

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.

Thursday, June 2, 2011.

Met at three minutes past one o'clock P.M. (Mr. Rosenberg in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Senator from Essex and Middlesex, Mr. Tarr, then led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Communications.

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

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1007

June 2, 2010

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

Dear Mr. Clerk:

Pursuant to Senate Rule 5A, because of the state of emergency resulting from the recent severe weather, I hereby cancel today's Senate formal session. The Senate will instead meet in an informal session on Thursday, June 2, 2011. I understand that you will notify all members accordingly.

Thank you for your attention to this matter.

Sincerely yours,
Therese Murray,
President of the Senate

A communication from the Honorable Therese Murray, President of the Senate, announcing the appointments (pursuant to Executive Order 529) of Senator Stanley C. Rosenberg, Patrick Browne of Plymouth and Thomas O'Brien of Plymouth to the Massachusetts Civil War Sesquicentennial Commission,-- **was placed on file.**

Petitions.

Petitions were severally presented and referred , as follows:

By Ms. Clark, a petition (accompanied by bill, Senate No. 1923) of Katherine M. Clark, Paul J. Donato, Christopher G. Fallon and Stephen Stat Smith (with the approval of the mayor and city council) for legislation to amend the charter of the city of Malden [Local approval received];

Under Senate Rule 20, to the committee on Municipalities and Regional Government.

By the same Senator, a petition (accompanied by bill, Senate No. 1924) of Katherine M. Clark, Paul J. Donato, Christopher G. Fallon and Stephen Stat Smith (with the approval of the mayor and city council) for legislation to exempt Joseph Walklett from the maximum age requirement for appointment as a firefighter in the city of Malden [Local approval received];

Under Senate 20, to the committee on Public Service.

Reports of Committees.

By Ms. Creem, for the committee on the Judiciary, on Senate, Nos. 820 and 827, a Bill relating to anti-human trafficking and protection (Senate, No. 1921);

By the same Senator, for the same committee, on Senate, No. 1913, a Bill establishing a sick leave bank for Christine S. Drew, an employee of the Trial Court (Senate, No. 1925);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill prohibiting the confiscation of lawfully owned firearms during a state of emergency (Senate, No. 1223);

By the same Senator, for the same committee, on petition, a Bill establishing the Correctional Officers' Bill of Rights (Senate, No. 1233);

By the same Senator, for the same committee, on petition, a Bill relative to the penalties for the operation of an unsafe elevator (Senate, No. 1238);

By the same Senator, for the same committee, on petition, a Bill relative to the Architectural Access Board (Senate, No. 1246); and

By the same Senator, for the same committee, on petition, a Bill relative to the recreational tramway board (Senate, No. 1247);

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

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill relative to rock wall climbing safeguards (Senate, No. 1217);

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

By Ms. Clark, for the committee on Public Service, on petition, a Bill authorizing an early retirement incentive program in the city of Taunton (Senate, No. 1886) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill exempting Dimitri P. Karpouzis from the maximum age requirement for police officers in the town of Ashland (Senate, No. 1891) [Local approval received];

Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

PAPERS FROM THE HOUSE

A message from His Excellency the Governor recommending legislation relative to bringing the Massachusetts Sex Offender Registry into compliance with the requirements of the federal Sex Offender Registration and Notification Act (House, No. 3471),-- **was referred, in concurrence, to the committee on the Judiciary.**

A Bill relative to authorizing the town of Edgartown to use a certain parcel of conservation land for grass field airport purposes (House, No. 2888,-- on petition) [Local approval received];

Was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-
Resolutions (filed by Mr. Hedlund) "congratulating the town of Cohasset on its adoption of the United States Army Community Covenant Program";

Resolutions (filed by Mr. Joyce) "honoring James G. Podgurski on the occasion of his retirement from the Canton Fire Department";

Resolutions (filed by Mr. Ross) "congratulating Scott Clemens on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Tarr) "congratulating North Reading Fire Chief Richard Nelson Harris on the occasion of his retirement"; and

Resolutions (filed by Mr. Wolf) "congratulating Sean Hurley-Del Vecchio on his elevation to the rank of Eagle Scout."

