

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, July 7, 2004.

Met at seven minutes past eleven o'clock A.M. (Ms. Menard in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Ms. Menard), members, guests and employees then, recited the pledge of allegiance to the flag.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to the modernization of optometric patient care (Senate, go. 2251) ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2432).

Referred, under Senate Rule 26, to the committee on Steering and Policy.

Committee Discharged.

Mr. Brewer, for the committee on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Taxation to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to taxation (Senate, No. 2301), reports, in part, asking to be discharged from further consideration

Of the Senate petition (accompanied by bill, Senate, No. 1786) of Richard T. Moore and George N. Peterson, Jr. for legislation to authorize the Commissioner of Revenue to accept applications for tax abatement on behalf of Old Colony Stationary, Inc.; and

Of the Senate petition (accompanied by bill, Senate, No. 2171) of Stanley C. Rosenberg and Stephen Kulik for legislation relative to the classification of land in the town of Wendell;

And recommending that the same severally be recommitted to the committee on Taxation.

Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

A Bill establishing a sick leave bank for Melissa J. Cornell, an employee of the Trial Court of the Commonwealth (House, No. 4765,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A report of the committee on House Rules, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1708) of Susan C. Tucker, James R. Miceli and Barry R. Finegold for legislation to authorize and direct the commissioner of the Division of Capital Asset Management and Maintenance to convey a conservation restriction to the town of Tewksbury, and recommending that the same be referred to the Senate committee on Ways and Means,— **was considered forthwith under Senate Rule 36, and accepted, in concurrence.**

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Rosa A. McPherson, an employee of the Trial Court (see Senate, No. 2073), 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 (Ms. Menard) and sent to the House for enactment.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:

The Senate Bill to increase the retirement allowance for certain retirees of the town of Arlington (Senate, No. 1931),— was 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 House Bill authorizing the town of North Andover to grant open space restrictions (House, No. 3847),— was read a third time and passed to be engrossed, in concurrence.

The Senate Bill authorizing the city of Waltham to continue the use of certain park land for water purposes (printed as House, No. 3849),— was read a third time and passed to be engrossed.

Sent to the House for concurrence.

The House Bill authorizing the town of North Andover to grant a certain easement (House, No. 4090),— was read a third time and passed to be engrossed, in concurrence.

The House Bill relative to the release of a conservation restriction in the town of Grafton (House, No. 4352),— was read a third time and passed to be engrossed, in concurrence.

PAPER FROM THE HOUSE.

A Bill exempting the position of police chief of the town of Reading from the civil service law (House, No. 4757,— on petition) [Local approval received],— was read. There being no objection, the rules were suspended, on motion of Mr. Tisei, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The Senate Bill relative to the licensure of animal control officers (Senate, No. 140, amended),— was read a third time and passed to be engrossed.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The House Bill relative to dangerous buildings (House, No. 972),— was read.

There being no objection, the rules were suspended on motion of Mr. Brewer, and the bill was read a second time, ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-seven minutes past eleven o'clock A.M., on

motion of Ms. Chandler, as follows, to wit (yeas 35 — nays 0) [**Yeas and Nays No. 601**]:

YEAS.	
Baddour, Steven A.	Moore, Richard T.
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.
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
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 35.
Montigny, Mark C.	
NAYS — 0 PAIRED. YEA. NAY.	
Robert A. Antonioni	David P. Magnani (present) — 2.
ABSENT OR NOT VOTING.	
Brown, Scott P.	Creedon, Robert S., Jr. — 2.

The yeas and nays having been completed at twenty-eight minutes before twelve o’clock noon, the bill was passed to be engrossed, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill relative to the possession of electronic weapons (see House, No. 3400, 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 6 to 0.

The bill was signed by the Acting President (Ms. Menard) and sent to the House for enactment.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:

The Senate Bill providing benefits to certain injured workers (Senate, No. 123) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time and passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill improving the physician credentialing process (Senate, No. 2308, amended),— was considered; and it was passed to be engrossed.

Sent to the House for concurrence.

Reports of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the House Bill prohibiting certain practices in home mortgage lending (House, No. 4880),— ought to pass, with amendments, in section 1, by inserting after the definition of “High cost home mortgage loan”, the following definition:

“‘Home mortgage loan’, a loan, other than a reverse mortgage transaction, in which: (i) the principal amount of the loan does not exceed the conforming loan size limit for a single-family dwelling as established from time to time by the Federal National Mortgage Association or a comparable entity designated by the division of banks; (ii) the borrower is a natural person; (iii) the debt is incurred by the borrower primarily for personal, family or household purposes; and, (iv) the loan is secured by a mortgage or deed of trust on real estate upon which there is located or there will be located a structure designed principally for occupancy of from 1 to 4 families which is or will be occupied by the borrower as the borrower’s principal place of residence.”; by striking out the word “meet”, in line 185, and inserting in place thereof the following word:— “pay”; and by striking out, in lines 275 and 276, the words “(i) dividing any loan transaction into separate parts; or, (ii) engaging in any other

subterfuge for the purpose of evading the provisions of this chapter” and inserting in place thereof the following words:— “dividing any loan transaction into separate parts”; by striking out section 2 and section 6; and in section 7, by striking out the word “and”, in line 5, and inserting in place thereof the following word:— “where”.

