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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, May 1, 2003.

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

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

Distinguished Guests.

Mr. Rosenberg in the Chair,— there being no objection, the Chair (Mr. Rosenberg) introduced the Amherst Regional High School boys basketball team, Division 1 Massachusetts State Champions. The team is also the 2003 Division 1 Western Massachusetts champions. The team was accompanied by their coach, Jim Matuszko, and all were the guests of Senator Rosenberg.

Communication.

The President in the Chair,— a communication from the State of Arizona transmitting a copy of concurrent Resolution 1022 rescinding all of said state's previous calls for a constitutional convention to amend the Constitution of the United States (received Wednesday, April 30, 2003),— **was placed on file.**

Petitions.

Mr. Barrios presented a petition (accompanied by bill, Senate, No. 1986) of Jarrett T. Barrios (with the approval of the mayor and city council) for legislation relative to the revaluation of real and personal property in the city of Revere [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Taxation.**
Sent to the House for concurrence.

Mr. Panagiotakos presented a petition (subject to Joint Rule 12) of Steven C. Pangiotakos, Thomas A. Golden, Jr., David M. Nangle and Kevin J. Murphy for legislation to establish a sick leave bank for Christopher Boumil, an employee of the Department of Correction,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 3840) of Shirley Gomes and Robert A. O'Leary (by vote of the town) relative to the relocation and alteration of High Pole Hill Road in the town Provincetown;
To the committee on Transportation.

Petition (accompanied by bill, House, No. 3842) of Shirley Gomes and Robert A. O’Leary (by vote of the town) relative to affordable housing in the town of Provincetown;

To the committee on Housing and Urban Development.

Petition (accompanied by bill, House, No. 3843) of Shirley Gomes and Robert A. O’Leary (by vote of the town) relative to the maintenance and improvement of open space property in the town of Provincetown;

To the committee on Taxation.

A report of the committee on Commerce and Labor, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 486) of John J. Binienda relative to the disclosure of motor fuel pricing policies to retail dealers, and recommending that the same be referred to the committee on Energy,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

Resolutions.

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

Resolutions (offered by Ms. Murray) “forecasting the amount of tax revenue for Fiscal Year 2004”;

Whereas, section 5B of chapter 29 of the General Laws provides for the general court to adopt a joint tax revenue forecast for the ensuing fiscal year reflecting the consensus of the House and Senate committees on ways and means and the commissioner of administration; and

Whereas, said section 5B of said chapter 29 provides that such tax revenue forecast shall establish the maximum amount of tax revenue which may be considered for the general appropriation act for the ensuing fiscal year; and

Whereas, the adoption of such tax revenue forecast will make a significant contribution to a balanced budget and fiscal stability; now therefore be it

Resolved, that the Massachusetts Senate hereby finds and declares that the amount of tax revenue available for the general appropriation act for fiscal year 2004, in the absence of any changes in statute relating to taxation enacted after February 1, 2003, shall not exceed \$13,993,719,500; and be it further

Resolved, that a copy of this resolution be forwarded by the Clerk of the Senate to His Excellency Mitt Romney, governor of the commonwealth.

After remarks, the question on adoption of the resolutions was determined by a call of the yeas and nays, at fourteen minutes past one o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0) **[Yeas and Nays No. 15]:**

YEAS.

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

Morrissey, Michael W. Wilkerson, Dianne — 36.

NAYS — 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. Shannon, Charles E. — 3.
Montigny, Mark C.

The yeas and nays having been completed at twenty-one minutes past one o'clock P.M., the resolutions were adopted.

Resolutions.

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

Resolutions (filed by Mr. Pacheco) “on the retirement of Dr. Martin T. Hanley”;

Resolutions (filed by Ms. Resor, Messrs. Barrios, Berry and Brewer, Ms. Chandler, Messrs. Glodis and Hedlund, Ms. Jacques, Messrs. Joyce, Knapik and Magnani, Ms. Melconian, Ms. Menard, Messrs. Montigny and Moore, Ms. Murray, Messrs. Nuciforo, Pacheco, Panagiotakos, Rosenberg, Shannon, Tarr, Tisei and Tolman, Ms. Tucker, Mr. Hart and Ms. Walsh) “celebrating National Nurses Week”; and

Resolutions (filed by Mr. Shannon) “congratulating the Jenks Senior Center on the occasion of its twenty-fifth anniversary.”

Resolutions (filed by Ms. Murray, Messrs. Brewer, Joyce, Tolman, McGee and Shannon, Ms. Tucker, Mr. Pacheco, Ms. Wilkerson and Messrs. Rosenberg, O’Leary, Berry and Hart and Ms. Chandler and Messrs. Magnani and Panagiotakos) “requesting federal economic and fiscal assistance for Massachusetts and other states”,— **was read and, after remarks, was adopted.**

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to the appointment of a city councilor in the city of Marlborough (see House, No. 3812) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.**

An engrossed Bill relative to the election of members of the Board of Selectmen in the town of Charlton (see printed in Senate, No. 1983) (which originated in the Senate), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted, two-thirds of the members present having voted in the affirmative, and it was signed by the President and laid before the Governor for his approbation.**

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Sandwich to convey certain conservation land (see House, No. 2016, amended) (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; 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 twenty-eight minutes before two o'clock P.M., as follows, to wit (yeas 37 — nays 0) **[Yeas and Nays No. 16]:**

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.

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.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. Shannon, Charles E. — 2.

The yeas and nays having been completed at twenty-three 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.

Petition.

