

**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

*Monday, May 2, 2011.*

Met at one minute past one o'clock P.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.

#### *Distinguished Guests.*

There being no objection, the Chair (Mr. Petrucci) handed the gavel to Mr. Richard T. Moore for the purpose of an introduction. Mr. Moore then introduced, in the rear of the Chamber, the Uxbridge High Schools Boys Basketball Team. They were recognized for having a 19-4 season and winning the Small Schools Division championship at Clark University. They were accompanied by Coach Mark Donahue. The Senate applauded their accomplishments and they withdrew from the Chamber.

There being no objection, the Chair (Mr. Petrucci) handed the gavel to Mr. Hedlund for the purpose of an introduction. Mr. Hedlund then introduced, in the Senate Gallery, a class of students from the Hamilton School in Weymouth. The Senate welcomed them with applause and they withdrew from the Chamber.

#### *Petition.*

Mr. Baddour presented a petition (subject to Joint Rule 12) of Steven A. Baddour and Brian S. Dempsey for legislation to establish a sick leave bank for Bethany M. Tsioropoulos, an employee of the Department of Massachusetts Rehabilitation Commission;

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

#### *Reports of Committees on Proposals for Legislative Amendments to the Constitution.*

By Ms. Creem, for the committee on the Judiciary, on the petition (accompanied by proposal, Senate, No. 12) of Cynthia Creem, Marty Walz, James Eldridge and Linda Dorcena Forry for a legislative amendment to the Constitution relative to the subject matter of initiative petitions,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 12), ought to pass (Representative Winslow of Norfolk dissenting);**

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 16) of Richard J. Ross, Gale D. Candaras, Robert L. Hedlund and other members of the General Court for a legislative amendment to the Constitution to prohibit eminent domain,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 16), ought to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 529) of Alice Wolf and others for a legislative amendment to the Constitution relative to the subject matter of initiative petitions,-- **reported, in**

**accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 529), ought to pass (Representative Winslow of Norfolk dissenting);**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1387) of Marty Walz and others for a legislative amendment to the Constitution relative to eminent domain takings,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1387), ought to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1824) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution relative to prohibiting eminent domain takings,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1824), ought to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1826) of Ellen Story and Russell Holmes for a legislative amendment to the Constitution relative to the retirement of judges,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1826), ought to pass (Representative Winslow of Norfolk dissenting);**

**The reports were severally read and placed on file, in accordance with the requirements of said rule.**

By Mr. Finegold, for the committee on Election Laws, on the petition (accompanied by proposal, Senate, No. 10) of Stephen M. Brewer a proposal for a legislative amendment to the Constitution relative to term limits,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 10), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 11) of James B. Eldridge for a legislative amendment to the Constitution to establish an independent redistricting commission,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 11), ought NOT to pass (Senator Knapik and Representative Lombardo of Billerica dissenting);**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 197) of Jay Kaufman, Cory Atkins and Marty Walz for a legislative amendment to the Constitution relative to vacancies in the office of Governor or Lieutenant-Governor,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 197), ought NOT to pass (Senator Knapik and Representatives Andrews of Orange, Atkins of Concord and Lombardo of Billerica dissenting);**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1114) of George N. Peterson, Jr. for a legislative amendment to the Constitution relative to the terms of office of Executive Councilors and members of the General Court,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1114), ought NOT to pass (Representatives Andrews of Orange, Ashe of Longmeadow and Lombardo of Billerica dissenting);**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1118) of David M. Torrissi for a legislative amendment to the Constitution relative to home rule,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1118), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1830) of Denise Provost for a legislative amendment to the Constitution relative to initiative and referendum petitions,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1830), ought NOT to pass;**

By Ms. Creem, for the committee on the Judiciary, on the petition (accompanied by proposal, Senate, No. 13) of Stanley C. Rosenberg, Thomas P. Kennedy, Denise Provost and other members of the General Court for a legislative amendment to the Constitution relative to the subject matter of initiative and referendum petitions,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 13), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 14) of Bruce E. Tarr, Robert L. Hedlund, Michael R. Knapik and Richard J. Ross for a legislative amendment to the Constitution relative to the reform of the Executive Council,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 14), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 15) of Brian A. Joyce, Robert L. Hedlund, Patricia D. Jehlen and other members of the General Court for a legislative amendment to the Constitution to provide for the abolition of the Governor's Council,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 15), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 17) of Robert L. Hedlund for a legislative amendment to the Constitution relative to the Governor's Council,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 17), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 511) Theodore C. Speliotis for a legislative amendment to the Constitution relative to abolishing the Governor's Council,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 511), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1319) of Russell Holmes and others for a legislative amendment to the Constitution relative the oaths and affirmations of public office,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1319), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1822) Anne M. Gobi for a legislative amendment to the Constitution to exclude matters relating to fisheries and wildlife from the subject matter of initiative petitions,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1822), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1823) of Thomas A. Golden, Jr. relative to term limits for judges,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1823), ought NOT to pass;**

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 1825) of Steven L. Levy for a legislative amendment to the Constitution establishing a part time General Court,-- **reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 1825), ought NOT to pass; The reports were severally read and placed on file, in accordance with the requirements of said rule.**

