

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.



Wednesday, June 23, 2004.

Met at one minute past eleven o'clock A.M. (Mr. Havern in the Chair).

At two minutes past eleven o'clock A.M., the Chair (Mr. Havern), declared a recess subject to the call of the chair; and, at twenty-three minutes before twelve o'clock noon, the Senate reassembled, the President in the Chair.

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

Communication.

A communication was received from the President, announcing that effective today, Senator Cynthia Stone Creem has been appointed to serve as a member of the Joint Committee on the Judiciary.

Report.

A report of the Executive Office of Transportation and Construction (pursuant to line item 6000-0100 of the General Appropriation Act for fiscal year 2004 and Chapter 87 of the Acts of 2000) submitting various reports (received Tuesday, June 22, 2004),— was placed on file.

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 Government Regulations to make an investigation and study of certain Senate documents (Senate, No. 2289), reported, in part, asking to be discharged from further consideration
Of the Senate petition (accompanied by bill, Senate, No. 411) of John A. Hart, Jr. and Martin J. Walsh for legislation to protect certain gas company employees in staffing level reductions caused by deregulation; and
Of the Senate petition (accompanied by bill, Senate, No. 412) of John A. Hart, Jr. and Martin J. Walsh for legislation to provide additional protection in the marking of underground utility lines; and
Of the Senate petition (accompanied by bill, Senate, No. 413) of John A. Hart, Jr. and Martin J. Walsh for legislation relative to the monitoring of natural gas leaks; and
Of the Senate petition (accompanied by bill, Senate, No. 440) of New England Gas Workers Alliance, AFL-CIO, by Paul Hannon, and Michael W. Morrissey for legislation to provide for the annual inspection of schools, churches, hospitals, theatres, arenas and other public buildings by gas corporations in the Commonwealth,— and recommending that the same severally be recommitted to the committee on Government Regulations.
Under Senate Rule 36, the reports were severally considered forthwith and accepted.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4875) of Lida E. Harkins and Scott P. Brown (by vote of the town) relative to amending the charter of the town of Needham,— was referred, in concurrence, to the committee on Local Affairs and Regional Government.

Report of a Committee.

The committee on Ethics and Rules, under the provisions of Senate Rules 13A and 63, reports, recommending the following order be adopted.

Ordered, That the Committee Bill relative to special elections to fill vacancies for Senator and Representative in Congress (Senate, No. 2404) (having been reported favorably by the committee on Election Laws) shall be taken up forthwith for full consideration. The provisions of Senate Rules 13B, 24, 31 and 53 shall be suspended in relationship to this bill so that the matter may reach its final conclusion at the same session. Under the provisions of Senate Rule 47, debate on this bill shall be limited to two hours.

Pending the question on adoption of the order, Mr. Lees moved that the order be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed without question until the next session.

Order Adopted.

Mr. Brewer offered the following order, to wit:—

Ordered, That when the Senate adjourns today, it adjourn to meet again forthwith for a second legislative day.

After debate, the question on adoption of the order was determined by a call of the yeas and nays, at six minutes before twelve o'clock noon, on motion of Mr. Lees, as follows, to wit (yeas 31 — nays 7) [Yeas and Nays No. 586]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	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 P.
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 31.
Menard, Joan M.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Barrios, Jarrett T. — 1.

The yeas and nays having been completed at three minutes before twelve o'clock noon, the order was adopted. The Senate then adjourned to meet again forthwith for a second legislative day.

Second Legislative Day.

Met according to adjournment.

The order previously recommended by the committee on Ethics and Rules was considered,— the question being on adoption of the order.

The pending motion to lay the order on the table was further considered, and after debate the question on laying the matter on the table was determined by a call of the yeas and nays, at seven minutes past twelve o'clock noon, on motion of Mr. Lees, as follows, to wit (yeas 7 — nays 32) [Yeas and Nays No. 587]:

YEAS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

NAYS.

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 P.
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 32.