Ms. Murray moved that the rules be suspended so that the matter may be considered forthwith; but objection was made thereto by Mr. Nuciforo.

Referred, under Senate Rule 26, to the committee on Steering and Policy.

By Ms. Murray, for the committee on Ways and Means, on petition (accompanied by bill, Senate, No. 1708), a Bill to authorize and direct the commissioner of the division of capital asset management and maintenance to convey a conservation restriction to the town of Tewksbury (Senate, No. 2427).

The bill was read. There being no objection, the rules were suspended, on motion of Ms. Tucker, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to housing in the Commonwealth (House, No. 4710),— ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2430.

There being no objection, the rules were suspended, on motion of Ms. Chandler, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means, ordered to a third reading, read a third time and was passed to be engrossed, in concurrence with the amendment.

Sent to the House for concurrence in the amendment.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill establishing a special commission to study energy consumption by the government of the Commonwealth (Senate, No. 375),— ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2428).

There being no objection, the rules were suspended, on motion of Mr. O’Leary, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2428) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill to encourage the employment of people with disabilities (Senate, No. 791),— ought to

pass, with an amendment substituting a new draft with the same title (Senate, No. 2429).

There being no objection, the rules were suspended, on motion of Mr. Hart, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2429) 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, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill authorizing the town of Hamilton to convey certain land (House, No. 4449),— was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Tarr moved that the bill be amended by striking out, in lines 3 and 4, the following words: “, said parcel shall remain subject to a conservation restriction” and inserting in place thereof the following words:— “and the conservation restriction held by the Massachusetts Audubon Society on the parcel may be released”.

The 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.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (the first three 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 Acting President (Ms. Menard) and laid before the Governor for his approbation, to wit:

Relative to the public disclosure of ownership of a cemetery corporation (see Senate, No. 478, amended);

Relative to eye examinations for children (see Senate, No. 687, amended);

Establishing a sick leave bank for Rosa A. McPherson, an employee of the Trial Court (see Senate, No. 2073);

Relative to the possession of electronic weapons (see House, No. 3400, amended);

Providing for an animal control commission in the town of Lancaster (see House, No. 3879);

Relative to public charities (see House, No. 4234);

Authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the town of Whitman (see House, No. 4688, amended); and

Relative to business corporations (see House, No. 4833, amended).

Recess.

At fourteen minutes before twelve o'clock noon, the Chair (Ms. Menard) declared a recess for the purposes of majority and minority caucuses and for the purposes of attending the Joint Session of the two Houses.

Joint Session of the Two Houses to Consider Specific Amendments to the Constitution.

At twenty minutes past one o'clock P.M., the two Houses met in

Joint Session

and were called to order by the Honorable Robert E. Travaglini, President of the Senate.

At twenty-one minutes past one o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and at twenty-two minutes past two o'clock P.M., the Joint Session reassembled, the President in the Chair.

The Proposal for a Legislative Amendment to the Constitution providing for the abolition of the council (Senate, No. 1984),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

ART. Section 1. Article IV of section I of chapter I of Part the Second of the Constitution is hereby amended by striking out the words “with the advice and consent of the council”.

Section 2. Article II of section II of said chapter I is hereby amended by striking out in the first paragraph the words “and councillors” and the words “councillors and” wherever they appear in the third paragraph.

Section 3. Article III of section II of said chapter I is hereby amended by striking out the words “with five of the council”.

Section 4. Article XI of section III of said chapter I is hereby amended by striking out the words “and council,” and the word “council,” wherever they appear.

Section 5. Article IV of section I of chapter II of the Second Part of the Constitution is hereby annulled.

Section 6. Article V of said section I of said chapter II is hereby amended by striking out the words “with advice of the council”.

Section 7. Article VI of said section I of said chapter II is hereby amended by striking out the words “with advice of the council”.

Section 8. Article VIII of said section I of said chapter II is hereby annulled and the following article is adopted in place thereof:—

Article VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor; provided, that if the offence is a felony the General Court shall have the power to prescribe the terms and conditions upon which a pardon may be granted; but no charter of pardon, granted by the before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned. The each Governor shall annually communicate to the General Court the name of person pardoned, the crime and date of conviction, and the date of the pardon.

Section 9. Article IX of said section I of said chapter II is hereby amended by striking out the word “council” and inserting in place thereof the following word:— senate.

Section 10. Article XI of said section I of said chapter II is hereby amended by striking out the words “,with the advice and consent of the council,”.

Section 11. Article II of section II of said chapter II is hereby annulled.

Section 12. Articles I to V, inclusive, of section III of said chapter II are hereby annulled.

Section 13. Article II of section IV of said chapter II is hereby amended by striking out the words “and council”.

Section 14. Article I of chapter III of Part the Second of the consent of Constitution is hereby amended by striking out the words with the “the council,”, the first time they appear.