Under the provisions of Joint Rule 23, the following proposals were placed on file, the time within which the said committees were required to report having expired:

Of the committee on the Municipalities and Regional Government, ought NOT to pass (under Joint Rule 23), on the petition (accompanied by proposal, House, No. 3161) of Marcos A. Devers for a legislative amendment to the Constitution relative to home rule;

Of the committee on the Public Service, ought NOT to pass (under Joint Rule 23), on the petition (accompanied by proposal, House, No. 1827) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution repealing automatic increases in compensation for members of the General Court;

Of the committee on the Revenue, ought NOT to pass (under Joint Rule 23):

On the petition (accompanied by proposal, Senate, No. 18) of Stanley C. Rosenberg, Peter V. Kocot, Patricia D. Jehlen, Elizabeth A. Malia and other members of the General Court for a legislative amendment to the Constitution to allow for a graduated income tax; and

On the petition (accompanied by proposal, Senate, No. 19) of James Eldridge, Carl M. Sciortino, Jr., Sonia Chang-Diaz, Jonathan Hecht and other members of the General Court for a legislative amendment to the Constitution relative to creating a progressive income tax;

Of the committees on Rules of the two branches, acting concurrently, ought NOT to pass (under Joint Rule 23), on the petition (accompanied by proposal, Senate, No. 20) of Bruce E. Tarr, Michael R. Knapik, Robert L. Hedlund, Richard J. Ross and others for a legislative amendment to the Constitution to require a supermajority vote for the utilization of rainy day funds;

Of the Joint Committee on Ways and Means, ought NOT to pass (under Joint Rule 23):

On the petition accompanied by proposal, House, No. 1828) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution relative to a biennial state budget; and

On the petition (accompanied by proposal, House, No. 1829) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution limiting budget expenditure growth based on cost-of-living and population.

*Committee Discharged.*

Mr. Kennedy, for the committee on Consumer Protection and Professional Licensure, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 134) of Karen E. Spilka, Chris Walsh, Denise Provost and other members of the General Court for legislation to form a commission on for-profit schools,-- **and recommending that the same be referred to the committee on Higher Education.**

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

#### *Resolutions.*

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

Resolutions (filed by Messrs. Baddour, Hart, McGee and Petruccelli) “recognizing the contributions of Thomas J. Kinton, Jr. on his retirement after 35 years of dedicated service to the Commonwealth”;

Resolutions (filed by Mr. Rosenberg) “honoring 2011 Noho Pride Parade and Rally in the city of Northampton on its thirtieth anniversary”;

Resolutions (filed by Mr. Rosenberg) “celebrating the two hundred and fiftieth anniversary of the town of Shutesbury”; and

Resolutions (filed by Mr. Rosenberg) “celebrating the two hundredth anniversary of the M.N. Spear Memorial Library in the town of Shutesbury.”

#### *Reports of a Committee.*

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick bank for Brenda Randazzo, an employee of the Executive Office of Health and Human Services (House, No. 3222),-- **ought to pass.**

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

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for David C. Napolitano, an employee of the Trial Court (House, No. 3326),-- **ought to pass.**

**There being no objection, the rules were suspended, on motion of Mr. Keenan, and the bill 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.**

##### *Emergency Preamble Adopted.*

An engrossed Bill establishing a sick leave bank for David Cummings, an employee of the Executive Office of Health and Human Services (see House, No. 3220), 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 3 to 0.**

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

##### *Engrossed Bill*

An engrossed Bill relative to the Citizens Advisory Board on uses of the Rumney Marsh area (see House, No. 2598) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Mr. Petruccelli) and laid before the Governor for his approbation.

##### *Order Adopted.*

On motion of Mr. Keenan,--

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

##### *Adjournment in Memory of Justice Samuel Zoll.*

The Senator from Essex, Mr. Berry, and the Senator from Hampshire and Franklin, Mr. Rosenberg, requested that when the Senate adjourns today, it adjourn in memory of Justice Samuel Zoll.

Justice Samuel Edward Zoll, a lifelong resident of Salem, passed away early Tuesday morning. He was a local paper boy who went on to become the city's youngest city councilor at age 23, was then elected to the Massachusetts House of Representatives, and later became mayor of Salem in 1970. As mayor, he was credited with preserving Salem's historic downtown and waterfront,

and spearheading healthcare construction efforts in the city. His great love of Salem never faltered, and he could often be found walking and swimming at Winter Island.

Justice Zoll spent three years on the district court bench before Governor Dukakis appointed him chief justice in 1976, beginning his 28 year career in the position. He will be remembered as a fair and thoughtful judge, who strengthened laws against domestic violence and abolished the state's two-trial system. Most importantly, he will be remembered as a wise friend and role model with unwavering integrity.

Justice Zoll leaves his wife of 50 years, Marjorie; his brother, Michael of Vineyard Haven; a son, Barry of Barrington, Rhode Island; three daughters, Cheryl of Amherst, Risa of Jerusalem, and Rachel of New York City; and five grand-daughters.

Accordingly, as a mark of respect to the memory of Justice Samuel Zoll, at seventeen minutes past eleven o'clock A.M., on motion of Mr. Hedlund, the Senate adjourned to meet again on Thursday at eleven o'clock A.M.