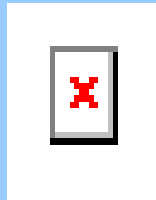


NOTICE: - While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **not** been proofread against the events of the session for this day. All information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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, June 19, 2002.

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

Distinguished Guests.

There being no objection, the President introduced, seated in the Senate gallery, students from the Brookfield School of Brockton. The students were the guests of Senator Creedon.

Reports.

The following reports were severally read and placed on file:

A report of the Massachusetts Life Insurance Community Investment Initiative (under the provisions of Section 2(e) of Chapter 259 of the Acts of 1998) submitting its annual report for 2001 (received Monday, June 3, 2002); and

A report of the Massachusetts Bay Transportation Authority (under the provisions of Section 151(11) of Chapter 127 of the Acts of 1999) relative to efforts to maximize non-transportation revenue (received Wednesday, June 12, 2002)

The following reports were severally read and sent to the House for its information:

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Suffolk County House of Correction/South Bay (received Monday, June 3, 2002);

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Bristol County Jail (received Wednesday, June 12, 2002); and

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Suffolk County House of Correction (received Thursday, June 13, 2002).

PAPERS FROM THE HOUSE.

A message from Her Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to promoting fairness in education funding (House, No. 4873),— **was referred, in concurrence, to the committee on Education, Arts and Humanities.**

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5150) of Anne M. Gobi (by vote of the town) relative to recall elections in the town of North Brookfield;
To the committee on Election Laws.

Petition (accompanied by bill, House, No. 5151) of Charles A. Murphy and Robert A. Havern (by vote of the town) for legislation to limit elected officials in the town of Burlington to one elected position;
To the committee on Local Affairs.

Bills

Establishing a sick leave bank for Holly Andersen, an employee of the trial court of the commonwealth (House, No. 5047,— on petition); and

Providing for the payment of certain retirement benefits (House, No. 5072, changed,— on petition);

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

The Senate Bill providing for certain information technology improvements (Senate, No. 2256, amended),— came from the House passed to be engrossed, in concurrence, *with an amendment*, striking out all after the enacting clause and inserting in place thereof the text of House document numbered 5133, as amended. **The rules were suspended, on motion of Mr. Travaglini, and the House amendment was considered forthwith and adopted, in concurrence.**

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Relative to the sounding of train whistles in the town of Tewksbury (House, No. 765); and

Relative to the underground cable reimbursement schedule (House, No. 4074);

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

The Senate bills

Protecting consumers against additional charges resulting from new area codes (Senate, No. 433) (its title having been changed by the committee on Bills in the Third Reading); and

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

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

Severally sent to the House for concurrence.

The House bills

Relative to assistant town clerks in certain towns (House, No. 3151); and

Relative to the employment of certain minors (House, No. 4310, amended);

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

The Senate Bill relative to archaic crimes (Senate, No. 171),— was read a second time.

Pending the question on ordering the bill to a third reading, on motion of Ms. Creem, the further consideration thereof was postponed until the next session.

The House Bill increasing the penalty for passing a school bus (House, No. 4405),— was read a second time.

After remarks, the question on ordering it to a third reading was determined by a call of the yeas and nays, at seventeen minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0):

YEAS

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

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.

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

Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Nuciforo, Andrea F., Jr. — 1.

The yeas and nays having been completed at fourteen minutes before two o'clock P.M., the bill was ordered to a third reading.

The House Bill relative to the charter of the city of Chelsea (House, No. 4820),— **was read a second time and ordered to a third reading.**

The Senate Bill relative to assault and battery on a child (Senate, No. 165),— was read third time.

Pending the question on passing the bill to be engrossed, Ms. Creem moved that the bill be amended by substituting a new draft entitled "An Act relative to aggravated assault and assault and battery on a child" (Senate, No. 2365).

The amendment was adopted.

The bill (Senate, No. 2365) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to speed limits in cities and towns (House, No. 4318, amended),— was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, on motion of Mr. Glodis, the further consideration thereof was postponed until Wednesday, June 26.

The Senate Bill creating the crime of reckless endangerment to children (Senate, No. 2340),— 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 before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0):

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
Berry, Frederick E.
Brewer, Stephen M.