PAPERS FROM THE HOUSE

A Bill relative to the establishment of voting precincts in the town of Harvard (printed in House, No. 3439,-- being a message from His Excellency the Governor),-- **was read.**

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

A Bill relative to the establishment of voting precincts in the town of Lancaster (printed in House, No. 3440,-- being a message from His Excellency the Governor),-- **was read.**

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

Reports of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Robert P. Hanifin, an employee of the Trial Court (House, No. 3397),-- **ought to pass, with an amendment inserting, in line 2, after the words “employee of the”, the following words:- “West Roxbury district court department of the”.**

There being no objection, the rules were suspended, on motion of Mr. Keenan, 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. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Michael Briggs, an employee of the Department of Youth Services (House, No. 3398),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Ms. Fargo, 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 Senate Bill to improve the administration of state government and finance (Senate, No. 1905),-- **ought to pass, with an amendment striking out section 1 and inserting in place thereof the following 10 sections:-**

“SECTION 1. Chapter 3 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 8 and inserting in place thereof the following section:- Section 8. When evaluating a petition by a city or town to borrow money in excess of the statutory limit of indebtedness under section 10 of chapter 44, the legislative committee to which that petition may be referred shall solicit a report on the financial condition of the city or town from the division of local services, which shall deliver the report as soon as possible.

SECTION 1A. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by inserting after section 12A the following section:-

Section 12B. The clerks of the 2 branches shall in every odd-numbered year prepare a manual for the general court. Such number of copies of the manual as the committees on rules shall determine shall be printed under the direction of the clerks of the 2 branches.

SECTION 1B. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 14 to 16, inclusive, and inserting in place thereof the following 2 sections:-

Section 15. The general court shall choose a sergeant-at-arms who shall hold office until removed or until another is chosen. The sergeant-at-arms may be removed by the general court. The sergeant-at-arms shall receive such salary as may be established by the committees on rules of the 2 branches of the general court acting concurrently.

The house of representatives may choose a sergeant-at-arms of the house of representatives who shall perform such duties as may be prescribed by the committee on rules of the house, and in case of the disability or necessary absence of the sergeant-at-arms of the general court, the sergeant-at-arms of the house of representatives shall perform the duties of the sergeant-at-arms during such disability or absence. The sergeant-at-arms of the house of representatives shall receive such salary as may be established by the committee on rules of the house.

Section 16. In case of the disability or necessary absence of the sergeant-at-arms of the general court and of the sergeant-at-arms of the house of representatives, the sergeant-at-arms may appoint, with the approval of the presiding officers of the 2 branches of the general court, an assistant sergeant-at-arms to perform the duties of the sergeant-at-arms during such disability or absence. The compensation of the assistant sergeant-at-arms shall be paid by the sergeant-at-arms, who shall be responsible for the assistant's fidelity and good conduct in office; but for misconduct or other sufficient cause the assistant may be removed by the general court.

SECTION 1C. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 18 to 20A, inclusive, and inserting in place thereof the following 3 sections:-

Section 18. There shall be 2 chief general court officers for each branch, each with the title of assistant sergeant-at-arms, and such assistant chief general court officers, general court officers and pages as shall be established by the committees on rules of the 2 branches of the general court acting concurrently. Such employees shall receive such compensation as may be established by said committees acting concurrently.

Section 19. The number of chief general court officers, assistant chief general court officers, general court officers and pages of the senate and of the house shall not exceed 92 in all.

Section 20A. Subject to appropriation, the sergeant-at-arms may purchase uniforms for the sergeant-at-arms, general court officers and pages as the sergeant-at-arms may determine.

SECTION 1D. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 22 and 23, and inserting in place thereof the following 3 sections:-

Section 22. The journals, files and papers of the senate and of the house of representatives shall be in the custody of their respective clerks during the session to which they relate and after that session they shall be in the custody of the state secretary. The clerk of each branch shall at all times have access to the journals, files and papers. Copies of such journals, files and papers, certified by the clerk of the branch to which they originally appertained or by the state secretary, shall be evidence in like manner as the originals.

Section 22A. Such number of copies of the journals of the senate and of the house of representatives as the committees on rules shall determine shall be printed annually under the direction of the clerks of the 2 branches.

Section 23. Bills and resolves passed to be engrossed by the general court, and bills for which initiative petitions are completed under the constitution of the commonwealth, shall, under the direction of the committees on rules of the 2 branches, acting concurrently, be fairly engrossed in such manner and by utilizing such equipment as said committees shall determine. The enacting clause of bills for which initiative petitions are completed shall be in the form prescribed by section 3 of chapter 4. The state secretary shall cause the acts and resolves of each session to be neatly and strongly bound in separate volumes of convenient size and lettered on the back with a designation of the contents and the legislative year. If acts or resolves are becoming illegible, the state secretary shall cause copies of the acts or resolves, similar to the originals, to be prepared and shall attest them. Such attested copies shall have the same force and effect as the originals.

