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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, July 16, 2009.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Mr. Hedlund for the purpose of an introduction. Mr. Hedlund then introduced World War II Veteran John Tobin of Weymouth. He was recognized for his dedication and tireless commitment as a United States Army Ranger while serving in the 5th Ranger Battalion during World War II. Mr. Tobin earned the Bronze Star and was discharged shortly after May 1945. He did not receive combat service medals until almost 60 years after his discharge. Mr. Hedlund presented Mr. Tobin with a Senate citation. He was applauded for his heroic efforts, signed the guest book and withdrew from the Chamber.

There being no objection, the President introduced World War II Veteran Antonio Ruggiero of Plymouth. Sergeant Ruggiero was a member of the 2nd Ranger Battalion in World War II and took part in the Invasion of Normandy. In June, Sergeant Ruggiero was named a Chevalier of the Legion of Honor by the President of the French Republic, the highest civilian honor, for extraordinary courage in liberating France. The recognition that Sergeant Ruggiero received from both the United States and French governments are testaments to his courageous service protecting freedom at home and abroad. The President presented Mr. Ruggiero with a Senate citation. He addressed the Senate showing his gratitude for receiving such an honor and accepted it on behalf of everyone who played a part in the war. Mr. Ruggiero was applauded for his heroic efforts, signed the guest book and withdrew from the Chamber.

There being no objection, the President introduced the French Counsel General, François Gauthier. Mr. Gauthier addressed the Senate and was moved by the moment of recognition to two World War II heroes. Mr. Gauthier thanked the two veterans on behalf of the French government. He signed the guest book and withdrew from the Chamber.

Report of a Committee.

By Ms. Creem, for the committee on the Judiciary, on petition, a Bill establishing a sick leave bank for Tina Dunham, an employee of the Trial Court (Senate, No. 2080);

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

Committee Discharged.

Ms. Tucker, for the committee on Housing, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 629) of Benjamin B. Downing for legislation relative to tax increment financing plan reporting,— **and recommending that the same be referred to the committee on Revenue.**

**Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence.**

Recess.

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

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

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:—
Resolutions (filed by Mr. Pacheco) “congratulating Adam Michael Powers upon his elevation to the rank of Eagle Scout.”

Paper From the House.
Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Tanya M. Dubois, an employee of the Trial Court (see House, No. 1683 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 6 to 0. The bill was signed by the President and sent to the House for enactment.**

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to paying down the debt for school projects in the town of Rutland (Senate, No. 2033);
Authorizing an odd-numbered board of library trustees not to exceed 9 members in the town of Boxford (House, No. 3707); and
Authorizing the town of Nantucket to grant, sell, convey or otherwise dispose of Muskeget Island situated in the town of Nantucket and acquired for the purposes of a public park (House, No. 4134);
Were severally read a second time and ordered to a third reading.

The Senate Bill relative to the Recreation Revolving Fund in the town of Rutland (Senate, No. 2077),— **was read a second time and ordered to a third reading. The rules were suspended, on motion of Ms. Menard, and the bill was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The House Bill relative to the Falmouth Historic District (House, No. 4104),— **was read a second time and ordered to a third reading. The rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a third time and passed to be engrossed, in concurrence.**

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

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 establishing the Arlington Redevelopment Board as the Board of Survey (House, No. 3471),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE.
Message from the Governor — Disapproval.
General Appropriations Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2010 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 (see House, No. 4129), which on Friday, June 19, 2009, had been laid before the Governor for his approbation,— **came from the House, in part, several items and sections having been passed by the House notwithstanding the disapproval of the Governor.**

The message (House, No. 4139) was read; and the Senate proceeded to reconsider one item, which had been disapproved in

accordance with the provisions of the Constitution.