The yeas and nays having been completed at ten minutes past twelve o'clock noon, the motion to lay the matter on the table was negatived.

After debate, the order was adopted.

Report of a Committee.

By Mr. Joyce, for the committee on Election Laws, under the provisions of Joint Rule 3A, a Bill relative to special elections to fill vacancies for Senator and Representative in Congress (Senate, No. 2404) (two-thirds of the members of both branches appointed to said committee having approved the same (Senators Shannon and Brown and Representatives Peisch of Wellesley and George of Yarmouth dissenting),— was read.

Pursuant to an order previously adopted, the bill was read a second time.

After remarks, Messrs. Morrissey and Montigny moved that the bill be amended by inserting before section 1, the following section:—

“SECTION 1. Section 7 of chapter 53 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word ‘secretary’, in line 43, the following words:— , except that, for special elections for senator or representative in congress, every nomination paper shall be submitted to the registrars of the city or town where the signers appear to be voters at or before 5:00 p.m. of the fourteenth day preceding the day on which it must be filed with the state secretary, and certification of nomination papers of candidates shall be completed no later than the 72 weekday hours before the final hour for filing those papers with the state secretary.”

And by inserting after section 2 (as printed) the following section:—

“SECTION 2A. Section 46 of said chapter 53, as so appearing, is hereby amended by inserting after the word ‘secretary’, in line 8, the following words:— except that, for special elections for senator or representative in congress, every nomination paper shall be submitted to the registrars of the city or town where the signers appear to be voters at or before 5:00 p.m. of the fourteenth day preceding the day on which it must be filed with the state secretary, and certification of nomination papers of candidates shall be completed no later than the 72 weekday hours before the final hour for filing those papers with the state secretary.”

And in section 4, in the proposed subsection (a), by striking out the figure “145” and inserting in place thereof the following figure:— “160”.

And in said section 4, in said subsection (a), by striking out the figure “120” and inserting in place thereof the following figure:— “145”.

After debate, the amendment was adopted.

Mr. Lees moved that the bill be amended, in section 4, by adding the following subsection:—

“(f) The governor shall appoint a person to serve as senator from the time of the vacancy until an election is held under this section.”

After debate, the amendment was rejected.

Mr. Tisei moved that the question on ordering the bill, as amended, to a third reading be determined by a call of the yeas and the nays.

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

Subsequently, Mr. Tisei doubted the presence of a quorum; but a quorum was deemed present.

After remarks the question on ordering the bill (Senate, No. 2404, amended) to a third reading was determined by a call of the yeas and nays at twenty-six minutes before two o’clock P.M., on motion of Mr. Joyce, as follows to wit (yeas 33 — nays 7) [Yeas and Nays No. 588]:

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.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 33.
Menard, Joan M.	

NAYS.

Brown, Scott P.	Sprague, Jo Ann
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Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Tarr, Bruce E.
Tisei, Richard R. — 7.

The yeas and nays having been completed at twenty-two minutes before two o'clock P.M., the bill (Senate, No. 2404, amended) was ordered to a third reading.

The bill was 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 eighteen minutes before two o'clock P.M., on motion of Mr. Lees, as follows to wit (yeas 32 — nays 8) [Yeas and Nays No. 589]:

YEAS.

Antonioni, Robert A.
Baddour, Steven A.
Barrios, Jarrett T.
Berry, Frederick E.
Brewer, Stephen M.
Chandler, Harriette L.
Creedon, Robert S., Jr.
Creem, Cynthia Stone
Fargo, Susan C.
Glodis, Guy W.
Hart, John A., Jr.
Havern, Robert A.
Joyce, Brian A.
Magnani, David P.
McGee, Thomas M.
Melconian, Linda J.

Menard, Joan M.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Nuciforo, Andrea F., Jr.
O'Leary, Robert A.
Pacheco, Marc R.
Panagiotakos, Steven C.
Resor, Pamela P.
Rosenberg, Stanley C.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 32.

NAYS.

