

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.

Monday, November 10, 2003.

Met at one minute past eleven o'clock A.M. (Mr. Rosenberg in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

Cub Scout Pack 1, Den 3, from Mendon, led the Chair (Mr. Rosenberg), members, guests and employees in recitation of the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, the Chair (Mr. Rosenberg) introduced, seated in rear of the Chamber, Cub Scout Pack 1, Den 3, from Mendon. The pack was accompanied by Den Leaders, Beth Perry and Donna Flaherty. They were the guests of Senator Moore.

Petition.

Ms. Menard presented a petition (subject to Joint Rule 12) of Joan M. Menard for legislation to restore student transportation services,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

Mr. Montigny, for the committee on Senate Long-Term Debt and Capital Expenditures, that the Senate Bill authorizing the funding of the production and modification of housing for people with disabilities (Senate, No. 734),— ought to pass, with amendments in section 1, by inserting after the word "elderly", in line 3, the following words: "the homeless, moderate income citizens of the commonwealth,"; and in section 2, by inserting at the end thereof the following item:

"Department of Housing and Community Development.

7004-7013 For the purpose of state financial assistance in the form of grants or loans for the Housing Innovations Fund Program established pursuant to section 5 of chapter 244 of the acts of 2002; provided, that not less than 25 percent of the amount appropriated in this item shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 percent of the area median income, as defined by the United States Department of Housing and Urban Development; and provided further, that funds from this program may be used to support joint projects proposed by municipalities or housing development agencies and Massachusetts colleges and universities 20,000,000."

Referred, under Senate Rule 27, to the committee on Ways and Means.

By Mr. Moore, for the committee on Health Care, on petition (accompanied by bill, Senate, No. 548), an order to authorize the joint committee on Health Care to make an investigation and study of a Senate document relative to domestic violence (Senate, No. 2133); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 683), an order to authorize the joint committee on Health Care to make an investigation and study of a Senate document relative to uninsured workers (Senate, No. 2134);

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Moore, for the committee on Health Care, on petition, a Bill relative to cord blood banking (Senate, No. 512);

By the same Senator, for the same committee, on petition, a Bill providing certain notice to pregnant women (Senate, No. 568);

By the same Senator, for the same committee, on petition, a Bill establishing the direct care workers insurance assistance program (Senate, No. 577);

By the same Senator, for the same committee, on petition, a Bill relative to medication error occurrence reporting (Senate, No. 599);

By the same Senator, for the same committee, on petition, a Bill relative to provide for the payment of a one-time bonus to health care providers for the implementation of medical error reduction technology (Senate, No. 601);

By the same Senator, for the same committee, on petition, a Bill requiring pharmacy assistance benefits for children (Senate, No. 606);

By the same Senator, for the same committee, on petition, a Bill relative to the safe administration of medications and legible prescriptions (Senate, No. 621);

By the same Senator, for the same committee, on petition, a Bill to survey the health insurance status of health care workers (Senate, No. 626); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 614), a Bill relative to the licensure and accreditation of health plans (Senate, No. 2132);

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

By Mr. Moore, for the committee on Health Care, on petition, a Bill relative to the reporting of child abuse to local law enforcement officials (Senate, No. 542);

By the same Senator, for the same committee, on Senate, Nos. 509 and 569, a Bill relative to the Board of Registration in Nursing (Senate, No. 569);

By the same Senator, for the same committee, on petition, a Bill regarding eye exams for children (Senate, No. 687); and

By Ms. Wilkerson, for the committee on State Administration, on petition, a Bill designating a certain roadway in the Veteran's Memorial cemetery in the town of Winchendon (Senate, No. 2126);

Severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Committee Discharged.

