 2281),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at nine minutes past three o'clock P.M., on motion of Ms. Resor, as follows, to wit (yeas 38 — nays 0):

YEAS.

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

Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 38.

NAYS — 0.

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

Sent to the House for concurrence.

The House Bill further regulating securities (House, No. 955, amended) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and, after remarks, was passed to be engrossed, in concurrence.**

The House Bill relative to a birth defects monitoring program (House, No. 2163, amended),— **was read a third time and passed to be engrossed, in concurrence.**

The Senate Bill further regulating the use of headlights (Senate, No. 2220),— was considered.

Pending the main question on passing the bill to be engrossed, on motion of Mr. Moore, the further consideration thereof was postponed until Thursday, March 28.

The Senate Bill regulating the use of paint ball guns (Senate, No. 1261),— was considered.

Pending the main question on passing the bill to be engrossed, after remarks, on motion of Mr. Glodis, the bill was recommitted to the committee on Public Safety.

The Senate report of the committee on Taxation, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1673) of Brian P. Lees, Bruce E. Tarr, Richard R. Tisei and other members of the General Court for legislation to make the investment tax credit permanent,— was considered, the main question being on accepting the report.

On motion of Mr. Lees, the further consideration thereof was postponed until Thursday, April 11.

The Senate Bill further regulating the registration of pharmacists (Senate, No. 2268),— was considered, the main question being on passing it to be engrossed.

The pending motion, previously moved by Mr. Lees, to lay the bill on the table,— was considered; and, after debate, it was *negatived*.

On further motion of Mr. Lees, the further consideration thereof was postponed until Thursday, March 28.

Resolutions.

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

Resolutions (filed by Mr. Creedon) “congratulating Philip Edward Blye on the occasion of his retirement as Chief of the Fire Department in the town of Easton”;

Resolutions (filed by Mr. Knapik) “honoring Reverend Daniel P. Coughlin as the John F. Kennedy National Award Winner by the Holyoke Saint Patrick’s Committee”;

Resolutions (filed by Mr. Knapik and Ms. Melconian) “commending John McDermott”;

Resolutions (filed by Mr. Magnani and Ms. Jacques) “honoring Chief Richard W. Fredette”;

Resolutions (filed by Mr. Pacheco) “congratulating Adam Bagdon upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Jacob Leonard Naujunas upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Kathy Digits on her retirement from the Department of Mental Health”;

Resolutions (filed by Mrs. Sprague) “congratulating Stephen James Ernst of Stoughton upon his elevation to the rank of Eagle Scout”; and

Resolutions (filed by Ms. Wilkerson) “honoring Reverend Dr. Ozzie L. Edwards.”

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered, as follows:

The House Bill authorizing the town of Bellingham to establish a tax stabilization fund (House, No. 4732),— was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Moore offered an amendment, striking out the last sentence and inserting in place thereof the following sentence:— “The principal and interest thereon shall be reserved to mitigate the loss of taxes and revenues resulting from the termination of any in lieu of tax agreement between the town and any power and electric generating plant located in the town.”.

This amendment was adopted.

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

Sent to the House for concurrence in the amendment.

The House Bill authorizing the town of Winchester to establish stabilization funds (House, No. 4831),— was read third time.

Pending the question on passing the bill to be engrossed, Mr. Shannon moved that the bill be amended in section 1, by striking out, in line 4, the word “Appropriations” and inserting in place thereof the following words:— “Subject to section 2 of this act, appropriations”; and by striking out section 2 and inserting in place thereof the following section:—

“SECTION 2. If, pursuant to paragraph (g) of section 21C of chapter 59 of the General Laws, the voters of the town of Winchester approve an appropriation into the stabilization funds, the town meeting may annually appropriate such amount into the stabilization funds unless the voters, by referendum vote, approve by majority vote the appropriation of such funds for another stated purpose.”.

The amendments were adopted.

The bill was then passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

The House Bill authorizing the town of Braintree to convey a certain parcel of town forest land (House, No. 4926),— was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Morrissey offered an amendment, striking out section 2 and inserting in place thereof the following section:—

“SECTION 2. The conveyance authorized in section 1 is contingent upon the transfer by Marjorie and Marvin Asnes to the town of a parcel of land shown as Lot 4688 on the plan described in section 1. The land conveyed to the town shall be of equal or greater value than the 2,250 square feet of land the town will convey to the owner of 44 Marisa Drive.”.

This amendment was adopted.

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

Sent to the House for concurrence in the amendment.

The Senate Bill allowing the release of police reports to school administrators (Senate, No. 1212),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Report 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 Guy W. Glodis and Timothy J. Toomey, Jr. for legislation relative to the operation of low-speed vehicles.

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

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4956) of John J. Binienda and other members of the House relative to the exemption of the sales tax on energy efficient appliances,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Taxation.**

Order Adopted.

On motion of Ms. Jacques,—

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.

Recess.

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

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2002 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4914, 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 3 to 0.

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

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President and laid before the Acting Governor for her approbation.

Order Adopted.

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith and adopted, in concurrence, to wit:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Criminal Justice be granted until Friday, March 22, 2002 the time within which to report on current Senate document numbered 2122.

On motion of Mr. Tarr, at five o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.