Section 15. Said article I of said chapter III is hereby further amended by striking out the word “council”, the second time it appears, and inserting in place thereof the following word:— senate.

Section 16. Article II of said chapter III is hereby amended by striking out the words “or the council”.

Section 17. Article V of said chapter III is hereby annulled.

Section 18. Article I of chapter VI of Part the Second of the inserting Constitution is hereby amended by striking out the last paragraph and in place thereof the following paragraph:—

And the said oaths or affirmations shall be taken and subscribed by the governor and the two lieutenant governor, before the president of the senate, in the presence of houses of assembly; and by senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

Section 19. Article II of said chapter VI is hereby amended by striking out in the second paragraph the words “or the governor and council”.

Section 20. Said Article II of said chapter VI is hereby further amended by striking out the fourth paragraph.

Section 21. Said Article II of said chapter VI is hereby further amended by striking out the words “with the advice and consent of the council”.

Section 22. Article VII of the Amendments to the Constitution is hereby amended by striking out the word “councillors,”.

Section 23. Article VIII of said Amendments is hereby amended by in striking out the words “, lieutenant governor, or councillor” and inserting place thereof the words:— or lieutenant governor.

Section 24. Article XIII of said Amendments is hereby amended by striking out in the last sentence the words “or in the executive council”.

Section 25. Article XVI of said Amendments is hereby annulled and the following article is adopted in place thereof:—

Article XVI. That there may be no delay in the organization of the government on the first Wednesday of January, the governor shall, as soon as may be, examine the returned copies of the records for the election of governor and lieutenant governor; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in the case of the election of either of said officers, the choice shall be by them declared and published; but in case there for shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the Constitution the choice of such officers.

Section 26. Article XVII of said Amendments is hereby amended by striking out the words “with the advice and consent of the council”.

Section 27. Article XXV of said Amendments is hereby annulled.

Section 28. Article XXXVII of said Amendments is hereby amended by striking out the words “,with consent of the council”.

Section 29. The first sentence of section 1 of article LXIV, as striking appearing in article LXXX, of said Amendments is hereby amended by out the word “councillors”.

Section 30. Said section 1 of said article LXIV, as so appearing, is hereby further amended by striking out the sixth sentence.

Section 31. The first sentence of section 2 of article CI, as appearing in section 2 of article CXIX, of said Amendments is hereby amended by striking out the words “and also the councillor districts”.

Section 32. The last sentence of said section 2 of said article CI is hereby amended by striking out the words “and councillors”.

Section 33. Section 3 of said article CI is hereby amended by striking out the word “, councillor”.

Section 34. All of the provisions of the constitution and amendments inconsistent with the provisions of these Amendments are hereby annulled.

Pending the question on ordering the proposal to a third reading, Mr. Finegold of Andover and Mr. Joyce moved that the proposal be amended by adding at the end thereof the following section:—

“Section 35. The provisions of this law will take effect on the 7th day of January, 2009.”

Pending the question on adoption of the amendment, at twenty-four minutes past two o’clock P.M., Mr. Bosley of North Adams doubted the presence of a quorum and asked for a call of the yeas and nays to ascertain if a quorum was present. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum at twenty-four minutes past two o’clock P.M., as follows to wit (Answered Present 189) [**Senate Yeas and Nays No. 602**] [**House Yeas and Nays No. 691**]:

ANSWERED “PRESENT” (189).	
<i>Senators.</i>	
Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
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

Hedlund, Robert L.	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.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 39.
Menard, Joan M.	
<i>Representatives.</i>	
Asselin, Christopher P.	Koutoujian, Peter J.
Atkins, Cory	Kujawski, Paul
Atsalis, Demetrius J.	Kulik, Stephen
Ayers, Bruce J.	Lantigua, William
Balser, Ruth B.	Larkin, Peter J.
Binienda, John J.	Leary, James B.
Blumer, Deborah D.	LeDuc, Stephen P.
Bosley, Daniel E.	Lepper, John A.
Bradley, Garrett J.	Linsky, David Paul
Buoniconti, Stephen J.	L'Italien, Barbara A.
Cabral, Antonio F. D.	Loscocco, Paul J.
Callahan, Jennifer M.	Malia, Elizabeth A.
Canavan, Christine E.	Mariano, Ronald
Candaras, Gale D.	Marzilli, J. James, Jr.
Carron, Mark J.	Miceli, James R.
Casey, Paul C.	Murphy, Charles A.
Ciampa, Vincent P.	Murphy, James M.
Connolly, Edward G.	Murphy, Kevin J.
Coppola, Michael J.	Nangle, David M.
Correia, Robert	Naughton, Harold P., Jr.
Costello, Michael A.	Nyman, Robert J.
Coughlin, Robert K.	O'Brien, Thomas J.
Creedon, Geraldine	O'Flaherty, Eugene L.
DeLeo, Robert A.	Parente, Marie J.