Mr. Moore, for the committee on Health Care, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 672) of Charles E. Shannon for legislation relative to registered nurse first assistants,— **and recommending that the same be referred to the committee on Insurance.**

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

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to providing for the transfer of a parcel of conservation/recreation land owned by the Department of Conservation and Recreation in the town of Erving to the Massachusetts Highway Department for highway purposes (House, No. 4301),— **was referred, in concurrence, to the committee on State Administration.**

A Bill establishing a sick leave bank for Donna M. Tansey, an employee of the Division of Employment and Training (House, No. 4250,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A report of the committee on Health Care, ought NOT to pass, on so much of the recommendations of the Division of Medical Assistance (House, No. 57) as relates to transferability between accounts (accompanied by bill, House, No. 61),— **was referred, under Senate Rule 36, to the committee on Steering and Policy.**

Reports

Of the committee on Local Affairs and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1982) of Pamela P. Resor, James B. Eldridge and Cory Atkins (by vote of the town) for legislation to authorize the Board of Selectmen of Acton to send certain information to the registered voters in the town of Acton,— and recommending that the same be referred to the committee on Election Laws.

Of the committee on Transportation, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 660) of John J. Binienda for legislation to require the Massachusetts Turnpike Authority to provide alternative fuel at facilities of said authority,— and recommending that the same be referred to the committee on Energy.

Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.

Reports

Of the committee on Health Care, asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 3782) of Kathleen M. Teahan and other members of the General Court relative to the access of disabled children to medical care and assistance;

Of the petition (accompanied by bill, House, No. 3783) of Kathleen M. Teahan and other members of the General Court relative to medical and dental care for foster children;

Of the petition (accompanied by bill, House, No. 3785) of Kathleen M. Teahan and other members of the General Court relative to the federal assistance from claims filed by the Division of Medical Assistance on in-kind administrative services; and

Of the petition (accompanied by bill, House, No. 3786) of Kathleen M. Teahan and other members of the General Court relative to managed care programs for certain children;

And recommending that the same severally be referred to the House committee on Medicaid.

Of the committee on Ways and Means (Joint), asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 2913) of Vincent A. Pedone for payment from the State Treasury of a certain sum of money to Brendan J. Perry & Associates, P.C.;

Of the petition (accompanied by bill, House, No. 3105) of John P. Fresolo, Joan M. Menard and another relative to the Commonwealth Stabilization Fund; and

Of the petition (accompanied by bill, House, No. 3286) of Antonio F. D. Cabral for legislation to exempt owners from providing an indemnity for certain lost or stolen registered bonds;

And recommending that the same severally be referred to the House committee on Ways and Means.

Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence, inasmuch as relates to the discharge of the joint committee.

Resolutions.

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

Resolutions (filed by Mr. Lees) “honoring the community service efforts of Youthbuild members and Fleet staff on November 21, 2003”; and

Resolutions (filed by Mr. Tisei) “congratulating Ms. Janice Houghton, recipient of the Stoneham Chamber of Commerce’s Citizen of the Year Award.”

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE.
STATE HOUSE, BOSTON 02133-1053

November 10, 2003.

Mr. William F. Welch
Acting Clerk of the Massachusetts Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

On November 5, 2003, I was delayed in my arrival in the Senate Chamber due to a commitment outside the building. Therefore, I was unable to be present for the first roll call taken on the following matter:

Enactment of Senate 187, "An Act to Enhance the State DNA Data Base".

Had I been present, I would have voted in the affirmative on the above matter. I would appreciate your assistance with the printing of this communication in today's Senate Journal. Thank you.

Sincerely,
ROBERT S. CREEDON, JR.,
Senator,
Second Plymouth and Bristol District.

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

PAPERS FROM THE HOUSE.

A Bill relative to the terms of certain bonds to be issued by the Commonwealth (printed in House, No. 4097,— being a message from Her Honor the Lieutenant-Governor, Acting Governor),— was read.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

A Bill relative to the terms of certain bonds to be issued by the Commonwealth (printed in House, No. 4117,— being a message from His Excellency the Governor),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

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

A Bill relative to the historic business district of the town of Chatham (House, No. 4197,— on House, No. 4080) [Local approval received on House, No. 4080],— was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Report of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of David P. Magnani and Thomas M. McGee for legislation relative to pension benefits for certain public employees.