If the clerk of the senate, with the approval of the president of the senate and the speaker of the house, determines that it would expedite the business of the general court, the legislative engrossing division shall prepare for final passage by the general court an exact copy of any bill specified by said clerk, as passed to be engrossed by both branches, so far as possible by pasting a printed copy of said bill, as so passed, on the kind and size of paper designated by said committees on rules and the copy so prepared shall be deemed to have been fairly engrossed.

SECTION 1E. Said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out sections 32A to 38B, inclusive, and inserting in place thereof the following 5 sections:-

Section 32A. No special commission, no special or standing committee of the general court or of either branch of the general court and no sub-committee of any such commission or committee shall travel either within or without the commonwealth except by a vote of a majority of the total membership of such commission or committee, nor until the written approval of the presiding officers of both branches of the general court or of the presiding officer of the appropriate branch has been received. Such written approval shall specify the purpose of the trip, the places to be visited, the time within which such travel is to be completed and the names of all members or other persons authorized to travel.

Section 33. The committees on rules of the 2 branches, acting concurrently, shall publish electronically during each regular session of the general court bulletins of committee hearings.

Section 35. Advertisements of hearings of legislative committees shall be published on the official website of the general court and may be published in additional publications if the chairs of the committee determine that additional publication is necessary to reach those with a substantial interest in a matter pending at the hearing.

Section 38A. Joint committees of the general court, the house and senate committees on ways and means and the house and senate committees on bonding, capital expenditures and state assets when reporting favorably on bills referred to them shall include with that report a fiscal note prepared under section 3A of chapter 29 showing the estimated cost or fiscal effect of the proposed legislation, if the cost of the legislation exceeds \$100,000. Such fiscal notes shall be printed in the daily calendars of each branch whenever said bills appear on the calendar and shall be made available on the official website of the general court.

Section 38B. The committee on ways and means of each branch of the general court shall conduct public hearings on all requests and recommendations for appropriations for the executive, judicial and legislative branches of the state government submitted under section 2 of Article LXIII of the Amendments to the Constitution. The house and senate committees on bonding, capital

expenditures and state assets, or a committee of the general court having primary jurisdiction over requests and recommendations for capital outlay programs and projects which the governor submits to the general court, shall hold a hearing on such requests and recommendations. Any committee referred to in this section shall give 5 days public notice prior to holding such public hearings.

SECTION 1F. Sections 56 to 61, inclusive of chapter 3 of the General Laws are hereby repealed.

SECTION 1G. Section 65 of chapter 3 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out in lines 4 and 5 the words, “three shall be members of The Doric Dames,” and inserting in place thereof:- 1 may be a member of The Doric Docents.

SECTION 1H. Said section 65 of said chapter 3, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The committee may consider and advise the senate relative to any matter germane to the upgrading and restoration of the quarters in the state house used by the members of the senate and its employees, with particular attention to the historical and artistic qualities of said quarters. The committee may file recommendations from time to time with the clerk of the senate.

SECTION 1I. The General Laws are hereby amended by inserting after chapter 3 the following chapter:-

CHAPTER 3A THE SUNSET ACT

Section 1. There is hereby established a procedure for the identification and elimination of waste, duplication and inefficiency in state government agencies and authorities established by statute, regulation or executive order to be known as the Sunset Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

‘Advisory committee’, a committee, council, commission or other entity established under state law whose primary function is to advise a state agency.

‘Agency’, a state agency as defined in section 1 of chapter 29.

‘Authority’, a state authority as defined in section 1 of chapter 29.

‘Commission’, the sunset advisory commission established in section 3.

Section 3. (a) There shall be a sunset advisory commission consisting of 3 members of the senate, 1 of whom shall be appointed by the minority leader of the senate, 3 members of house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives. The president of the senate and the speaker of the house of representatives may serve as legislative appointees.

(b) Legislative members shall serve 2-year terms, conterminous with their service as elected members of the legislature. If the president of the senate or the speaker of the house of representatives serves on the commission, the president or speaker’s service shall continue until resignation from the commission or until the individual ceases to hold the office.

(c) Any member, other than the president of the senate and the speaker of the house of representatives, who serves a full term may not be appointed to an immediately succeeding term.

(d) The president of the senate and the speaker of the house of representatives shall make their appointments before February 1 of each odd-numbered year.

(e) If a legislative member ceases to be a member of the house from which the member was appointed, the seat held by that member shall be considered vacant.

(f) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(g) The commission shall have a chair and a vice-chair as presiding officers. The chair and vice-chair positions shall alternate every 2 years between the 2 membership groups appointed by the president of the senate and the speaker of the house of representatives. The chair and vice-chair shall not be from the same membership group. The president of the senate shall designate a presiding officer from the president’s appointed membership group and the speaker shall designate the other presiding officer from the speaker’s appointed membership group.