deMacedo, Viriato Manuel	Patrick, Matthew C.
Demakis, Paul C.	Paulsen, Anne M.
Dempsey, Brian S.	Pedone, Vincent A.
DiMasi, Salvatore F.	Peisch, Alice Hanlon
Donato, Paul J.	Perry, Jeffrey Davis
Donelan, Christopher J.	Petersen, Douglas W.
Donovan, Carol A.	Peterson, George N., Jr.
Driscoll, Joseph R.	Petrolati, Thomas M.
Eldridge, James B.	Petrucelli, Anthony
Evangelidis, Lewis G.	Pignatelli, William Smitty
Fagan, James H.	Poirier, Elizabeth
Fallon, Christopher G.	Polito, Karyn E.
Falzone, Mark V.	Pope, Susan W.
Fennell, Robert F.	Quinn, John F.
Finegold, Barry R.	Rivera, Cheryl A.
Finneran, Thomas M.	Rodrigues, Michael J.
Flynn, David L.	Rogeness, Mary S.
Fox, Gloria L.	Rogers, John H.
Fresolo, John P.	Ruane, J. Michael
Frost, Paul K.	Rush, Michael F.
Galvin, William C.	Rushing, Byron
Garry, Colleen M.	Sánchez, Jeffrey
George, Thomas N.	Scaccia, Angelo M.
Gifford, Susan Williams	Scibak, John W.
Gobi, Anne M.	Smizik, Frank I.
Goguen, Emile J.	Speliotis, Theodore C.
Golden, Brian Paul	Spellane, Robert
Gomes, Shirley	Spiliotis, Joyce A.
Grant, Mary E.	Spilka, Karen
Greene, William G., Jr.	Stanley, Harriett L.
Haddad, Patricia A.	Stanley, Thomas M.

Hall, Geoffrey D.	St. Fleur, Marie P.
Hargraves, Robert S.	Story, Ellen
Harkins, Lida E.	Straus, William M.
Hill, Bradford	Sullivan, David B.
Hillman, Reed V.	Swan, Benjamin
Honan, Kevin G.	Teahan, Kathleen M.
Howland, Mark A.	Timilty, Walter F.
Humason, Donald F., Jr.	Toomey, Timothy J., Jr.
Hynes, Frank M.	Torrissi, David M.
Jehlen, Patricia D.	Travis, Philip
Jones, Bradley H., Jr.	Turkington, Eric
Kafka, Louis L.	Vallee, James E.
Kane, Michael F.	Verga, Anthony J.
Kaufman, Jay R.	Wagner, Joseph F.
Keenan, Daniel F.	Wallace, Brian P.
Kennedy, Thomas P.	Walrath, Patricia A.
Khan, Kay	Walsh, Martin J.
Knuuttila, Brian	Walsh, Steven Myles
Kocot, Peter V.	Webster, Daniel K.
Koczera, Robert M.	Wolf, Alice K. — 150.
NAYS — (0). ABSENT OR NOT VOTING (9). <i>Senator.</i>	
Brown, Scott P. — 1.	
<i>Representatives.</i>	
Broadhurst, Arthur J.	Owens-Hicks, Shirley
Festa, Michael E.	Reinstein, Kathi-Anne
Golden, Thomas A., Jr.	Simmons, Mary Jane
Kaprielian, Rachel	Tobin, A. Stephen — 9.
Kelly, Shaun P.	

The yeas and nays having been completed at twenty-seven minutes before three o'clock P.M., a quorum was declared present.

The Proposal for a Legislative Amendment to the Constitution providing for the abolition of the council (Senate, No. 1984),— was further considered, the question being on adoption of the amendment. After debate, the pending amendment (Finegold-Joyce) was *rejected*.

The question on ordering the proposal to a third reading was then determined by a call of the yeas and nays at four minutes past three o'clock P.M. as follows to wit (yeas 43 — nays 149) [**Senate Yeas and Nays No. 603**] [**House Yeas and Nays No. 692**]:

YEAS (43).	
<i>Senators.</i>	
Baddour, Steven A.	O'Leary, Robert A.
Glodis, Guy W.	Resor, Pamela
Hedlund, Robert L.	Rosenberg, Stanley C.
Joyce, Brian A.	Sprague, Jo Ann
Moore, Richard T.	Tisei, Richard R.
Murray, Therese	Tucker, Susan C. — 13.
Nuciforo, Andrea F., Jr.	
<i>Representatives.</i>	
Atkins, Cory	Lepper, John A.
Bosley, Daniel E.	Linsky, David P.
Callahan, Jennifer M.	Marzilli, J. James, Jr.
Coppola, Michael J.	Patrick, Matthew C.
Donelan, Christopher J.	Peisch, Alice H.
Eldridge, James B.	Perry, Jeffrey D.
Finegold, Barry R.	Petersen, Douglas W.
Frost, Paul K.	Poirier, Elizabeth
Galvin, William C.	Pope, Susan W.
Grant, Mary E.	Speliotis, Theodore C.
Humason, Donald F., Jr.	Spilka, Karen
Hynes, Frank M.	Stanley, Harriett L.
Jehlen, Patricia D.	Story, Ellen
Kaufman, Jay R.	Travis, Philip

