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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, November 17, 2003.

Met at one minute past one o'clock P.M.

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

Distinguished Guests.

There being no objection, the President handed the gavel over to Senator Chandler, who introduced, seated in the Senate gallery, the cross country team from the Thomas Prince School in Princeton. The team is the Wachusett Regional Central Massachusetts championship cross country team.

There being no objection, the President introduced, seated in the Senate gallery, the North Central Massachusetts Tobacco Free Mass Organization. They were the guests of Senator Brewer.

Petitions.

Petitions were presented and referred, as follows:

By Mr. Antonioni (by request), a petition (subject to Joint Rule 12) of Donna Engen for legislation to further regulate school choice admission of siblings; and

By Mr. Berry, a petition (subject to Joint Rule 12) of Frederick E. Berry for legislation relative to the computerization of the examination for certification for the practice of public accountancy;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. McGee, for the committee on Criminal Justice, on petition, a Bill penalizing domestic abusers (Senate, No. 154); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 212), a Bill relative to criminal offender record information checks for assisted living facilities (Senate, No. 2142);

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

By Mr. McGee, for the committee on Criminal Justice, on petition, a Bill relative to the crime of engaging in legal or medical running (Senate, No. 170);

By the same Senator, for the same committee, on petition, a Bill relative to the penalties for killing, maiming or poisoning of an animal (Senate, No. 198);

By Mr. Magnani, for the committee on Public Service, on petition, a Bill authorizing payroll deductions for certain contributions to the State Police Museum Fund (Senate, No. 1417); and

By the same Senator, for the same committee, on petition, a Bill authorizing the appointment of Kenneth E. Wright as a police officer in the town of Mansfield (Senate, No. 1589);

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

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4309) of Marie J. Parente and Richard T. Moore (by vote of the town) relative to exempting certain members of the police force in the town of Hopedale from the provisions of civil service law,— **was referred, in concurrence, to the committee on Public Service.**

A Bill relative to the taxation of corporations (printed in House, No. 3727, changed,— being a message from His Excellency the Governor),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill relative to insurance fraud (House, No. 921,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

A Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4311, printed as amended,— on House, No. 3884, in part),— was read.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time.

The same Senator moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2140.

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.

Resolutions.

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

Resolutions (filed by Mr. Magnani) “honoring the Framingham Parish of Saint Bridget’s Church”;

Resolutions (filed by Mrs. Sprague) “congratulating Andrew Robert McGowan of Medfield upon his elevation to the rank of Eagle Scout”; and

Resolutions (filed by Mrs. Sprague) “congratulating Michael Thomas Cross of Foxborough upon his elevation to the rank of Eagle Scout.”

Communications.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE. BOSTON 02133-1063

November 14, 2003.

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

Dear Mr. Clerk:

On November 13, 2003, due to a scheduling conflict, I was unable to be present for several roll call votes. Had I been present I would have voted as follows: In the affirmative on amendment 38;

In the affirmative on amendment 52;

In the affirmative on the question of engrossment of S.2139, the FY 2004 supplemental budget, as amended; Your assistance with the printing of this communication in the Senate Journal is appreciated. Thank you.

Very truly yours,
GUY W. GLODIS,
State Senator,
Second Worcester District.

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

The Clerk read the following communication:

November 17, 2003.

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

Dear Mr. Clerk:

On Thursday, November 13, 2003, I was unable to be present for roll call votes concerning the following matters:

- Overriding the Governor's veto of item 2810-2040 relative to the Division of State Parks and Recreation;
- Overriding the Governor's veto of item 1410-0400 relative to veteran's benefits; and
- Enactment of H.4131 relative to conservation land in the Town of North Reading.

Had I been present, I would have voted in the affirmative on each of these matters. I respectfully request that this letter be read into the record at the next session of the Senate. Thank you for your assistance with this matter.

Sincerely,
CYNTHIA STONE CREEM,
State Senator.

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

The Clerk read the following communication:

November 17, 2003.

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

Dear Mr. Clerk:

I respectfully ask that this correspondence be read into the record at the next session of the Senate. Due to a scheduling conflict, I was absent from the chamber during the final roll call vote on Thursday, November 13.

Had I been present, I would have voted in the affirmative on the question of engrossment of the supplemental budget, Senate 2139. Thank you for your consideration.

Sincerely,
CHERYL A. JACQUES,
State Senator,
Norfolk, Bristol & Middlesex District.

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

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 Charles E. Shannon, Thomas M. McGee, Richard T. Moore, Steven A. Baddour and other members of the General Court for legislation relative to fees for certain elevator inspections.

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

At seven 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 before two o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

Committee of Conference.

The House Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4311),— 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 2410), and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Rogers of Norwood, Larkin of Pittsfield and deMacedo of Plymouth had been appointed the committee on the part of the House.

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

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the conservation commission of the town of Andover to grant an easement (see Senate, No. 1183) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at sixteen minutes before two o'clock P.M., as follows, to wit (yeas 35 — nays 0) [Yeas and Nays No. 376]:

YEAS.

Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Joyce, Brian A.
Barrios, Jarrett T.	Knapik, Michael R.
Berry, Frederick E.	Lees, Brian P.
Brewer, Stephen M.	Magnani, David P.
Chandler, Harriette L.	McGee, Thomas M.
Creedon, Robert S., Jr.	Melconian, Linda J.
Fargo, Susan C. .	Menard, Joan M
Glodis, Guy W.	Montigny, Mark C.
Hart, John A., Jr.	Moore, Richard T.
Havern, Robert A.	Nuciforo, Andrea F., Jr.
O'Leary, Robert A.	Tarr, Bruce E.
Pacheco, Marc R.	Tisei, Richard R.
Panagiotakos, Steven C.	Tolman, Steven A.
Resor, Pamela	Tucker, Susan C.
Rosenberg, Stanley C.	Walsh, Marian
Shannon, Charles E.	Wilkerson, Dianne—
Sprague, Jo Ann	35.

NAYS — 0.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone	Morrissey, Michael W.
Jacques, Cheryl A.	Murray, Therese — 4.

The yeas and nays having been completed at eleven minutes before two o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill to improve public health in the Commonwealth (House, No. 4256, printed as amended),— was considered, the main question being on ordering the bill to a third reading.

Ms. Fargo moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2130.

Messrs. Tisei and Lees moved that the proposed new text be amended by striking out in Section 1 within the definition of “Lodging Home” the words “or nursing homes” contained in line 37; and further moved to amend the bill by striking out lines 192 through 239, inclusive.

After debate, the question on adoption of the further amendment was determined by a call of the yeas and nays, at eight minutes before three o’clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 10 — nays 28) [**Yeas and Nays No. 377**]:

YEAS.

Creedon, Robert S., Jr.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
Menard, Joan M.	Walsh, Marian — 10.

NAYS.

Antonioni, Robert A.	Glodis, Guy W.
Baddour, Steven A.	Hart, John A., Jr.
Barrios, Jarrett T.	Havern, Robert A.
Berry, Frederick E.	Jacques, Cheryl A.
Brewer, Stephen M.	Joyce, Brian A.
Chandler, Harriette L.	Magnani, David P.
Fargo, Susan C.	McGee, Thomas M.
Melconian, Linda J.	Pacheco, Marc R.
Montigny, Mark C.	Panagiotakos, Steven C.
Moore, Richard T.	Resor, Pamela
Morrissey, Michael W.	Rosenberg, Stanley C.
Murray, Therese	Tolman, Steven A.
Nuciforo, Andrea F., Jr.	Tucker, Susan C.
O’Leary, Robert A.	Wilkerson, Dianne — 28.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone — **1.**

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

Mr. Tisei moved that the proposed new text be further amended by striking out in Section 1 the definition of “Membership Association” contained in lines 45 through 56, inclusive, in its entirety, and further moved to amend the bill by striking out lines 133 through 135, inclusive.

After debate, the question on adoption of the further amendment was determined by a call of the yeas and nays, at twenty-seven minutes past three o’clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 11 — nays 27) [**Yeas and Nays No. 378**]:

YEAS.

Chandler, Harriette L.	O’Leary, Robert A.
Hedlund, Robert L.	Shannon, Charles E.

Knapik, Michael R.	Sprague, Jo Ann
Lees, Brian P.	Tarr, Bruce E.
McGee, Thomas M.	Tisei, Richard R. — 11.
Morrissey, Michael W.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Tolman, Steven A.
Jacques, Cheryl A.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 27.
Melconian, Linda J.	

ABSENT OR NOT VOTING.

Creem, Cynthia Stone —
1.

Mr. Havern in the Chair, the yeas and nays having been completed at twenty-nine minutes before four o'clock P.M., the amendment was rejected.

The recurring question on the adoption of the pending amendment (Fargo),— was considered; and it was adopted. The bill (House, No. 4256) as amended, was ordered to a third reading.

The President in the Chair, Mr. Lees moved that all pending amendments to this bill be printed in the calendar pursuant to the provisions of Senate Rule 31, and this motion was seconded by Mr. Tisei.

Resolutions.

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

Resolutions (filed by Mr. Moore) “honoring the Whitinsville Christian School on the occasion of its seventy-fifth anniversary.”

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to debt collection and loan servicing agencies (see House, No. 13) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at twenty-one minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 379**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L. .	Nuciforo, Andrea F., Jr

Creedon, Robert S., Jr.	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne—

38.

NAYS — 0.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone — **1.**

The yeas and nays having been completed at seventeen minutes before four o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Governor for his approbation.

An engrossed Bill establishing reasonable fees for copying medical records (see Senate, No. 642) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at sixteen minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 380**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L. .	Nuciforo, Andrea F., Jr
Creedon, Robert S., Jr.	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian

Melconian, Linda J. Wilkerson, Dianne—
38.

NAYS — 0.

ABSENT OR NOT VOTING.

Creem, Cynthia Stone — 1.

