

**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, May 13, 2009.*

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

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

#### *Communication.*

A communication from the Honorable William Francis Galvin, Secretary of the Commonwealth, transmitting Resolutions of the North Dakota House of Representatives, received from the Honorable Al Jaeger, Secretary of State for the State of North Dakota, affirming North Dakota's sovereignty under the 10th Amendment to the Constitution of the United States and demanding the federal government halt its practice of assuming powers and imposing mandates on the states for purposes not enumerated in the Constitution of the United States,— **was placed on file.**

#### **PAPERS FROM THE HOUSE.**

A message from His Excellency the Governor recommending legislation relative to enhancing public safety and reducing recidivism by increasing employment opportunities (House, No. 4107); and

A message from His Excellency the Governor recommending legislation relative to the prevention of crime and reducing recidivism by increasing supervision and training opportunities for inmates (House, No. 4108);

**Were severally referred, in concurrence, to the committee on the Judiciary.**

Notice was received from the House that the House has called for consideration in the Joint Session the following matters:

Proposal for a legislative amendment to the Constitution establishing an independent redistricting commission and criteria for redistricting for state House of Representatives, Senate, and Councilor districts (House, No. 535),— **with reference to which the committee on Election Laws has reported, that the amendment ought NOT to pass (Senator Brown and Representatives Frost of Auburn and Jones of North Reading dissenting);**

Proposal for a legislative amendment to the Constitution authorizing the General Court to provide for absentee voting by any voter (House, No. 561), — **with reference to which the committee on Election Laws has reported that the amendment ought to pass;**

Proposal for a legislative amendment to the Constitution authorizing the General Court to provide for absentee voting by any voter (House, No. 588), — **with reference to which the committee on Election Laws has reported that the amendment ought to pass;**

Proposal for a legislative amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant-Governor (House, No. 650), — **with reference to which the committee on Election Laws has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having**

expired;

Proposal for a legislative amendment to the Constitution prohibiting eminent domain takings for the purpose of economic development (House, No. 1455), — **with reference to which the committee on the Judiciary has reported that the amendment ought to pass;**

Proposal for a legislative amendment to the Constitution prohibiting eminent domain (House, No. 1700), — **with reference to which the committee on the Judiciary has reported that the amendment ought to pass;**

Proposal for a legislative amendment to the Constitution relative to eminent domain takings (House, No. 1779), — **with reference to which the committee on the Judiciary has reported that the amendment ought to pass;**

Proposal for a legislative amendment to the Constitution repealing automatic increases in compensation for members of the General Court (House, No. 2952), — **with reference to which the committees on Rules of the two branches, acting concurrently has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;**

Proposal for a legislative amendment to the Constitution providing for a two year budget process for the Commonwealth (House, No. 3406), — **with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;**

Proposal for a legislative amendment to the Constitution limiting expenditure growth (House, No. 3407), — **with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;**

Proposal for a legislative amendment to the Constitution relative to home rule (House, No. 3411), — **with reference to which the committee on Election Laws has reported, that the amendment ought NOT to pass; and**

Proposal for a legislative amendment to the Constitution relative to the subject matter of initiative petitions (House, No. 3537), — **with reference to which the committee on the Judiciary has reported that the amendment ought to pass (Representative Evangelidis of Holden dissenting).**

#### *Resolutions.*

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

Resolutions (filed by Mr. Morrissey) “congratulating Sergeant First Class Robert G. Hornbrook on the occasion of his retirement from the United States Army after 20 years of outstanding and dedicated service.”

#### *Orders Adopted.*

On motion of Mr. Joyce,—

*Ordered*, That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposal:

Proposal for a legislative amendment to the Constitution to abolish the Governor’s Council (see Senate, No. 24), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass.

On motion of Ms. Creem,—

*Ordered*, That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposal:

Proposal for a legislative amendment to the Constitution relative to initiative petitions (see Senate, No. 23), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought to pass (Representative Evangelidis of Holden dissenting).

On motion of Mr. Tisei,—

*Ordered*, That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposals:

Proposal for a legislative amendment to the Constitution to establish an independent redistricting commission (see Senate, No. 22), with reference to which the committee on Election Laws has reported, recommending that the amendment ought NOT to pass (Senator Brown and Representatives Frost of Auburn and Jones of North Reading dissenting);

Proposal for a legislative amendment to the Constitution relative to the certification of judges (see Senate, No. 25), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass; and

Proposal for a legislative amendment to the Constitution to eliminate the Governor's Council (see Senate, No. 27), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass.

*Report of a Committee.*

By Mr. Berry, for the committee on Ethics and Rules, that the House Committee Bill improving the laws relating to ethics and lobbying (House, No. 3856, printed as amended),— **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2050.**

*Order Adopted.*

Mr. Berry presented the following order:—

*Ordered,* That notwithstanding Senate Rule 7 or any other rule to the contrary:

The House Committee Bill improving the laws relating to ethics and lobbying (House, No. 3856 printed as amended) , as reported by the committee on Ethics and Rules, with a recommended new text (Senate, No. 2050), shall be placed in the Orders of the Day for a second reading tomorrow, May 14, 2009.

All amendments to the new text (Senate, No. 2050) shall be filed electronically in the Office of the Clerk of the Senate by 6:00 P.M. today, May 13, 2009. All such amendments shall be second-reading amendments, but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing the bill to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

**Under the rules, referred to the committee on Ethics and Rules.**

**Subsequently, Mr. Berry, for the said committee, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Mr. Tisei, and the order was considered forthwith and adopted.**

**The bill (House, No. 3856, printed as amended) was then placed in the Orders of the Day for the next session with the recommended new text (Senate, No. 2050) pending.**

*Recess.*

There being no objection, at ten minutes past eleven o'clock A.M., the Chair (Mr. Petruccelli) declared a recess; and at seven minutes before twelve o'clock noon, the Senate reassembled, Mr. Petruccelli in the Chair.