Kulik, Stephen	Walrath, Patricia A. — 30.
NAYS — (149).	
<i>Senators.</i>	
Antonioni, Robert A.	McGee, Thomas M.
Barrios, Jarrett T.	Melconian, Linda J.
Berry, Frederick E.	Menard, Joan M.
Brewer, Stephen M.	Montigny, Mark C.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Shannon, Charles E.
Fargo, Susan C.	Tarr, Bruce E.
Hart, John A., Jr.	Tolman, Steven A.
Havern, Robert A.	Travaglini, Robert E.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne — 25.
Magnani, David P.	
<i>Representatives.</i>	
Asselin, Christopher P.	Koczera, Robert M.
Atsalis, Demetrius J.	Koutoujian, Peter J.
Ayers, Bruce J.	Kujawski, Paul
Balser, Ruth B.	Lantigua, William
Binienda, John J.	Larkin, Peter J.
Blumer, Deborah D.	Leary, James B.
Bradley, Garrett J.a	LeDuc, Stephen P.
Buoniconiti, Stephen J.	L'Italien, Barbara A.
Cabral, Antonio F. D.	Loscocco, Paul J.
Canavan, Christine E.	Malia, Elizabeth A.
Candaras, Gale D.	Mariano, Ronald
Carron, Mark J.	Miceli, James R.
Casey, Paul C.	Murphy, Charles A.
Ciampa, Vincent P.	Murphy, James M.
Connolly, Edward G.	Murphy, Kevin J.
Correia, Robert	Nangle, David M.

Costello, Michael A.	Naughton, Harold P., Jr.
Coughlin, Robert K.	Nyman, Robert J.
Creedon, Geraldine	O'Brien, Thomas J.
DeLeo, Robert A.	O'Flaherty, Eugene L.
deMacedo, Viriato Manuel	Parente, Marie J.
Demakis, Paul C.	Paulsen, Anne M.
Dempsey, Brian S.	Pedone, Vincent A.
DiMasi, Salvatore F.	Peterson, George N., Jr.
Donato, Paul J.	Petrolati, Thomas M.
Donovan, Carol A.	Petrucelli, Anthony
Driscoll, Joseph R.	Pignatelli, William Smitty
Evangelidis, Lewis G.	Polito, Karyn E.
Fagan, James H.	Quinn, John F.
Fallon, Christopher G.	Reinstein, Kathi-Anne
Falzone, Mark V.	Rivera, Cheryl A.
Fennell, Robert F.	Rodrigues, Michael J.
Festa, Michael E.	Rogeness, Mary S.
Finneran, Thomas M.	Rogers, John H.
Flynn, David L.	Ruane, J. Michael
Fox, Gloria L.	Rush, Michael F.
Fresolo, John P.	Rushing, Byron
Garry, Colleen M.	Sánchez, Jeffrey
George, Thomas N.	Scaccia, Angelo M.
Gifford, Susan Williams	Scibak, John W.
Gobi, Anne M.	Smizik, Frank I.
Goguen, Emile J.	Spellane, Robert
Golden, Brian Paul	Spiliotis, Joyce A.
Gomes, Shirley	Stanley, Thomas M.
Greene, William G., Jr.	St. Fleur, Marie P.
Haddad, Patricia A.	Straus, William M.
Hall, Geoffrey D.	Sullivan, David B.

Hargraves, Robert S.	Swan, Benjamin
Harkins, Lida E.	Teahan, Kathleen M.
Hill, Bradford	Timilty, Walter F.
Hillman, Reed V.	Tobin, A. Stephen
Honan, Kevin G.	Toomey, Timothy J., Jr.
Howland, Mark A.	Torrissi, David M.
Jones, Bradley H., Jr.	Turkington, Eric
Kafka, Louis L.	Vallee, James E.
Kane, Michael F.	Verga, Anthony J.
Kaprielian, Rachel	Wagner, Joseph F.
Keenan, Daniel F.	Wallace, Brian P.
Kennedy, Thomas P.	Walsh, Martin J.
Khan, Kay	Walsh, Steven Myles
Knuuttila, Brian	Webster, Daniel K.
Kocot, Peter V.	Wolf, Alice K. — 124.
ABSENT OR NOT VOTING (7).	
<i>Senators.</i>	
Brown, Scott P.	Panagiotakos, Steven C. — 2.
<i>Representatives.</i>	
Broadhurst, Arthur J.	Owens-Hicks, Shirley
Golden, Thomas A., Jr.	Simmons, Mary Jane — 5.
Kelly, Shaun P.	

The yeas and nays having been completed at fourteen minutes past three o'clock P.M., the proposal was *rejected*.

There being no objection, on motion of Mr. Lees, the Proposal for a Legislative Amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant Governor (House, No. 727) was placed at the end of the calendar.

The proposal for a Legislative Amendment to the Constitution abolishing the Executive Council (House, No. 946),— was placed before the Joint Session.

The President ruled that since this proposal was a duplicate of Senate, No. 1984 which was previously rejected by a vote of the Joint Session the proposal was declared moot as the Joint Session had previously considered the same subject matter.