Senate Rule 36 was suspended, on motion of Mr. Tolman, and was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill authorizing the Commissioner of Capital Asset and Management and Maintenance to grant an easement to the county of Nantucket (see Senate, No. 2082, 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 and sent to the House for enactment.

Engrossed Bills.

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

Relative to the geriatric authority of Holyoke (see House, No. 3722); and

Authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the city of Worcester (see House, No. 3917, amended).

Report of a Committee.

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

The House Bill relative to police mutual aid agreements (House, No. 593).

There being no objection, on motion of Mr. Hedlund, the bill was read a second time, and on further motion of Mr. Hedlund, the bill was recommitted to the committee on Public Service.

Recess.

At eleven minutes past eleven o'clock A.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair, and at nine minutes before twelve o'clock noon, the Senate reassembled, Mr. Rosenberg in the Chair.

PAPER FROM THE HOUSE.

Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the Inland Fisheries and Game Fund (see House, No. 4248, amended) as relates to section 14A [for message, see House, No. 4299],— came from the House with endorsement that the House adopted the amendment (as recommended by the committee on Bills in the Third Reading) in the following form: “An Act relative to fiscal relief funds” (House, No. 4302).

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The House amendment was considered. Ms. Murray presented an amendment, by inserting after section 1, the following section:—

“SECTION 1A. Section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after item 1599-3384 the following item:—

1599-3391 For a reserve for the payment or reimbursement of certain court judgments, settlements or legal fees; provided, that in accordance with regulations promulgated by the comptroller, prior fiscal year judgments, settlements or legal fees may be paid or reimbursed from this item; provided that, not less than \$3,500,000 shall be provided for payment or reimbursement for legal fees and other costs associated with civil action number 2002-10428-DPW and civil action number 2002-11190-DPW; provided further, that \$486,000 shall be expended from this item for the resolution of the Adam Dzialo case; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item; provided further, that no amount appropriated in this item shall fund attorneys’ fees for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts; and provided further, that no funds shall be expended from this item for any settlements pursuant to Superior Court Civil Action NO. 03-1913, BLS Allen’s Pharmacy Cape Ann, & others vs. Christine C. Ferguson, Acting Commissioner of the Massachusetts Division of Health Care Finance and Policy 16,579,000”.

The amendment was adopted.

The House amendment, as amended, was then adopted.

Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Hedlund,—

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

Recess.

At six minutes before twelve o'clock noon, the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair, and at twelve minutes past one o'clock P.M., the Senate reassembled, Mr. Rosenberg in the Chair.

PAPERS FROM THE HOUSE.

Committee of Conference.

The House Bill providing for investments in emerging technologies to stimulate job creation and economic opportunity in the Commonwealth (House, No. 3955, printed as amended),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2131 and striking out the title and inserting in place thereof the following title: “An Act to promote job creation, economic stability and competitiveness in the Massachusetts economy.”, and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Larkin of Pittsfield, Dempsey of Haverhill and Lepper of Attleboro had been appointed the committee on the part of the House.

**On motion of Ms. Fargo, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Panagiotakos, Melconian and Tarr were appointed on the part of the Senate.
The bill was returned to the House endorsed accordingly.**

The Senate Bill relative to public employees serving in the armed forces of the United States (Senate, No. 1985, 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 contained in House document numbered 4307.

The rules were suspended, on motion of Ms. Fargo, and the House amendment was considered forthwith.

Ms. Menard presented an amendment, in section 1, by adding the following sentence:— “Nothing in this section shall limit or reduce a person’s entitlement to benefits under section 59 of chapter 33 of the General Laws.”

The amendment was adopted.

The Senate then concurred in the House amendment, as amended.

Sent to the House for concurrence in the further amendment.

On motion of Mr. Hedlund, at twenty-nine minutes before two o’clock P.M., the Senate adjourned to meet on the following Wednesday at eleven o’clock A.M.