

**NOTICE:** While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Wednesday, January 26, 2005.*

Met at four minutes past one o'clock P.M. (Mr. Berry in the Chair).

*Recess.*

There being no objection, at five minutes past one o'clock P.M., the Chair (Mr. Berry) declared a recess subject to the call of the Chair; and, at nineteen minutes past one o'clock P.M., the Senate reassembled, Mr. Havern in the Chair.

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

*Communication.*

The following communication was received and placed on file, to wit:—

OFFICE OF THE PRESIDENT  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1007

*January 26, 2005.*

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

Dear Mr. Clerk,

I have on this day made the following leadership and committee chair appointments:

#### **Senate Leadership**

Majority Leader Senator Frederick E. Berry  
Asst. Majority Leader Senator Marian Walsh  
Majority Whip Senator Joan M. Menard  
Asst. Majority Whip Senator Robert A. Havern, III  
President Pro Tempore Senator Stanley C. Rosenberg

#### **Senate Standing Committees**

Bills in Third Reading Senator Stephen M. Brewer  
Post Audit and Oversight Senator Marc R. Pacheco

Ethics and Rules Senator Charles E. Shannon  
Ways and Means (Chair) Senator Therese Murray  
Ways and Means (Vice Chair) Senator Steven C. Panagiotakos  
Ways and Means (Asst. Vice Chair) Senator Steven A. Tolman

**Joint House-Senate Committees**

Bonding, Capital Expenditures and State Assets Senator Mark C. Montigny  
Children and Families Senator Karen E. Spilka  
Community Development and Small Business Senator Harriette L. Chandler  
Consumer Protection and Professional Licensure Senator Michael W. Morrissey  
Economic Development and Emerging Technology Senator John A. Hart, Jr.  
Education Senator Robert A. Antonioni  
Elder Affairs Senator Susan C. Tucker  
Election Laws Senator Edward M. Augustus  
Environment, Natural Resources and Agriculture Senator Pamela P. Resor  
Financial Services Senator Andrea F. Nuciforo  
Health Care Financing Senator Richard T. Moore  
Higher Education Senator Robert O'Leary  
Housing Senator Brian A. Joyce  
Judiciary Senator Robert S. Creedon, Jr.  
Labor and Workforce Development Senator Thomas M. McGee  
Mental Health and Substance Abuse Senator Steven A. Tolman  
Municipalities and Regional Government Senator James E. Timilty  
Public Health Senator Susan C. Fargo  
Public Safety and Homeland Security Senator Jarrett T. Barrios  
Public Service Senator Stephen J. Buoniconti  
State Administration and Regulatory Oversight Senator Dianne Wilkerson  
Revenue Senator Cynthia Stone Creem  
Telecommunications, Utilities and Energy Senator Michael W. Morrissey  
Tourism, Arts and Cultural Development Senator John A. Hart, Jr.  
Transportation Senator Steven A. Baddour  
Veterans and Federal Affairs Senator Stephen M. Brewer

All these appointments have been approved by the caucus as of this date.

Sincerely,  
ROBERT E. TRAVAGLINI,  
*Senate President.*

*Petition.*

On motion of Mr. Berry, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Travaglini, (accompanied by bill) of Robert E. Travaglini, Brian P. Lees, Frederick E. Berry, Stephen M. Brewer, Salvatore F. DiMasi, A. Stephen Tobin, Bradley H. Jones, Jr., and George N. Peterson, Jr. for legislation relative to the compensation of members of the General Court,— **and the same was referred to the committees on Rules of the two branches, acting concurrently. Sent to the House for concurrence.**

*Report of Committees.*

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, on petition, a Bill designating stalking awareness month (Senate, No. 19).  
**The bill was read. There being no objection, the rules were suspended, on motion of Mr. Creedon, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Reading to read as follows: "An Act designating stalking awareness month."**  
**Sent to the House for concurrence.**

*Matter Taken Out of the Orders of the Day.*

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

The report of the special committee of the Senate established for the purpose of recommending changes in the rules of the Senate, (Senate, No. 20),— was considered, the question being on acceptance.

Pending the question on accepting the report, Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report in Rule 5B by inserting after each occurrence of the word “vacancy” the following words:— “or resignation”.

The President in the Chair, after remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting at the end thereof the following:—

“Senate Rule 12 shall be amended by inserting at the end thereof the following:

Committee hearings and executive sessions shall not be scheduled in conflict with formal sessions of the Senate unless the chair submits to the Clerk a written explanation for scheduling the hearing or session in conflict with the formal session.”

After remarks, the amendment was **adopted**.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report in Rule 12A by inserting before the first sentence the following:—

“There shall be a standing Committee on Ethics and Rules consisting of six members, three of whom shall be appointed by the Senate President and three of whom shall be appointed by the Senate Minority Leader in the beginning of the first year of the biennial session of the General Court”; and moved to amend Rule 13 by adding at the beginning of the second sentence of paragraph (b), before the words “the President,” the following: — “Except as provided in Rule 12A.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before two o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 6 — nays 26) [**Yeas and Nays No. 2**]:

#### **YEAS.**

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 6.

#### **NAYS.**

Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	Pacheco, Marc R.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Hart, John A., Jr.	Spilka, Karen E.
Havern, Robert A.	Timilty, James E.
Joyce, Brian A.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Wilkerson, Dianne —
	<b>26.</b>

#### **ABSENT OR NOT VOTING**

Antonioni, Robert A.	O’Leary, Robert A.
Chandler, Harriette L.	Shannon, Charles E.
Fargo, Susan C.	Walsh, Marian — 7.
Morrissey, Michael W.	