Brown, Scott P.
Hedlund, Robert L.
Knapik, Michael R.
Lees, Brian P.

Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R. — 8.

The yeas and nays having been completed at a quarter before two o'clock P.M., the bill (Senate, No. 2404, amended) was passed to be engrossed.

Sent to the House for concurrence.

Report of a Committee.

Mr. Magnani, 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 authorizing the Department of Highways to acquire certain parcels of land in the town of Bourne (House, No. 4866).

There being no objection, the rules were suspended, on motion of Mr. Havern, 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 seven minutes before two o'clock P.M., on motion of Ms. Murray, as follows to wit (yeas 37 — nays 1) [Yeas and Nays No. 590]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	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.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 37.
Menard, Joan M.	

NAY.

McGee, Thomas M. — 1.

ABSENT OR NOT VOTING.

Berry, Frederick E. — 1.

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

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To protect social workers (Senate, No. 123);

Expanding the rights of employees in county employment (Senate, No. 139);

Relative to employment contracts for town accountants and city auditors (Senate, No. 1153);

Relative to the election of town officials (Senate, No. 1166);

Authorizing the city of Quincy to establish an affordable housing trust fund (Senate, No. 2337);

Relative to the Still River Village Wastewater Management District in the town of Harvard (Senate, No. 2339);

Providing for a strong town manager form of government in the town of Abington (Senate, No. 2345);

Authorizing the certification and eligibility as firefighters in the city of Taunton (House, No. 4186);

Relative to the discontinuance of a portion of Dock Lane in the city of Beverly (House, No. 4189);

Replacing the existing harborline and to establish a new harborline in Gloucester Harbor (House, No. 4265); and

Relative to the appointment of retired police officers in the city of Fitchburg (House, No. 4617);

Were severally read a second time and ordered to a third reading.

The House Bill authorizing the town of Bellingham to establish certain revolving funds (House, No. 4015),— was read a second time and ordered to a third reading.

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

The Senate bills

Relative to the disposition of museum property (Senate, No. 244);

Establishing a biological agent registry in the Commonwealth (Senate, No. 511, amended);

Further regulating the licensing of manufacturers of frozen desserts and frozen dessert mix (Senate, No. 586) (its title having been changed by the committee on Bills in the Third Reading);

Requiring hospitals to report head and spinal cord injuries (Senate, No. 587, amended) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the licensing of milk pasteurization establishments (Senate, No. 596), (its title having been changed by the committee on Bills in the Third Reading);

Relative to pilotage in Massachusetts (Senate, No. 2097);

Authorizing self-monitoring and treatment of students with diabetes (Senate, No. 2231);

Further regulating meetings of municipal boards (Senate, No. 2247);

Relative to the Forest Products Trust Fund (Senate, No. 2399); and

Relative to the disposition of easements or other interests in land in Uxbridge under the care and control of the Department of Conservation and Recreation and the partial release of certain land in the town of Plymouth from the operation of two agricultural preservation restrictions (Senate, No. 2402);

Were severally read a third time and passed to be engrossed.

Sent to the House for concurrence.

Ms. Menard in the Chair, the Senate Bill further regulating the rates of pilotage for the Port of Boston (Senate, No. 2098),— was read a third time. Mr. Shannon for the committee on Bills in the Third Reading, reported, recommending that the bill be amended by substituting a new draft with the same title (Senate, No. 2406).

The amendment was adopted.

The bill (Senate, No. 2406) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill providing for the transfer and preservation of certain interests in land held for natural resource purposes in the abolished counties (Senate, No. 146) (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 to reduce asthma rates and associated costs in the Commonwealth (Senate, No. 2403),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Lees moved that the bill be amended, in section 2, by striking out the figure “6” and inserting in place thereof the figure:— “12”.

The amendment was adopted.

The bill (Senate, No. 2403, amended) was then passed to be engrossed.

The Senate report of the committee on Commerce and Labor, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, Senate, No. 2110) of Pamela P. Resor and Geoffrey D. Hall for legislation to further regulate trade,— was considered, the question being on accepting the report.