Section 129 (Continuation of Programs) was considered as follows:

“SECTION 129. The following agencies or authorities which, as a result of the governor’s actions to reduce allotments under section 9C of chapter 29 of the General Laws in fiscal year 2009, assumed or were assigned the responsibility for programs or other services which were otherwise funded in the fiscal year 2009 general appropriation act or a supplementary appropriation act prior to the governor’s actions to reduce allotments under said section 9C of said chapter 29, shall continue their contribution for said programs or services in fiscal year 2010:

- (a) the Massachusetts Housing Finance Authority, the Massachusetts rental voucher program and subsidies for interest payments on affordable housing bonds;
- (b) the Massachusetts Development Finance Authority, the chapter 43D Expedited Permitting Grants and Small Business Technical Assistance Grants;
- (c) the Massachusetts Educational Finance Authority, the McNair Scholarship Program;
- (d) the Massachusetts Housing Partnership, the Soft Second Mortgage Program and the 40B Technical Assistance Program;
- (e) the Massachusetts Convention Center Authority, the Massachusetts Office of Travel and Tourism Marketing program;
- (f) the Massachusetts Health Insurance Connector Authority, the MassHealth Outreach Enrollment Grants;
- (g) the Commonwealth health and educational facilities authority, the MassHealth Outreach Enrollment Grants; and
- (h) the Massachusetts Technology Collaborative, the Massachusetts International Trade Council Funding.”

[The Governor disapproved this section.]

After remarks, the question on passing section 129, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes past two o’clock P.M., as follows, to wit (*yeas 37 — nays 0*) **[Yeas and Nays No. 91]:**

YEAS.

Baddour, Steven A. McGee, Thomas M.
Berry, Frederick E. Menard, Joan M.
Brewer, Stephen M. Montigny, Mark C.
Brown, Scott P. Moore, Michael O.
Buoniconti, Stephen J. Moore, Richard T.
Candaras, Gale D. Morrissey, Michael W.
Chandler, Harriette L. O’Leary, Robert A.
Chang-Diaz, Sonia Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Donnelly, Kenneth J. Petruccelli, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Galluccio, Anthony D. Tisei, Richard R.
Hart, John A., Jr. Tolman, Steven A.
Hedlund, Robert L. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian — 37.
Knapik, Michael R.

NAYS — 0.

ABSENT OR NOT VOTING.

Jehlen, Patricia D. Kennedy, Thomas P. — 2.

The yeas and nays having been completed at twenty-nine minutes past two o’clock P.M., Section 129 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bills Returned with Recommendations of Amendment.

Mr. Rosenberg in the Chair, a message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill providing standards allowing camps to conduct criminal history record checks of climbing wall instructors (see House, No. 4140) [being the text of section 5 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment C of House, No. 4139],— **came from the House with an amendment in the form approved by the committee on Bills in the Third Reading.**

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

After remarks, the question on the adoption of the Governor's amendment was determined by a call of the yeas and nays, at thirteen minutes before three o'clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 92**]:

YEAS.

Baddour, Steven A. McGee, Thomas M.
Berry, Frederick E. Menard, Joan M.
Brewer, Stephen M. Montigny, Mark C.
Brown, Scott P. Moore, Michael O.
Buoniconti, Stephen J. Moore, Richard T.
Candaras, Gale D. Morrissey, Michael W.
Chandler, Harriette L. O'Leary, Robert A.
Chang-Diaz, Sonia Pacheco, Marc R.
Creem, Cynthia Stone Panagiotakos, Steven C.
Donnelly, Kenneth J. Petrucci, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Galluccio, Anthony D. Tisei, Richard R.
Hart, John A., Jr. Tolman, Steven A.
Hedlund, Robert L. Tucker, Susan C.
Joyce, Brian A. Walsh, Marian — 37.
Knapik, Michael R.

NAYS — 0.

ABSENT OR NOT VOTING.

Jehlen, Patricia D. Kennedy, Thomas P. — 2.

The yeas and nays having been completed at seven minutes before three o'clock P.M., the Governor's amendment was adopted.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill authorizing the transfer of certain funds within the Trial Court (see House, No. 4148) [being the text of section 112 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment K of House, No. 4139],— **came from the House with an amendment in the form approved by the committee on Bills in the Third Reading.**

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

After remarks, and pending the question of adoption of the Governor's amendment, Mr. Tisei moved that the bill be laid on the table. Under the provisions of Senate Rule 24, the matter was laid over until the next session.