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.

Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Fargo, Susan C.
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Joyce, Brian A.
Knapik, Michael R.
Lees, Brian P.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.

Murray, Therese
O’Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Nuciforo, Andrea F., Jr. — 1.

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

Sent to the House for concurrence.

The House Bill relative to community preservation of historic resources (printed as Senate, No. 2343) (its title having been changed by the committee on Bills in the Third Reading),— **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, the main question being on passing it to be engrossed.

On motion of Mr. Moore, the bill was recommitted to the committee on Bills in the Third Reading.

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 question being on accepting the adverse report.

On motion of Mr. Lees, the further consideration thereof was postponed until Wednesday, July 31.

The Senate Bill relative to the retirement options of certain educational support personnel (Senate, No. 2344),— was considered, the main question being on passing it to be engrossed.

On motion of Mr. Joyce, the further consideration thereof was postponed until Wednesday, June 26.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (the first two of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Acting Governor for her approbation, to wit:

Relative to contracts between court reporters and an attorney, party or party having a financial interest in an action (see Senate, No. 978, amended);

Authorizing the certification and appointment of Stephen E. Granlund as a police officer in the town of Ware (see Senate Bill, printed as House, No. 4515); and

Authorizing the town of North Andover to settle certain lawsuits (see House, No. 4272, amended).

Matter Taken Out of the Notice Section of the Calendar.

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

The House Bill validating action taken at the special town meetings held by the town of Manchester-by-the-Sea (printed in House, No. 5077),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

At one minute before two o'clock P.M., the Senate proceeded to the Chamber of the House of Representatives, under the escort of the Sergeant-at-Arms, for the purpose of considering certain proposals for amendments to the Constitution which had been called for consideration by the Senate and House of Representatives.

At five minutes past two o'clock P.M., pursuant to assignment, the two Houses met in

JOINT SESSION

and were called to order by the Honorable Thomas F. Birmingham, President of the Senate.

The Proposal for a Legislative Amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant-Governor (see House, No. 799) (with reference to which the committee on Election Laws has reported, in accordance with Joint Rule 23, recommending that the amendment ought to pass,— was read twice in succession in accordance with the provisions of the special rules.

The proposal reads as follows:—

ARTICLE OF AMENDMENT.

Section II of Chapter II of Part the Second of the Constitution of the Commonwealth is hereby amended by striking out Article III and inserting in place thereof the following two articles:

Article III. Whenever the chair of the governor shall be vacant, by reason of his death, resignation or removal, the lieutenant governor shall become governor. Whenever the chair of the governor shall be vacant by reason of his absence from the commonwealth, or otherwise, except for his death, resignation or removal, the lieutenant governor for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

Article IV. Whenever the office of lieutenant governor shall become vacant, the governor shall nominate a lieutenant governor who shall take office upon confirmation by a majority vote of both the house of representatives and the senate.

Pending the main question on ordering the proposal to a third reading, and without taking action on other matters duly and constitutionally assigned for consideration, on motion of Ms. Melconian, at six minutes past two o'clock P.M., the joint session was recessed until two o'clock P.M., on Wednesday, July 17.

At seven minutes before three 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).

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill providing for certain information technology improvements (see Senate, No. 2256, printed as amended, 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 7 to 0.

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

Recess.

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

PAPER FROM THE HOUSE.

Engrossed Bill — State Loan.

An engrossed Bill providing for certain information technology improvements (see Senate, No. 2256, printed as amended, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage; and, this being a bill providing for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at three minutes past four o'clock P.M., as follows, to wit (yeas 38 — nays 0):

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
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.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Travaglini, Robert E. — 1.

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

Resolutions.

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

Resolutions (filed by Mr. Morrissey) “recognizing Karl J. Ryan for his 37 years of outstanding and dedicated service in the Massachusetts State Senate”; and

Resolutions (filed by Mr. Shannon) “congratulating Alice McDonnell on the occasion of her retirement.”

Order Adopted.

On motion of Mr. Montigny,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow 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 ten minutes past four o’clock P.M., the Senate adjourned to meet on the following day at eleven o’clock A.M.