On motion of Mr. Hart the petition was referred to the Joint Committee on Natural Resources and Agriculture.

Sent to the House for concurrence.

The Senate Bill relative to the worker’s compensation exclusive remedy (Senate, No. 72, amended),— was considered; the question being on passing the bill to be engrossed.

On motion of Mr. Hart, the further consideration thereof was postponed until the next session.

The Senate Bill relative to the modification of the helmet law (Senate, No. 1363),— was considered, the main question being on ordering it to a third reading.

The pending motion previously moved by Mr. Shannon, to lay the matter on the table, was considered. After debate, the question on laying the matter on the table was determined by a call of the yeas and nays, at sixteen minutes past two o’clock P.M., on motion of Mr. Nuciforo, as follows, to wit (yeas 11 — nays 27) [Yeas and Nays No. 591]:

YEAS.

Creem, Cynthia Stone

Hart, John A., Jr.

Menard, Joan M.

Moore, Richard T.

Nuciforo, Andrea F., Jr.

Rosenberg, Stanley C.

Shannon, Charles E.

Tucker, Susan C.

Walsh, Marian

Wilkerson, Dianne — 11.

O'Leary, Robert A.

NAYS.

Antonioni, Robert A.

Baddour, Steven A.

Barrios, Jarrett T.

Berry, Frederick E.

Brewer, Stephen M.

Brown, Scott P.

Chandler, Harriette L.

Creedon, Robert S., Jr.

Fargo, Susan C.

Glodis, Guy W.

Havern, Robert A.

Hedlund, Robert L.

Joyce, Brian A.

Knapik, Michael R.

Lees, Brian P.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Morrissey, Michael W.

Murray, Therese

Pacheco, Marc R.

Panagiotakos, Steven C.

Resor, Pamela

Sprague, Jo Ann

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Steven A. — 27.

ABSENT OR NOT VOTING.

McGee, Thomas M. — 1.

The yeas and nays having been completed at twenty-four minutes past two o'clock P.M., the motion to lay on the table was negatived.

The recurring question on adopting the amendment, previously moved by Mr. Shannon, striking out all after the enacting clause and inserting in place thereof the following text:—

“The first paragraph of section 7 of chapter 90 of the General Laws, is hereby amended by inserting after the words ‘public parade’, inserted by chapter 24 of the acts of 2004, the following words:— ‘or funeral procession’.”, was then considered.

Mr. Hedlund moved that when a vote on this matter be taken, it be taken by a call of the yeas and nays; and this motion was adopted.

Pending the recurring question on adoption of the amendment moved by Mr. Shannon, and pending the main question on ordering the bill to a third reading, Mr. Moore moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

The House Bill relative to campaign finance (House, No. 1268, changed),— was considered, the main question being on ordering it to a third reading.

The pending motion, previously moved by Mr. Lees, that the bill be laid on the table was considered; and the bill was laid on the table.

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 Senate Bill relative to the town of Lenox and the reimbursement of local room occupancy taxes (Senate, No. 2344),— was read a second time and was amended, as previously recommended by the committee on Ways and Means, in section 1, by inserting after the word “interest” in the second sentence, the following words:— “in excess of that which is included in the \$600,000 figure,”; in section 2, by striking out the word “January” and inserting in place thereof the following word:— “July”; in said section 2, by striking out the following words:— “and shall cease to be effective 120 days after passage”; and by striking out section 3.

The bill, as amended, was then ordered to a third reading.

The rules were suspended, on motion of Mr. Nuciforo, the bill was read a third time.

The question on passing the bill to be engrossed 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 32 — nays 7) [Yeas and Nays No. 592]:

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 P.
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Joyce, Brian A.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 32.

NAYS.

Brown, Scott P.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 7.
Lees, Brian P.	

The yeas and nays having been completed at eighteen minutes before three o'clock P.M., the bill (Senate, No. 2344, amended) was passed to be engrossed.

