

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.

Thursday, January 23, 2003.

Met at five minutes past one o'clock P.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guest.

There being no objection, during consideration of the Orders of the Day, the President introduced, seated in the rear of the Chamber, Christine Barlow, the daughter of Senator Robert A. O'Leary. She was the guest of her father, Senator O'Leary.

PAPER FROM THE HOUSE.

Order Adopted.

The following House Order was considered forthwith and adopted, in concurrence, to wit:

Ordered, That the Joint Rules of 2001-2002 shall be the temporary Joint Rules; and that there is hereby created a special joint committee to consist of ten members, four of whom shall be appointed by the Speaker, one of whom shall be appointed by the House Minority Leader, four of whom shall be appointed by the Senate President and one of whom shall be appointed by the Senate Minority Leader; said committee shall be responsible for reviewing the joint rules of the House and Senate and reporting its findings concurrently to the two branches not later than January 31, 2003, together with any recommendations and proposals for changes to said rules for the 2003-2004 legislative session.

Communications.

The Clerk read the following communication:

January 21, 2003.

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

Dear Mr. Clerk:

Because I was out of the country on January 16th, I missed several roll call votes relative to extending the Governor's 9C powers.

Had I been present, I would have voted in the affirmative on amendment number 14 and in the negative on amendments number 15 and number 1. In addition, on the question of engrossing House Bill 2010, as amended by the Senate, I also would have voted in the negative.

I would respectfully request that this letter be printed in the next Senate Journal.

Sincerely,
ROBERT S. CREEDON, JR.
State Senator.

On motion of Ms. Murray, the above communication was ordered printed in the Journal of the Senate.

The Clerk read the following communication:

January 21, 2003.

Patrick Scanlan, *Clerk*
Massachusetts Senate
State House
Boston, MA 02133

Dear Mr. Clerk:

I am unable to attend the Senate session scheduled for Thursday, January 23, 2003 because I will be participating in a meeting of the Executive Committee of the National Conference of State Legislatures in Tucson, Arizona, for which travel arrangements were made prior to the change in our January session plans. Any votes that I may miss on that day will be entirely for the reason stated.

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

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

Resolutions.

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

Resolutions (filed by Ms. Fargo) “congratulating Chief Robert J. Koning on the occasion of his retirement”; and

Resolutions (filed by Mr. Shannon) “commemorating the naming of the Boston Cream Donut as the official donut of the Commonwealth.”

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. 1923),— was considered.

Pending the main question on acceptance of the report, Mr. Tarr moved to amend the report by inserting the following:—

The Senate Rules are hereby amended by adding the following new rule:—

“38A½. The Senate shall not continue in session beyond the hour of midnight. This rule shall not be suspended unless 2/3 vote of the members present and voting consent thereto on a recorded yea and nay vote.”

The amendment was *rejected*.

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

“All outside sections and amendments to outside sections of an appropriation bill must relate to a line item in said appropriation bill.”

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 12 shall be amended by inserting at the end thereof the following:—

“Committee hearings and executive sessions shall not be scheduled in conflict with formal sessions of the Senate unless the chair submits to the Clerk a written explanation for scheduling the hearing or session in conflict with the formal session.”

After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report in proposed Senate Rule 12B by striking out the following: “, one being the Senate Minority Leader”.

After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 12B shall be amended by striking out the last paragraph and inserting at the end thereof the following:—

“The committee shall not report that any matter referred to it ought to pass or ought not to pass, nor shall it recommend any amendment to such matter, but shall only report on what date prior to adjournment of the last formal session and within the 30 day period referred to in the preceding sentence, the matter will be considered by the Senate.”

After debate, the amendment was *rejected*.

Mr. Lees moved to amend the report by striking out the proposed amendment to Senate Rule 13A; and by adding at the end of the Rules Committee report the following:—

Senate Rule 63 shall be amended by striking out the following:—

“The Committee on Rules may consider and suggest measures that shall, in its judgment, tend to facilitate the business of the Senate, and a majority vote of the Senate shall be required to approve such recommendations.”

Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes past one o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 29) [**Yeas and Nays No. 6**]:

YEAS.

Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
O’Leary, Robert A.	Wilkerson, Dianne — 7.
Sprague, Jo Ann	

NAYS.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Jacques, Cheryl A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.