(h) Four members of the commission shall constitute a quorum. A final action or recommendation shall not be made unless approved by a recorded roll call vote of a majority of members appointed by the president of the senate and the speaker of the house of representatives. All other actions by the commission shall be decided by a majority of the members present and voting, so long as a quorum is present.

Section 4. The commission shall adopt rules necessary to carry out this chapter.

Section 5. Before July 1 of the odd-numbered year before the year in which an agency, advisory committee or authority subject to this chapter is abolished, the agency, advisory committee or authority shall report to the commission:

(1) information regarding the application to the agency, advisory committee or authority of the criteria in section 9; and

(2) any other information that the agency, advisory committee or authority considers appropriate or that the commission requests.

Section 6. (a) Within 1 year of the appointment and qualification of the members of the commission and the organization of the commission staff, the commission shall assign sunset dates for each agency, authority and advisory committee of the commonwealth and shall notify the head of such agency, authority and advisory committee of the date selected. The commission shall then file legislation with the general court to implement the abolition schedule.

(b) Before January 1 of the year in which an agency, advisory committee or authority subject to this chapter is scheduled to be abolished, the commission shall:

(1) review and take action necessary to verify the reports submitted by the agency, advisory committee or authority under this chapter;

(2) consult the house and senate committees on post audit and oversight, the state auditor, the inspector general and the state comptroller on the application to the agency, advisory committee or authority of the criteria in section 9;

(3) conduct a review of the agency, advisory committee or authority based on the criteria in section 9 and prepare a written report; and

(4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session and the resulting legislation.

(c) The written report prepared by the commission under clause (3) of subsection (b) shall be a public record.

Section 7. (a) Before February 1 of the year in which an agency, advisory committee or authority subject to this chapter and is to be abolished, the commission shall conduct public hearings concerning, but not limited to, the application to the agency, advisory committee or authority of the criteria in section 9.

(b) The commission may hold the public hearings after the review of the agency, advisory committee or authority is complete and available to the public.

Section 8. (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies, authorities and advisory committees reviewed.

(b) In the report the commission shall include:

(1) its findings under section 9;

(2) its recommendations under this chapter; and

(3) other information the commission considers necessary for a complete review of the agency, advisory committee or authority.

Section 9. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency, authority or advisory committee or for the performance of the functions of the agency, authority or advisory committee:

(1) the efficiency and effectiveness with which the agency, authority or advisory committee operates;

(2)

- (a) an identification of the mission, goals and objectives intended for the agency, authority or advisory committee and of the problem or need that the agency, authority or advisory committee was intended to address; and
 - (b) the extent to which the mission, goals and objectives have been achieved and the problem or need has been addressed;
- (3)
 - (a) an identification of any activities of the agency, authority or advisory committee in addition to those granted by statute and of the authority, of the agency, authority or advisory to conduct those activities; and
 - (b) the extent to which those activities are needed;
- (4) an assessment of authority of the agency, authority or advisory committee relating to fees, inspections, enforcement and penalties;
- (5) whether less restrictive or alternative methods of performing a function that the agency, authority or advisory committee performs could adequately protect or provide service to the public;
- (6) the extent to which the jurisdiction of the agency, authority or advisory committee and the programs administered by the agency, authority or advisory committee overlap or duplicate those of other agencies, authorities or advisory committees, the extent to which the agency, authority or advisory committee coordinates with those agencies, authorities or advisory committees and the extent to which the programs administered by the agency, authority or advisory committee can be consolidated with the programs of other authorities, agencies or advisory committees;
- (7) the promptness and effectiveness with which the agency, authority or advisory committee addresses complaints concerning entities or other persons affected by the agency, authority or advisory committee, including an assessment of the agency's, authority's or advisory committee's administrative hearings process;
- (8) an assessment of the agency's, authority's or advisory committee's rulemaking process and the extent to which the agency, authority or advisory committee has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;
- (9) the extent to which the agency, authority or advisory committee has complied with:
 - (a) federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and
 - (b) state law and applicable rules of any state agency, authority or advisory committee regarding purchasing guidelines and programs for historically underutilized businesses;
- (10) the extent to which the agency, authority or advisory committee issues and enforces rules relating to potential conflicts of interest of its employees and chapter 268A;
- (11) the extent to which the agency or authority complies with chapters 66 and 66A and follows records management practices that enable the agency to respond efficiently to requests for public information;
- (12) the effect of federal intervention or loss of federal funds if the agency, authority or advisory committee is abolished;
- (13) the extent to which the authority has issued bonds or otherwise incurred similar long-term obligations, the amount of outstanding bonded indebtedness for which the authority is responsible and the sustainability of another authority assuming responsibility for such long-term obligations;
- (14) whether the authority is responsible for a retirement system for its employees and the extent of the authority's obligations and available funding under such retirement system and for other post-employment benefits for retired employees; and
- (15) whether the agency, authority or advisory committee utilizes an open and competitive bid process for third party contracts related to legal representation, bonds and fiscal management.