Order Adopted.

Mr. Richard T. Moore offered the following order:

Ordered, That a special committee of the Senate be appointed to represent the Senate at the annual meeting of the National Conference of State Legislatures (NCSL) in Philadelphia, Pennsylvania from July 20-24, 2009, and that the Senator from Worcester and Norfolk, Mr. Richard T. Moore, Vice President of the NCSL, the Senator from Third Essex and Middlesex, Mr. McGee and the Senator from Second Plymouth and Bristol, Mr. Kennedy, be appointed to said committee.

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. Richard T. Moore, and the order was considered forthwith and was adopted.

PAPER FROM THE HOUSE.

Engrossed Bill Returned with Recommendations of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to payroll deductions for charitable purposes by public employees (see House, No. 4146) [being the text of section 87 of the General Appropriation Bill (see House, No. 4129)] [for message, see attachment I of House, No. 4139],— **came from the House with amendment in the form approved by the committee on Bills in the Third Reading.**

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Donnelly, and the Governor's amendment was considered forthwith; and, after remarks, was rejected, in concurrence. Sent to the House for re-enactment.

Orders of the Day.

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

The engrossed Bill establishing a Commonwealth Transportation Fund (see House, No. 4141, amended),— **was considered, the main question being on passing it to be re-enacted.**

The pending motion, previously moved by Mr. Montigny, to lay the engrossed bill on the table was considered; and it was negatived.

Recess.

There being no objection, during consideration of this matter and the Orders of the Day, at eighteen minutes past three o'clock P.M., the President declared a recess subject to the call of the Chair; and, at five o'clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

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

The engrossed Bill establishing a Commonwealth Transportation Fund (see House, No. 4141, amended),— **was again considered.**

After remarks, and pending the main question on passing the engrossed bill to be re-enacted, Mr. Montigny moved that the bill be laid on the table. Under the provisions of Senate Rule 24, the matter was laid over until the next session.

Moment of Silence.

At the request of the President, the members, guests and employees stood in a moment of silence and reflection to the memory of Sergeant Mark R. Ecker, II.

Order Adopted.

On motion of Mr. Panagiotakos,—

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

Adjournment in Memory of Sergeant Mark R. Ecker, II.

The Senator from Hampden and Hampshire, Ms. Candaras, requested that when the Senate adjourns today, it adjourn in memory of Sergeant Mark R. Ecker, II.

Sergeant Mark Ecker, II of East Longmeadow passed away tragically Friday, July 10th at the age of 23 as a result of a car accident. Mark had been accepted by the University of Massachusetts-Lowell, as a Chemical Engineer Major, but chose to defer his college acceptance and instead enlisted in the United States Army two weeks after his 17th birthday, while in the beginning of his senior year at East Longmeadow High School. Sgt. Ecker served two tours of duty in Ramadi, Iraq, often referred to as "the most dangerous place on earth for an American Soldier". Sgt. Ecker was seriously wounded in 2007 while serving in Iraq, resulting in the amputation of the bottom portions of both of his legs. During his recovery at Walter Reed Army Medical Center and his subsequent return to his East Longmeadow home, Mark served as a symbol of courage and inspiration to his community, the Commonwealth, and many across the country. Sgt. Ecker is survived by his parents Mark R. and Debra (Williams) Ecker, brother, Kyle and sister, Shannon, both of East Longmeadow; his maternal grandparents, Roger and Patricia Williams of Belchertown. Mark was predeceased by his paternal grandparents, Leonard and Irene Ecker. Mark is also survived by aunts, uncles, cousins and many friends.

Accordingly, as a mark of respect to the memory of Sergeant Mark R. Ecker, II, at thirteen minutes past five o'clock P.M., on motion of Mr. Brewer, the Senate adjourned to meet again tomorrow at one o'clock P.M.