Magnani, David P. Walsh, Marian — 29.
McGee, Thomas M.

ABSENT OR NOT VOTING.

Glodis, Guy W. Moore, Richard T. — 3.
Hedlund, Robert L.

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

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 19 shall be amended by striking out the following language: “and except that the Committee on Ways and Means and the Committee on Steering and Policy under Rule 12B may report a bill or other form of legislation that is not founded upon petition.”

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 27A shall be amended by inserting after the third paragraph the following new paragraph:—

“No amendment which seeks to increase appropriations shall be in order unless it is accompanied by a provision within the amendment to decrease appropriations by an equal or greater amount.”

After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

The Senate Rules are hereby amended by inserting after Rule 34 the following new rule:—

“34A. Notwithstanding any other rule to the contrary, the President shall schedule a formal session to be held within seven days upon receipt of a petition signed by at least forty percent of the members of the Senate requesting the same. The petition shall reference bill numbers or other matters to be considered by the Senate during the requested formal session.”

After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 38A is hereby amended by striking out the words “a majority” and inserting in place thereof the following: “two-thirds”.

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

Senate Rule 59A is hereby amended by inserting after the second paragraph the following new paragraph:—

“If, for any reason, the Senate convenes in a 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 in which such broadcast was not received and an explanation for the lack of television coverage to the affected areas.”

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

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

“59D. (1) The President shall make available to each member of the Senate a copy of the contract for the television broadcast of the Senate formal sessions.

(2) Any contracts executed after January 1, 2003 concerning television broadcast of the formal sessions of the Senate shall contain provisions requiring the following information to be reported to members of the Senate:

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

(b) a list of each city and town to receive Senate coverage including the date and time 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 shall make available said copy of the contract to each member of the Senate on the first day of the annual session.”

After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

The Senate Rules are hereby amended by inserting after Senate Rule 61A the following new rule:—

“61B. No use of cellular telephones shall be permitted in the Senate Chamber while the Senate is in session.”

After remarks, the amendment was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

The Senate Rules are hereby amended by inserting after Rule 7B the following new rule:

“7C. The Clerk of the Senate shall post notice of committee hearings on the website for the General Court. Any such notice shall include, but not limited to, the following: date, time, and place of the meeting; matters to be considered by the committee at the hearing; and process by which testimony may be submitted for consideration by the committee. No bill shall be taken up for consideration or vote by the committee unless it is included in such notice.”

The amendment was *rejected*.

Mr. Lees moved to amend the report by adding at the end thereof the following:—

In Senate Rules 13A, in lines 4 and 7-8, 13C, 20, in lines 10 and 18-19, 27C, 31A, 59, in lines 1 and 16-17, 59A and 63 by striking out the words “Committee on Rules” in each instance and inserting in place thereof the following:— “Committee on Ethics and Rules”.

After remarks, the amendment was adopted.

Mr. Lees moved to amend the report in proposed Senate Rule 11A and 11C by striking out the word “ Rules” and inserting in place thereof the following:— “Ethics and Rules”; and in proposed Senate rules 12, 12A, 13A and 59A by striking out the words “Committee on Rules” in each instance and inserting in place thereof the following:— “Committee on Ethics and Rules”.

The amendment was adopted

Messrs. Brewer, Montigny and Ms. Murray moved to amend the report by inserting in Senate Rule 19, after the word “Means”, in line 2, the words “, the committee on Long Term Debt and Capital Expenditures”; and, in the proposed Rules recommendations in Senate Rule 26B, by adding after the fourth paragraph the following sentence:— “The committee on Long Term Debt and Capital Expenditures may initiate legislation consistent with Senate Rule 19.”; and by inserting after the words “or for the” in the seventh paragraph the words:— “de-authorization or” .

The President in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes past two o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 — nays 5) [**Yeas and Nays No. 7**]:

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
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.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.
Menard, Joan M.

Knapik, Michael R.
Lees, Brian P.
Sprague, Jo Ann

Barrios, Jarrett T.
Berry, Frederick E.
Montigny, Mark C.
Morrissey, Michael W.
Murray, Therese
Nuciforo, Andrea F., Jr.
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Steven A.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 32.

NAYS.

Tarr, Bruce E.
Tisei, Richard R. — 5.

ABSENT OR NOT VOTING.

Hedlund, Robert L.

Moore, Richard T. — 2.