The Proposal for a Legislative Amendment to the Constitution to limit the content of appropriation bills (House, No. 3287),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

Article LXIII of the Articles of Amendments to the Constitution of the Commonwealth is hereby amended by adding the following new section:—

“SECTION 5. Content of Appropriation Bills. A bill making appropriations shall not contain provisions on any other subject matter except as required for its routine implementation.”

Pending the question on ordering the proposal to a third reading, on motion of Mr. Hynes of Marshfield, the proposal was placed at the end of the calendar.

The Proposal for a Legislative Amendment to the Constitution to require biennial state budgets (House, No. 3288),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

Article LXIII of the Articles of Amendments to the Constitution of the Commonwealth is hereby amended by striking out sections 2, 3 and 4 and inserting in place thereof the following new sections:

SECTION 2. The Budget. Within three weeks after the convening of the general court the governor shall in each even numbered year recommend to the general court a biennial budget which shall contain a statement of all proposed expenditures for the fiscal year and for the ensuing fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. In the first year of the term of office of a governor who has not served in the preceding year said governor shall recommend such budget within eight weeks after the convening of the general court. The budget shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall

determine. For the purpose of preparing his budget, the governor shall have the power to require any board, commission, officer or department to furnish him with any information he may deem necessary.

SECTION 3. The Biennial Appropriation Bill. All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the biennial appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the biennial appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedures as the original budget.

SECTION 4. Special Appropriation Bills. After final action on the biennial appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

Pending the question on ordering the proposal to a third reading, on motion of Mr. Hynes of Marshfield, the proposal was placed at the end of the calendar.

The Initiative Amendment to the Constitution relative to the provision of health insurance (House, No. 4444),— was read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT

The people of the Commonwealth of Massachusetts hereby declare it necessary and expedient to alter the Constitution by the adoption of the following Article of Amendment:

Upon ratification of this amendment and thereafter, it shall be the obligation and duty of the Legislature and executive officials, on behalf of the Commonwealth, to enact and implement such laws as will ensure that no Massachusetts resident lacks comprehensive, affordable and equitably financed health insurance coverage for all medically necessary preventive, acute and chronic health care and mental health care services, prescription drugs and devices.

After debate, on motion of Mr. DiMasi of Boston, the further consideration thereof was postponed until Wednesday, July 14.

The Proposal for a Legislative Amendment to the Constitution creating a permanent “Rainy Day” fund to provide stable revenues for the Commonwealth (House, No. 4691),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

Article LXIII of the Articles of Amendments to the Constitution of the Commonwealth is hereby amended by adding the following 2 sections:

SECTION 6. There shall be established and set up on the books of the commonwealth a separate fund to be known as the stabilization fund consisting of amounts transferred to the fund and income derived from the investment of amounts so transferred. The general appropriation bill shall annually appropriate to said stabilization fund an equal to 1% of the amount of state tax revenues used to defray the general appropriation bill for the previous fiscal year.

Appropriations to said stabilization fund shall not be necessary in any fiscal year when either of the following conditions are met: (i) the general appropriation bill assumes that there is no increase or a decrease in state tax revenue due to economic factors beyond the control of the general court; or (ii) in any fiscal year immediately following a fiscal year of no increase or a decrease in said revenue due to economic factors beyond the control of the general court. All surplus funds at the end of each fiscal year shall also be deposited in said fund; however, nothing stated herein shall preclude the general court from making additional appropriations to said fund as it deems appropriate.

If said fund shall, in any given fiscal year, exceed 15% of total revenues used to defray the general appropriation act for that fiscal year, said excess shall be expended in such manner as the general court may by law prescribe. No funds may be transferred or appropriated from said fund, except by an emergency appropriations bill; provided, however, that no more than 50% of said fund shall be expended in any fiscal year.

SECTION 7. After final action on the general appropriation bill or on recommendation of the governor, emergency appropriation bills shall be enacted by a two-thirds vote of members present and voting thereon, taken by yeas and nays, of each branch of the general court. Such bills shall provide the specific means of

defraying the appropriations therein contained and shall declare in a preamble setting forth the facts constituting the emergency, public exigency, or significant distress necessitating use of these funds. An emergency appropriations bill which transfers or appropriates funds from the stabilization fund shall contain a plan for decreasing the necessity for the use of said fund in the subsequent five fiscal years resulting from the utilization of stabilization funds in the first fiscal year. No emergency appropriations bill shall transfer or appropriate more than 50% of the balance to the stabilization fund.

Pending the question on ordering the proposal to a third reading, Mr. Marzilli of Arlington moved that the proposal be amended by substituting the following text:

“SECTION 6. There shall be established and set up on the books of the commonwealth a separate fund to be known as the stabilization fund consisting of amounts transferred to the fund and income derived from the investment of amounts so transferred. The general appropriation bill shall annually appropriate to said stabilization fund an amount equal to 1% of the amount of state tax revenues used to defray the general appropriation bill for the previous fiscal year. Appropriations to said stabilization fund shall not be necessary in any fiscal year when either of the following conditions are met: (i) the general appropriation bill assumes that there is no increase or a decrease in state revenue due to economic factors beyond the control of the general court; or (ii) in any fiscal year immediately following a fiscal year of no increase or a decrease in said revenue due to economic factors beyond the control of the general court. All surplus funds at the end of each fiscal year shall also be deposited in said fund; however, nothing stated herein shall preclude the general court from making additional appropriations to said fund as it deems appropriate.