Sent to the House for concurrence.

Orders of the Day.

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

The Senate Bill relative to the operation of low-speed vehicles (Senate, No 2354),— was considered, the main question being on passing the bill to be engrossed.

The Senate adopted the amendment, previously moved by Mr. Nuciforo, in section 3, in the proposed section 1E of chapter 90, in the first paragraph, by striking out the last sentence and inserting in place thereof the following sentence:— “A low-speed motor vehicle may be operated on a public way only by a person who is in possession of a valid driver's license and who is an authorized law enforcement, public safety or public works personnel, in an official capacity, or personnel of an educational or arts institution or other non-profit institution; provided, however, that this section shall not prohibit the use of low-speed motor vehicles on private property or for incidental crossing of a road, street or intersection where the road or street has a posted speed limit of not more than 30 miles per hour, unless otherwise prohibited by a municipal police department or by law.

Pending the main question on passing the bill to be engrossed, on motion of Mr. Lees, the further consideration thereof was postponed until the next session.

The engrossed Bill relative to the dissemination of criminal offender record information to the operators of camps for children (see House, No. 4610, amended) (which originated in the House), was considered,— the main question being on passing the bill to be enacted.

The pending motion, previously moved by Mr. Lees, to lay the engrossed bill on the table was considered; and it was negatived. The pending question on passing the bill to be enacted was then determined by a call of the yeas and nays, at a quarter before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 24 — nays 15) [Yeas and Nays No. 593]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 24.

NAYS.

Barrios, Jarrett T.	Moore, Richard T.
Brown, Scott P.	Murray, Therese
Creedon, Robert S., Jr.	Pacheco, Marc R.
Glodis, Guy W.	Rosenberg, Stanley C.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 15.
Melconian, Linda J.	

The yeas and nays, having been completed at ten minutes before three o’clock P.M., the Senate passed the bill to be enacted. It was then signed by the President and laid before the Governor for his approbation.

The President in the Chair, the House Bill relative to the School Building Assistance Program (House, No. 4749),— was read a third time.

Pending the main question on passing the bill to be engrossed, Mr. Moore moved to amend the bill by inserting after section 1 the following section:—

“SECTION 1A. Section 21C of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word “vote,” in line 107, the following words:— or for meeting the requirements of local funding for an approved school building assistance project, by petition signed by 100 registered voters or 10 per cent of the registered voters of the town, whichever is less.”

After remarks, the amendment was rejected.

Messrs. Lees, Knapik, Tarr, Tisei and Hedlund and Mrs. Sprague moved to amend the bill in section 45, by striking out the wording and inserting in place the following wording:—

“SECTION 45. On or before August 1, 2004, the commissioner of education shall submit to the Massachusetts School Building Authority a list of school projects consisting of: (i) all projects approved in accordance with chapter 645 of the acts of 1948 for which the state has outstanding liability as of July 1, 2004; (ii) all approved school projects that were approved by the board of education in accordance with section 6 of chapter 70B of the General Laws on or before June 30, 2004, for which the state has outstanding liability as of July 1, 2004; (iii) all projects on the school building assistance priority waiting list maintained by the department of education as of May 1, 2004; (iv) applications submitted to the board after July 1, 2007 for major repair projects which were formerly accepted by the department of education and were completed on or after January 1, 1987 shall be eligible for a one-time, partial reimbursement if such projects are deemed by the board to have been necessary to avoid future and more costly renovations of the same project and if the board determines that funding of such repair projects does not adversely impact the full funding of bonded liabilities and indebtedness under the school modernization and reconstruction trust; and (v) projects in Quincy and Swampscott which, prior to the effective date of this act, were eligible for funding under section 668 of chapter 26 of the acts of 2003. The list shall identify for each project: (i) total estimated construction costs; (ii) total estimated short-term and long-term interest costs; (iii) reimbursement rate pursuant to chapter 70B of the General Laws as in effect prior to the effective date of this act, section 329 of chapter 159 of the acts of 2000 as in effect prior to the effective date of this act, and section 668 of

chapter 26 of the acts of 2003 as in effect prior to the effective date of this act; (iv) year of application; (v) year of approval, if approved; (vi) rank order on the waiting list; and (vii) other information as appropriate upon the request of the Massachusetts School Board Authority.”