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

After remarks, the question on acceptance of the report was determined by a call of the yeas and nays, at twenty-eight minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 33 — nays 5) [**Yeas and Nays No. 8**]:

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
Barrios, Jarrett T.
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.
Jacques, Cheryl A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.

Menard, Joan M.
Montigny, Mark C.
Morrissey, Michael W.
Murray, Therese
Nuciforo, Andrea F., Jr.
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 33.

NAYS.

Knapik, Michael R.

Tarr, Bruce E.

Lees, Brian P. Tisei, Richard R. — 5.
Sprague, Jo Ann

ABSENT OR NOT VOTING.

Hedlund, Robert L. Moore, Richard T. — 2.

The yeas and nays having been completed at twenty-five minutes before three o'clock P.M., the report of the rules committee was accepted. [For complete text of Senate rules changes, see Senate, No. 1926, printed as amended].

Ms. Walsh 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. 1924),— was considered.

Pending the main question on acceptance of the report, Messrs. Tarr and Lees moved to amend the report by inserting at the end thereof the following:—

Joint Rule 13 is amended by adding at the end of the first paragraph the following:—

“Proposed legislation which amends existing General Laws may provide for significant portions of the text of the law to be printed with, or accompany, the proposed changes.”

The amendment was *rejected*.

Mr. Tarr moved to amend the report by inserting 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 amendment was *rejected*.

Mr. Tarr moved to amend the report by inserting the following:—

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

“12C. The House of Representatives shall undertake consideration of the General Appropriations Bill for the ensuing fiscal year not 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 not 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 amendment was *rejected*.

Mr. Tarr moved to amend the report by inserting the following:—

The Joint Rules are hereby amended by adding, after Joint Rule 4A, the following new rule:—

“Rule 4B. Upon receiving notice from the commissioner of administration that available revenues as determined by him will be insufficient to meet all expenditures authorized to be made from any fund according to the provisions set forth in Section 9C of Chapter 29 of the General Laws, the Senate and House Committees on Ways and Means shall develop recommendations to address said insufficiencies and report them to the Governor and the Clerks of the Senate and House of Representatives.”

The amendment was *rejected*.

Mr. Lees move to amend the report by inserting at the end thereof the following:—

The Joint Rules are hereby amended in Joint Rule 1 by striking out the following:—

“A committee on Counties;”.

The amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

The Joint Rules are hereby amended in Joint Rule 1B by inserting at the end thereof the following:—

“No elected official may be permitted to speak for more than two minutes at a public hearing unless he or she submits a written or oral request and receives permission to exceed this time limit from the chair of the committee; constitutional officers are exempt from this requirement and shall be allowed to speak for any length of time at the discretion of the chair.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes before three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 9]**:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	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
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., 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.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 37.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

Hedlund, Robert L. Moore, Richard T. — 2.

The yeas and nays having been completed at twelve minutes before three o’clock P.M., the amendment was adopted.

Messrs. Lees, Tisei, Knapik, Tarr and Hedlund and Mrs. Sprague moved to amend the report by inserting at the end thereof the following:—

The Joint Rules are hereby amended by inserting after Rule 1D the following new rule:—

“1E. 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 amendment was *rejected*.

After further remarks, the main question on accepting the report of the committee was considered; and it was accepted.

[For complete text of Senate changes to the Joint Rules, see Senate, No. 1927, printed as amended.]

Sent to the House for concurrence.

Resolutions.

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

Resolutions (filed by Messrs. Berry, McGee, Baddour and Tarr) “congratulating Kevin M. Burke upon his retirement as District Attorney of Essex County.”

Orders Adopted.

Mr. Knapik, Ms. Creem and Messrs. Rosenberg and Magnani offered the following order, to wit:

Ordered, That the President appoint a special committee of the Senate to recommend legislation and other methods for mitigating the effect of local aid reductions for cities and towns. The special committee shall report not later than February 15, 2003.

The rules were suspended, on motion of Mr. Knapik, and the order was considered forthwith and adopted.

Subsequently, the President appointed the following members to said committee: Senators Rosenberg of Hampshire and Franklin, Creem of Middlesex and Norfolk, Fargo of Middlesex, O’Leary of Cape and Islands, Chandler of Worcester and Knapik of Hampden and Hampshire.

On motion of Ms. Resor,—

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

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