If said fund shall, in any given fiscal year, exceed 15% of total revenues used to defray the general appropriation act for that fiscal year, said excess shall be expended in such manner as the general court may by law prescribe. No funds may be transferred or appropriated from said fund, except by an emergency appropriations bill.

SECTION 7. After final action on the general appropriation bill or on recommendation of the governor, emergency appropriation bills shall be enacted by a majority vote of members present and voting thereon, taken by yeas and nays, of each branch of the general court. Such bills shall provide the specific means of defraying the appropriations therein contained and shall declare in a preamble setting forth the facts constituting the emergency, public exigency, or significant distress necessitating use of these funds. An emergency appropriations bill which transfers or appropriates funds from the stabilization fund shall contain a plan for decreasing the necessity for

the use of said fund in the subsequent five fiscal years resulting from the utilization of stabilization funds in the first fiscal year.”

After remarks, the amendment was *rejected*.

Mr. Marzilli of Arlington doubted the vote and asked for a call of the yeas and the nays.

An insufficient number of members joining with him, the yeas and nays were not ordered.

Messrs. Finneran of Boston, Rogers of Norwood, Larkin of Pittsfield, Travaglini of Suffolk and Middlesex, Jones of North Reading and Lees of Hampden and Hampshire moved that the proposal be amended in line 29 by striking the words “two-thirds” and inserting in place thereof the words “three-fifths”.

After remarks, the amendment was adopted.

The proposal, as amended, was ordered to a third reading.

The rules were suspended, on motion of Mr. Finneran of Boston, and the proposal was read a third time.

The question on agreeing to the amendment was taken by a call of the yeas and nays, as required by Article XLVIII of the amendments to the Constitution, at two minutes past six o’clock P.M., as follows, to wit (yeas 181 — nays 12) [**Senate Yeas and Nays No. 604**] [**House Yeas and Nays No. 693**]:

YEAS (181).	
<i>Senators.</i>	
Antonioni, Robert A.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	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.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.

Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert 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.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 37.
Montigny, Mark C.	
<i>Representatives.</i>	
Asselin, Christopher P.	Kujawski, Paul
Atkins, Cory	Kulik, Stephen
Atsalis, Demetrius J.	Lantigua, William
Ayers, Bruce J.	Larkin, Peter J.
Binienda, John J.	Leary, James B.
Blumer, Deborah D.	LeDuc, Stephen P.
Bosley, Daniel E.	Lepper, John A.
Bradley, Garrett J.	Linsky, David Paul
Buoniconti, Stephen J.	L'Italien, Barbara A.
Cabral, Antonio F. D.	Loscocco, Paul J.
Callahan, Jennifer M.	Malia, Elizabeth A.
Canavan, Christine E.	Mariano, Ronald
Candaras, Gale D.	Miceli, James R.
Carron, Mark J.	Murphy, Charles A.
Casey, Paul C.	Murphy, James M.
Ciampa, Vincent P.	Murphy, Kevin J.
Connolly, Edward G.	Nangle, David M.
Coppola, Michael J.	Naughton, Harold P., Jr.
Correia, Robert	Nyman, Robert J.
Costello, Michael A.	O'Brien, Thomas J.
Coughlin, Robert K.	O'Flaherty, Eugene L.
Creedon, Geraldine	Owens-Hicks, Shirley

DeLeo, Robert A.	Parente, Marie J.
deMacedo, Viriato Manuel	Patrick, Matthew C.
Dempsey, Brian S.	Pedone, Vincent A.
DiMasi, Salvatore F.	Peisch, Alice Hanlon
Donato, Paul J.	Perry, Jeffrey Davis
Donelan, Christopher J.	Petersen, Douglas W.
Donovan, Carol A.	Peterson, George N., Jr.
Driscoll, Joseph R.	Petrolati, Thomas M.
Eldridge, James B.	Petrucelli, Anthony
Evangelidis, Lewis G.	Pignatelli, William Smitty
Fagan, James H.	Poirier, Elizabeth
Fallon, Christopher G.	Polito, Karyn E.
Fennell, Robert F.	Pope, Susan W.
Festa, Michael E.	Quinn, John F.
Finegold, Barry R.	Reinstein, Kathi-Anne
Finneran, Thomas M.	Rivera, Cheryl A.
Flynn, David L.	Rodrigues, Michael J.
Fox, Gloria L.	Rogeness, Mary S.
Fresolo, John P.	Rogers, John H.
Frost, Paul K.	Ruane, J. Michael
Galvin, William C.	Rush, Michael F.
Garry, Colleen M.	Sánchez, Jeffrey
George, Thomas N.	Scaccia, Angelo M.
Gifford, Susan Williams	Scibak, John W.
Gobi, Anne M.	Speliotis, Theodore C.
Goguen, Emile J.	Spellane, Robert
Golden, Brian Paul	Spiliotis, Joyce A.
Gomes, Shirley	Spilka, Karen
Grant, Mary E.	Stanley, Harriett L.
Greene, William G., Jr.	Stanley, Thomas M.
Haddad, Patricia A.	St. Fleur, Marie P.