Pending the question on the adoption of the amendment, Ms. Tucker, Messrs. Brown, Lees, Tarr, Tisei and Knapik, Mrs. Sprague and Mr. Hedlund moved that the amendment be further amended by striking out the text and inserting in place thereof the following text:—

By inserting after section 46 the following section:—

“SECTION 46A. Applications submitted to the Massachusetts School Building Authority after July 1, 2007 for major repair projects which were formerly accepted by the department of education and were completed on or after January 1, 1987 shall be eligible for a one-time, partial reimbursement if such projects are found by the authority to have been necessary to avoid future and more costly renovations of the same project and if the authority determines that funding of such repair projects does not adversely impact the full funding of bonded liabilities and indebtedness under the School Modernization and Reconstruction Trust Fund. No grant shall be approved for an amount less than 20 per cent of total approved projects costs.”

After remarks, the further amendment was adopted.

The pending amendment (Brown, et al), as amended, was then considered; and it was adopted.

Ms. Wilkerson and Mr. Baddour moved to amend the bill in section 19, in subsection (a) of the proposed section 3A, by striking out the figure “12” and inserting in place thereof the following figure:— “15”; and by inserting after the words “Massachusetts Building Trades Council” the following words:— “, the Massachusetts chapter of the Associated Builders and Contractors, the Massachusetts Alliance of Small Contractors, the American Council of Engineering Companies of Massachusetts,”.

The amendment was adopted.

Ms. Fargo moved to amend the bill by adding the following section:—

“SECTION 59. Notwithstanding any general or special law to the contrary, a grant application shall not be accepted, and a grant shall not be approved by the board of trustees of the school modernization and reconstruction trust pursuant to chapter 70B of the General Laws before July 1, 2007; but the trust shall calculate potential reimbursement rates for each municipality in each fiscal year pursuant to section 10 of chapter 70B of the General Laws. Applications submitted subsequent to July 1, 2007, for projects which commence construction between July 1, 2004 and July 1, 2005, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2005, using allowable cost standards and other pertinent department of education regulations in effect on July 1, 2004. Applications submitted subsequent to July 1, 2007, for projects which commence construction between July 1, 2005 and July 1, 2006, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2006, using allowable cost standards and other pertinent department of education regulations in effect on July 1, 2004. Applications submitted by the board for projects which commence construction between July 1, 2006 and July 1, 2007, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2007 pursuant to section 10 of the General Laws, based on regulations promulgated by section 54 of this act.”

The amendment was rejected.

Ms. Creem moved to amend the bill in section 53 by adding after the words “wireless technology in the classroom” the following:— “, providing financial incentives to communities that have adopted zoning policies or other initiatives that encourage increased affordable housing production in the commonwealth, including, but not limited to, inclusionary zoning, so-called.”.

The amendment was adopted.

Mr. Joyce moved to amend the bill by adding the following section:—

“SECTION 59. Notwithstanding any general or special law to the contrary, an awarding authority may award a contract for a project related to school building assistance, including but not limited to, design, construction and security, to a contractor for the project which is the lowest bidder of those bidders that have a place of business in the commonwealth. This requirement shall apply to current and future projects.”

The amendment was rejected.

Mr. Berry moved to amend the bill in section 24, by inserting after the last paragraph of subsection (a) of section 6 of chapter 70B, the following sentence:— “With respect to a regional school district, the authority shall also consider whether the school project represents an economy of scale that benefits the commonwealth and the municipalities of the region.”

The amendment was adopted.