A petition (having been transmitted to the Secretary of State under the provisions of Section 7 of Chapter 3 of the General Laws, and returned by him with memoranda relative thereto) was referred, as follows, to wit:

Petition (subject to Joint Rules 12 and 9) of Joan M. Menard for legislation relative to the merger of the Moby Dick Council, Inc., Boy Scouts of America of Massachusetts and the Narragansett Council Boy Scouts of America of Rhode Island;

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

Subsequently, Mr. Brewer, for the said committees on Rules of the two branches, acting concurrently, reported, recommending that Joint Rules 12 and 9 be suspended.

Senate Rule 36 was suspended, on motion of Ms. Menard, and the report was considered forthwith. Joint Rules 12 and 9 were suspended; and the petition (accompanied by bill) was referred to the committee on Commerce and Labor. Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill designating the Bay State Tartan as the official District Tartan of the Commonwealth (House, No. 627) (its title having been changed by the committee on Bills in the Third Reading) — **was read a third time and passed to be engrossed, in concurrence.**

Matter Taken Out of the Notice Section of the Calendar.

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

The House Bill relative to the town of Webster retirees insurance premium special rate (House, No. 428),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Motion to Take Matter Out of the Notice Section — Objection.

Mr. Glodis moved that the House Bill authorizing the city of Worcester to reinstitute an early retirement incentive program (House, No. 3813) be taken out of the Notice Section of the Calendar,— **after remarks, objection was made thereto by Mr. Tisei, and the motion was negatived.**

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill relative to public employees serving in the armed forces of the United States (Senate, No. 1985),— was read third time.

Pending the question on passing the bill to be engrossed, Ms. Menard moved that the bill be amended by striking out section 2 and inserting in place thereof the following 2 sections:

“SECTION 2. Notwithstanding any general or special law to the contrary, state agencies and municipal governments may expend in the current fiscal year associated costs incurred in prior fiscal years pursuant to this act.

SECTION 3. This act shall apply only to the salaries of public employees payable on or before October 1, 2003, unless, notwithstanding section 31 of chapter 29 of the General Laws or any other general or special law to the contrary, the governor from time to time by executive order extends this period for not more than 6 months at a time, and in no case later than September 11, 2005.”.

After remarks, this amendment was adopted.

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at five minutes before two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays 17**]:

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.
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.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. Shannon, Charles E. — 2.

The yeas and nays having been completed at two o'clock P.M., the bill (Senate, No. 1985, amended) was passed to be engrossed.

Sent to the House for concurrence.

Matter Taken Out of the Notice Section of the Calendar.

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

The House Bill relative to the compensation of certain members of the General Court (House, No. 3743),— was read a second time, ordered to a third reading and read a third time.

After debate, the question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at twenty-eight minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 29 — nays 9) [**Yeas and Nays No. 18**]:

YEAS.

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.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Tolman, Steven A.
Havern, Robert A.	Travaglini, Robert E.
Jacques, Cheryl A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne —
Menard, Joan M.	29.

NAYS.

Creem, Cynthia Stone	Resor, Pamela
Hedlund, Robert L.	Sprague, Jo Ann
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 9.
Lees, Brian P.	

ABSENT OR NOT VOTING.

McGee, Thomas M.	Shannon, Charles E. —
	2.

The yeas and nays having been completed at twenty-one minutes before three o'clock P.M., the bill was passed to be engrossed, in concurrence.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Order [offered by Senator Brewer] that reads as follows:

“Ordered. That notwithstanding any rules to the contrary, the Senate shall give full consideration up to and including its final enactment to the House Bill relative to the compensation of certain members of the General Court (House, No. 3743), currently in the notice session of the Calendar. The Senate shall consider the bill timely for debate for the session to be held on Thursday, May 1, 2003. The bill will then be read a second time, ordered to a third reading and read a third time. At which point the bill will be up for amendment and debate but all other motions delaying immediate action will be considered out of order. After the bill has been passed to be engrossed in the Senate and returned from the House, votes on an emergency preamble and final passage will be considered forthwith, in each instance. No motions to delay the votes will be considered proper in either instance.”— **was considered; and it was laid aside as moot.**

The House Bill making an appropriation for fiscal year 2003 to provide for supplementing a certain existing appropriation and for certain other activities and projects (House, No. 3833) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, the question on passing it to be engrossed, in concurrence, was determined by a call of the yeas and nays, at seventeen minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 19**]:

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.
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.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne — 37.
Melconian, Linda J.	

NAYS — 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. Shannon, Charles E. — 2.

The yeas and nays having been completed at eleven minutes before three o'clock P.M., the bill was passed to be engrossed, in concurrence.

Recess.

There being no objection, at ten minutes before three o'clock P.M., the President declared a recess subject to the call of the Chair; and at twenty-nine minutes before five o'clock P.M., the Senate reassembled, the President in the Chair.

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill making an appropriation for fiscal year 2003 to provide for supplementing a certain existing appropriation and for certain other activities and projects (see House, No. 3833, printed as amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Governor for his approbation.**

Order Adopted.

On motion of Mr. Berry,—

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

Adjournment in Memory of Natalie Towle.

The Senator from Middlesex and Worcester, Ms. Resor moved that when the Senate adjourns today, it adjourn in memory of Marlborough City Councilor, Natalie Towle who passed away on March 22. Ms. Towle had served on the council as Ward 7 representative since her 1999 election and in the 1970s and 1980s she spent a decade on the Planning Board. Ms. Towle was remembered as being a woman who spent a lot of time and energy working for the city and the people she represented. Ms. Towle will be missed by the City of Marlborough, and her friends and family. The motion prevailed.

Accordingly, as a mark of respect to the memory of Natalie Towle, at twenty-seven minutes before five o'clock P.M., on motion of Mr. Lees, the Senate adjourned to meet on Monday next at eleven o'clock A.M.