The yeas and nays having been completed at twenty-one minutes before two o’clock P.M., the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting at the end thereof the following:—

“Senate Rule 27A shall be amended by inserting after the third paragraph the following new paragraph:

No amendment which seeks to increase appropriations shall be in order unless it is accompanied by a provision within the amendment to decrease appropriations by an equal or greater amount.”  
After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting at the end thereof the following:—

“Senate Rule 38A is hereby amended by striking the words ‘a majority’ and inserting in place thereof the following:— two-thirds”.  
After remarks, the amendment was **adopted**.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report in Rule 56 by striking out the fifth sentence.  
After debate, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting at the end thereof the following:—

“Senate Rule 59A is hereby amended by inserting after the second paragraph the following new paragraph:

If, for any reason, the Senate convenes in a formal session and such session is not televised live throughout the commonwealth, then the party under the contractual duty to provide the television broadcast shall provide to the Senate President and Minority Leader within twenty-four hours of the adjournment of such session a report including, but not limited to, a list of the areas in which such broadcast was not received and an explanation for the lack of television coverage to the affected areas.”  
After remarks, the amendment was **adopted**.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting the following new rule:—

“Senate Rule 67. The resignation of a Senator must become effective within 14 days from submission of a letter of resignation or a letter of intent to resign to the Senate President’s Office.”  
After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Knapik, Tarr, Hedlund and Brown moved to amend the report by inserting the following:—

“The Senate Rules are hereby amended by adding the following new rule:—

38A½. The Senate shall not continue in session beyond the hour of midnight. This rule shall not be suspended unless 2/3 vote of the members present and voting consent thereto on a recorded yea and nay vote.”

After remarks, the amendment was **adopted**.

**After further remarks, the report, as amended, was accepted [for text of report, reprinted as amended, see Senate, No. 23].**

*Order Adopted.*

On motion of Mr. Lees,—

*Ordered*, That, Senate, in conjunction with the House of Representatives, including input from the Administration, establish a Committee to review the contractual agreements of television broadcasters broadcasting sessions of the Massachusetts General Court and to create a system enabling televised sessions of the Massachusetts General Court to be broadcast along with legislative and administration hearings, press conferences, public meetings of executive branch agencies, policy outlines, and other meetings of interest to the public to a greater number of citizens throughout the Commonwealth.

The Senate President, in conjunction with the Senate Minority Leader shall establish all rules and regulations pertaining to the Committee.

**Sent to the House for concurrence.**

*Recess.*

There being no objection, at two o’clock P.M., the President declared a recess subject to the call of the Chair; and, at eighteen minutes past two o’clock P.M., the Senate reassembled, Mr. Havern in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE.

The House Order relative to the adoption of permanent joint rules for the years 2005 and 2006 (House, No. 3005),— was read.

On motion of Mr. Lees, the rules were suspended, and the order was considered forthwith.

Pending the question on adoption of the House order, Messrs. Morrissey and Creedon moved that the order be amended, in rule 1 by striking out the words: “A committee on Telecommunications, Utilities, Energy and Regulated Industries”.

The amendment was *rejected*.

The House order was then adopted.

Subsequently, Mr. Brewer moved reconsideration of the vote on adoption of the House order; and the motion prevailed.

Pending the recurring question on adoption of the House order, Mr. Antonioni moved that the order be amended, in Rule 1, in line 7, by striking out the words “Elementary and Secondary”.

**The amendment was adopted.**

**The House order, as amended, was then adopted, in concurrence, with the amendment.**

**Sent to the House for concurrence in the amendment.**

#### *Report of Committees.*

The President in the Chair, by Mr. Berry, for the committees on Rules of the two branches, acting concurrently, on petition, a Bill relative to compensation of members of the General Court (Senate, No. 21).

The bill was read, there being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time.

The same Senator moved that the bill be amended by inserting before the enacting clause the following emergency preamble:—

“*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a compensation schedule for certain members of the general court, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

**The amendment was adopted.**

**The bill (Senate, No. 21, amended) was then ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

#### *Recess.*

There being no objection, at twenty-six minutes past two o'clock P.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at thirteen minutes before four o'clock P.M., the Senate reassembled, Mr. Havern in the Chair.

#### PAPERS FROM THE HOUSE.

##### *Emergency Preamble Adopted; Engrossed Bill Enacted.*

An engrossed Bill relative to compensation of members of the General Court (see Senate, No. 21, amended), having been certified by the Assistant Clerk, Acting 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 2 to 0.

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

Subsequently, the bill, which originated in the Senate, came from the House with the endorsement that it had been enacted in that branch.

**The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Havern) and laid before the Governor for his approbation.**

#### *Order Adopted.*

On motion of Mr. Brown,—

*Ordered*, That when the Senate adjourns today, it adjourn to meet again on Thursday next at eleven o'clock A.M.

*Adjournment in Memory of Army Captain Christopher Sullivan.*

The Senators from Worcester, Hampden, Hampshire and Franklin, Mr. Brewer, Worcester, Ms. Chandler, and Worcester and Middlesex, Mr. Antonioni, moved that when the Senate adjourns today, it adjourn in memory of Army Captain Christopher Sullivan of Princeton, Massachusetts.

Captain Sullivan was killed in Baghdad last week while serving his country. He was a member of the 1st Battalion, 5th Cavalry Regiment, 1st Cavalry Division. He was 29 years old, the youngest of 3 children of James and Dorothy Sullivan. He leaves a wife and young child. This motion prevailed.

Accordingly, as a mark of respect to the memory of Christopher Sullivan, at five minutes before four o'clock P.M., on motion of Mr. Brown, the Senate adjourned to meet again tomorrow at eleven o'clock A.M.