Mr. Magnani moved to amend the bill in section 53, in line 17, by adding after the word “space” the following words:— “, services which may go beyond direct instructional services but which may be best provided to students in a school setting, uses that extend beyond the typical school day for extended hours, weekends and during the summer months for educational, recreational and other purposes which provide community usage”.

The amendment was adopted.

Messrs. Panagiotakos and Tolman moved to amend the bill in section 1 by striking out the definition of “Dedicated sales tax revenue amount” and inserting in place thereof the following definition:—

“ ‘Dedicated sales tax revenue amount’, all moneys received by the commonwealth equal to 1 per cent of the receipts from sales, as defined by chapter 64H, and 1 per cent of the sales price of purchases, as defined by chapter 64I, from that portion of the taxes imposed under said chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of subsection (b) of section 10 of chapter 152 of the acts of 1997, as amended, or within the meaning of subsection (b½) of said section 10 of said chapter 152, as inserted by section

5 of chapter 45 of the acts of 2001, or any portion of the taxes imposed on the sale of meals as defined in paragraph (h) of section 6 of said chapter 64H.”; in section 3 by striking out subsection (b) and inserting in place thereof the following subsection:—

“(b) The authority shall consist of the state treasurer, who shall serve as chairperson, the secretary of administration and finance, the commissioner of education, the director of accounts of the division of local services, and the state auditor, and 2 additional members appointed by the state treasurer from the advisory board established under section 3A, each of whom shall serve a term of 2 years; but, a person appointed to fill a vacancy shall serve only for the unexpired term. An appointed member of the authority shall be eligible for reappointment. The authority shall annually elect 1 of its members to serve as vice-chairperson. Each member of the authority serving ex officio may appoint a designee pursuant to section 6A of chapter 30.”; and, in section 19, by striking out proposed subsection (b) of section 3A of chapter 70B of the General Laws.

The amendment was adopted.

After remarks, the question on passing the bill to be engrossed, in concurrence, with the amendments, was determined by a call of the yeas and nays, at twenty-eight minutes before four o’clock P.M., on motion of Ms. Murray, as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 594]:

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
Brown, Scott P.	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 P.
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.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 39.
Melconian, Linda J.	

NAYS — 0.

The yeas and nays having been completed at twenty-five minutes before four o’clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments. [For text of Senate amendments, see Senate, No. 2407].
Sent to the House for concurrence in the amendments.

PAPERS FROM THE HOUSE. ***Emergency Preamble Adopted.***

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the town of Webster (see House, No. 4711, 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 15 to 0.

The bill was signed by the President and sent to the House for enactment.

A Bill relative to a pension for a surviving spouse in the city of Springfield (House, No. 4157,— on petition) [Local approval received],— was read.

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

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4893) of Stephen P. LeDuc and Pamela P. Resor relative to the transfer of a certain parcel of land located in the city of Marlborough and under control of the Department of Conservation and Recreation to the Division of Capital Asset Management and Maintenance; and

Petition (accompanied by bill, House, No. 4894) of Karyn E. Polito and Guy W. Glodis that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land to the Shrewsbury Housing Authority; Severally, under suspension of Joint Rule 12, to the committee on State Administration.

Petition (accompanied by bill, House, No. 4895) of Louis L. Kafka and Brian A. Joyce relative to the acceptance of checks by the Department of Revenue;

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

Order Adopted.

On motion of Mr. Brown,—

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.

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 authorizing the city of Lowell to pay an unpaid bill (House, No. 4521),— was read a third time and passed to be engrossed, in concurrence.

Adjournment in Memory of Ms. Carolyn Schaffer..

The Senator from Norfolk, Bristol and Middlesex, Mr. Brown, moved that when the Senate adjourns today, it adjourn in memory of Ms. Carolyn Schaffer, a long-time second grade teacher at the Clyde Brown Elementary School in Millis.

Accordingly, as a mark of respect to the memory of Ms. Carolyn Schaffer at twenty-one minutes before four o'clock P.M., on motion of Mr. Lees, the Senate adjourned to meet again tomorrow at eleven o'clock A.M.