*Reports of a Committee.*

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Nancy Morrison, an employee of the Department of Correction (Senate, No. 2048),— **ought to pass.**

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

**Sent to the House for concurrence.**

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Geraldine Egan, an employee of the Department of Public Health (House, No. 4048),— **ought to pass, with an amendment inserting at the end thereof the following:— "Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court."**

**There being no objection, the rules were suspended, on motion of Ms. Chang-Diaz, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**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.**

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill making appropriations for the fiscal year two thousand ten for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4101),— **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 3.**

[Estimated Cost:

Direct Appropriation: ..... \$26,214,350,218;

Retained Revenue Authorization: ..... \$505,070,912;

Total ..... \$26,719,421,130];

Pursuant to an order previously adopted by the Senate, the bill was placed in the Orders of the Day for Tuesday, May 19, for a second reading with the recommended new text (Senate, No. 3) pending.

#### **PAPER FROM THE HOUSE.**

*Engrossed Bill.*

An engrossed Bill establishing a supplementary tax rate in the town of Rockland (see Senate Bill, printed as House, No. 4050) (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 and signed by the President and laid before the Governor for his approbation.

*Recess.*

There being no objection, at two minutes before twelve o'clock noon, the Chair (Mr. Petruccelli) declared a recess for the purpose of proceeding to the House Chamber for a Joint Session of the two branches.

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#### **IN JOINT SESSION.**

*Wednesday, May 13, 2009.*

Joint Session of the Two Houses to Consider Specific Amendments to the Constitution.

At eleven minutes past one o'clock P.M., the two Houses met in

#### **JOINT SESSION**

and were called to order by the Honorable Therese Murray, President of the Senate, who made the following observations:

“Pursuant to an order previously adopted, the two Houses are in Joint Session for the purpose of considering various proposals for amendments to the Constitution. The matters that have been called for consideration are now seasonably laid before the joint session in conformity with the provisions of Articles XLVIII and LXXXI of the Constitution.”

The following legislation proposals for amendments to the Constitution were seasonably laid before the joint session for consideration:

Proposal for a legislative amendment to the Constitution to establish an independent redistricting commission (see Senate, No. 22), with reference to which the committee on Election Laws has reported, recommending that the amendment ought NOT to pass (Senator Brown and Representatives Frost of Auburn and Jones of North Reading dissenting);

Proposal for a legislative amendment to the Constitution relative to initiative petitions (see Senate, No. 23), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought to pass (Representative Evangelidis of Holden dissenting);

Proposal for a legislative amendment to the Constitution to abolish the Governor's Council (see Senate, No. 24), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass;

Proposal for a legislative amendment to the Constitution relative to the certification of judges (see Senate, No. 25), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass;

Proposal for a legislative amendment to the Constitution to eliminate the Governor's Council (see Senate, No. 27), with reference to which the committee on the Judiciary has reported, recommending that the amendment ought NOT to pass;

Proposal for a legislative amendment to the Constitution establishing an independent redistricting commission and criteria for redistricting for state House of Representatives, Senate, and Councilor districts (House, No. 535),— with reference to which the committee on Election Laws has reported, that the amendment ought NOT to pass (Senator Brown and Representatives Frost of Auburn and Jones of North Reading dissenting);

Proposal for a legislative amendment to the Constitution authorizing the General Court to provide for absentee voting by any voter (House, No. 561), — with reference to which the committee on Election Laws has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution authorizing the General Court to provide for absentee voting by any voter (House, No. 588), — with reference to which the committee on Election Laws has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant-Governor (House, No. 650), — with reference to which the committee on Election Laws has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution prohibiting eminent domain takings for the purpose of economic development (House, No. 1455), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution for a legislative amendment to the Constitution prohibiting eminent domain (House, No. 1700), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution relative to eminent domain takings (House, No. 1779), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution repealing automatic increases in compensation for members of the General Court (House, No. 2952), — with reference to which the committees on Rules of the two branches, acting concurrently, has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution providing for a two year budget process for the Commonwealth (House, No. 3406), — with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution limiting expenditure growth (House, No. 3407), — with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which the said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution relative to home rule (House, No. 3411), — with reference to which the committee on Election Laws has reported, that the amendment ought NOT to pass; and

Proposal for a legislative amendment to the Constitution relative to the subject matter of initiative petitions (House, No. 3537), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass (Representative Evangelidis of Holden dissenting).

Without action on the matters duly and constitutionally assigned for consideration, on motion of Ms. Menard, at twelve minutes past one o'clock P.M., the joint session was recessed until one o'clock P.M., on Wednesday, September 30, 2009; and the Senate withdrew from the House Chamber under the escort of the Sergeant-at-Arms.

At twenty-four minutes past one o'clock P.M., the Senate reassembled, Mr. Petrucci in the Chair.

*Order Adopted.*

On motion of Mr. Tisei,—

*Ordered*, That when the Senate adjourns today, it adjourn to meet again tomorrow at two o'clock P.M., in a full formal session.

*Adjournment in Memory of Rosann Donato.*

The Senator from Middlesex, Ms. Jehlen, and the Senator from Hampshire and Franklin, Mr. Rosenberg, requested that when the Senate adjourns today, it adjourn in memory of Rosann Donato, wife of State Representative Paul J. Donato, who passed away earlier today.

Accordingly, as a mark of respect to the memory of Rosann Donato, at twenty-five minutes past one o'clock P.M., on motion of Mr. Tisei, the Senate adjourned to meet again tomorrow at two o'clock P.M.