The yeas and nays having been completed at twelve minutes before four o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Governor for his approbation.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4315) of Brian Knuuttila, Robert A. Antonioni and another relative to the dissemination of criminal information to licensed pawnbrokers;

Under suspension of Joint Rule 12, to the committee on Criminal Justice.

Petition (accompanied by bill, House, No. 4316) of Brian Knuuttila and Stephen M. Brewer for legislation to further regulate interest and penalty charges in rental agreements;

Under suspension of Joint Rule 12, to the committee on Commerce and Labor.

Petition (accompanied by bill, House, No. 4317) of Frank M. Hynes for legislation to require organizations regulated by the Department of Public Utilities to provide toll-free telephone access to customers;

Under suspension of Joint Rule 12, to the committee on Government Regulations.

Petition (accompanied by bill, House, No. 4318) of Frank M. Hynes, Robert L. Hedlund and Garrett J. Bradley (by vote of the town) that the town of Scituate be authorized to establish a one-year moratorium on applications for affordable housing in said town;

Under suspension of Joint Rule 12, to the committee on Housing and Urban Development.

Petition (accompanied by bill, House, No. 4319) of William C. Galvin relative to the reporting of fees and the disposition of excess fees collected by constables;

Petition (accompanied by bill, House, No. 4320) of Frank M. Hynes relative to the acquisition of new estates or claims of homestead; and

Petition (accompanied by bill, House, No. 4321) of Brian Knuuttila and other members of the General Court relative to private attorneys providing public counsel services;

Severally, under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 4322) of Joseph R. Driscoll for legislation to authorize the Department of Mental Retardation to establish a sick leave bank for Shirley Morrow, an employee of said department;

Petition (accompanied by bill, House, No. 4323) of Brian Knuuttila and Robert A. Antonioni for legislation to authorize the Department of Correction to establish a sick leave bank for Christopher Bailey, an employee of said department; and

Petition (accompanied by bill, House, No. 4324) of Brian Knuuttila and Robert A. Antonioni for legislation to authorize the Department of Mental Retardation to establish a sick leave bank for James Flamer, an employee of said department;

Severally, under suspension of Joint Rule 12, to the committee on Public Service.

The Senate Bill relative to public employees serving in the armed forces of the United States (Senate, No. 1985, amended),— came from the House with the endorsement that the House had concurred in the further Senate 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.”, *with a still further amendment* inserting after the word “Laws” [at “C”] the words “, and nothing in this section shall entitle a person to benefits in excess of the maximum benefit provided under said section 59 of said chapter 33 for any period during which that person is receiving benefits under this section”.

The rules were suspended, on motion of Ms. Menard, and the House amendment was considered forthwith and adopted, in concurrence.

The House Bill authorizing the town of Hingham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 3886),— came from the House with the endorsement that the House had concurred in the Senate amendment striking out, in line 3, the words “Boston Golf Club”, *with further amendments* in line 3 by striking out the words “Boston Golf Club” and inserting in place thereof the following: “d/b/a Boston Golf Club located at 31 Old County road in said

town”, by adding at the end thereof the following sentence: “The licensing authority shall not approve the transfer of the license to any other location.”; and by adding at the end thereof the following section:

“SECTION 2. This act shall take effect upon its passage.”.

The rules were suspended, on motion of Mr. Rosenberg, and the House amendment was considered forthwith and adopted, in concurrence.

Matter Taken Out of the Notice Section of the Calendar.

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

The House Bill granting civil service preference to the children of a certain deceased police officer (House, No. 3942) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and, after remarks, was passed to be engrossed, in concurrence.**

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1063

November 17, 2003.

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

Dear Mr. Clerk,

On November 17, 2003, I was delayed in arriving in the Senate Chamber because I was meeting with municipal light plant officials in the State House. As a result, I was unable to vote on roll call number 376, which is the enactment of Senate Bill 1183, An Act Authorizing the Conservation Commission of the Town of Andover to Grant a Certain Easement. Had I been present for the roll call vote, I would have voted in the affirmative.

I ask that this correspondence be printed in the Senate Journal.

Thank you for your time and assistance.

Sincerely,
MICHAEL W. MORRISSEY,
Senator,
Norfolk and Plymouth District.

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

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 Senate Bill protecting the natural and historic resources of the Commonwealth (Senate, No. 1254) (the committee on Ways and Means having recommended that the bill be amended in section 2, by striking out, in line 12, the words “section 8 of”; by striking out, in line 35, the words “purposes of Article 97” and inserting in place thereof the following words “natural resource purposes”; by inserting after the word “is”, in line .41, the following word:— “for”; by inserting after the words “uses, or,” in line 41, the following word:— “for”; by striking out, in line 65, the word “or” and inserting in place thereof the following word:— “and”; and by striking out, in line 141, the word “affair” and inserting in place thereof the following word:— “affairs”).

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

The bill (Senate, No. 1254, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Havern,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M.

On motion of the same Senator, at two minutes before four o'clock P.M., the Senate adjourned to meet on the following day at one o'clock P.M., in a full formal session.