Hall, Geoffrey D.	Straus, William M.
Hargraves, Robert S.	Sullivan, David B.
Harkins, Lida E.	Swan, Benjamin
Hill, Bradford	Teahan, Kathleen M.
Hillman, Reed V.	Timilty, Walter F.
Honan, Kevin G.	Tobin, A. Stephen
Howland, Mark A.	Toomey, Timothy J., Jr.
Humason, Donald F., Jr.	Torrissi, David M.
Hynes, Frank M.	Travis, Philip
Jones, Bradley H., Jr.	Turkington, Eric
Kafka, Louis L.	Vallee, James E.
Kane, Michael F.	Verga, Anthony J.
Kaprielian, Rachel	Wagner, Joseph F.
Keenan, Daniel F.	Wallace, Brian P.
Khan, Kay	Walrath, Patricia A.
Knuuttila, Brian	Walsh, Martin J.
Kocot, Peter V.	Walsh, Steven Myles
Koczera, Robert M.	Webster, Daniel K.
Koutoujian, Peter J.	Wolf, Alice K. — 144.
NAYS — (12).	
<i>Senator.</i>	
Creem, Cynthia Stone — 1.	
<i>Representatives.</i>	
Balser, Ruth B.	Marzilli, J. James, Jr.
Demakis, Paul C.	Paulsen, Anne M.
Falzone, Mark V.	Rushing, Byron
Jehlen, Patricia D.	Smizik, Frank I.
Kennedy, Thomas P.	Story, Ellen — 11.
ABSENT OR NOT VOTING (6).	
<i>Senators.</i>	
Brown, Scott P.	Hedlund, Robert L. — 2.
<i>Representatives.</i>	
Broadhurst, Arthur J.	Kelly, Shaun P.

Golden, Thomas A., Jr.	Simmons, Mary Jane — 4.
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The yeas and nays having been completed at thirteen minutes past six o'clock P.M., the amendment was agreed to.

Communication.

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1059

July 7, 2004.

The Honorable William Welch
Clerk of the Senate
State House
Boston, MA 02133

Dear Mr. Clerk:

Please be advised that I was not present for a portion of today's Joint Session due to medical reasons. Any roll calls I missed today is due entirely to the reason stated.

Sincerely yours,
SHIRLEY OWENS-HICKS,
State Representative.

Without further action on the matters duly and constitutionally assigned for consideration, on motion of Mr. Lees, at fourteen minutes past six o'clock P.M., the Joint Session was recessed until Wednesday, July 14, 2004 at one o'clock P.M.

At a quarter past six o'clock P.M., the Senate reassembled, the President in the Chair.

Orders Adopted.

Mr. Baddour offered the following order, to wit:

Ordered, That, notwithstanding the provisions of any rule to the contrary, there shall be a special committee of the Senate consisting of the Senate members of the joint committee on transportation to consider the House Bill modernizing the commonwealth's transportation system (House, No. 4771, printed as amended) currently before the committee on Ways and Means.

Said special committee shall report its recommendations with the Clerk of the Senate who shall forthwith refer said report to the committee on Ways and Means.

Be it further ordered, that when the committee on Ways and Means reports on said bill, the only matter before the Senate shall be the recommendations of the committee on Ways and Means.

The order was adopted.

On motion of Mr. Tarr,—

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.

Adjournment in Memory of General George Patton.

Mr. Tarr moved that when the Senate adjourns today, it adjourn in memory of General George Patton.

General George Patton son of the late General George S. Patton, Jr. and Beatrice Ayer Patton was born Boston in 1923. He held a bachelor's degree from West Point and a master's degree in international affairs from George Washington University. He graduated from the Senior Managers in Government Program at Harvard. General Patton was the fourth George Patton in his family to serve in the military and he did so for 34 years. General Patton distinguished himself as a combat veteran of both the Korean and Vietnam wars and commanded the US 7th Army and American forces in Europe.

He was awarded many decorations for both bravery and meritorious service, including the Distinguished Service Medal, the Purple Heart for being wounded on one of his three tours of duty in Vietnam, and two awards of the Distinguished Service Cross, the nation's second-highest decoration for bravery in combat. He retired as a two-star general in 1980.

After graduating from the US Military at West Point in 1946 General Patton assignments ranged from company commander in both Europe and Korea through staff and command assignments. His career culminated in commands of the 11th Armored Cavalry "Blackhorse" Regiment in Vietnam and the Second Armored Division at Fort Hood, Texas, in 1975, a division his father had led into North Africa.

After his retirement, General Patton devoted his attention to developing land in Essex County that had belonged to the family since 1928.

This motion prevailed.

Accordingly, as a mark of respect to the memory of General George Patton, at nineteen minutes past six o'clock P.M., on motion of the same Senator, the Senate adjourned to meet again tomorrow at eleven o'clock A.M.