Section 10. (a) In its report on an agency, authority or advisory committee, the commission shall make recommendations:

(1) on the abolition, continuation or reorganization of each affected agency, authority or advisory committee and on the need for performance of the functions of the agency, authority or advisory committee;

(2) on the consolidation, transfer or reorganization of programs within agencies or authorities not under review when the programs duplicate functions performed in agencies or authorities under review;

(3) to improve the operations of the agency, authority or advisory committee, including management recommendations that do not require a change in the agency's, authority's or advisory committee's enabling statute; and

(4) to improve the efficiency and transparency in third party contract awards related to legal representation, bonds and fiscal management, including, but not limited to, recommending utilization of an open and competitive bid process.

(b) The commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels for certain programs to improve the operations of the agency, authority or advisory committee, to be forwarded to the house and senate committees on ways and means and the executive office for administration and finance.

(c) The commission shall prepare drafts of legislation necessary to carry out the commission's recommendations under this section.

(d) After the legislature acts on the report, the commission shall present to the secretary of administration and finance, the commission's recommendations that do not require a statutory change to be put into effect.

Section 11. In the 2-year period preceding the date scheduled for the abolition of a state agency, authority or advisory committee under this chapter, the commission may exempt certain agencies, authorities or advisory committees from the requirements of this chapter relating to staff reports, hearings and reviews.

(a) The commission may only exempt an agency, authority or advisory committee that has been (i) inactive for a period of 2 years preceding the date the agency, authority or advisory committee is scheduled for abolition or (ii) rendered inactive by an action of the legislature.

(b) The commission's action in exempting an agency, authority or advisory committee under this section shall be done by an affirmative record vote and shall be decided by a majority of all members present and voting.

Section 12. During each legislative session, the staff of the commission shall monitor legislation affecting agencies, authorities and advisory committees that have undergone sunset review and shall periodically report to the members of the commission on proposed changes which would modify prior recommendations of the commission.

Section 13. An advisory committee, the primary function of which is to advise a particular agency or authority, shall be abolished on the date set for abolition of the agency or authority unless the advisory committee shall have been expressly continued by law.

Section 14. (a) During the annual session immediately before the abolition of an agency, authority or an advisory committee that is subject to this chapter, the legislature may continue the agency, authority or advisory committee for a period not to exceed 12 years.

(b) This chapter shall not prohibit the legislature from:

(1) terminating a state agency, authority or advisory committee subject to this chapter at a date earlier than that provided in this chapter; or

(2) considering other legislation relative to a state agency, authority or advisory committee subject to this chapter.

Section 15. (a) An agency, authority or advisory committee that is abolished in an odd-numbered year may continue in existence until June 30 of the following year to conclude its business. Unless the law provides otherwise, abolition shall not reduce or otherwise limit the powers and authority of the agency or authority during the concluding year. An agency or authority shall be terminated and shall cease all activities at the expiration of the 1-year period. Unless the law provides otherwise, all rules that have been adopted by the agency or authority shall expire at the expiration of the 1-year period.

(b) An un-obligated or unexpended appropriation of an abolished agency or advisory committee shall lapse on September 1 of the year after abolition.

(c) Except as provided by subsection (f) or as otherwise provided by law, all money in a dedicated fund of an abolished state agency, authority or advisory committee on September 1 of the year after abolition shall be transferred to the General Fund. Any law dedicating money to a specific fund of an abolished agency shall become void on September 1 of the year after abolition.

(d) Unless otherwise provided, an abolished state agency, authority or advisory committee funded by the legislature may not spend or obligate any of the money appropriated beyond 1 year from the date of abolition.

(e) Unless the governor designates an appropriate agency as prescribed by subsection (f), property and records in the custody of an abolished state agency, authority or advisory committee on September 1 of the year after abolition shall be transferred to the state archives. If the governor designates an appropriate agency, the property and records shall be transferred to the designated agency.

(f) This chapter shall not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract and other written obligations, under their terms. If an abolished agency or authority has outstanding bonded indebtedness or other outstanding obligations, including lease, contract or other written obligations, the bonds and all other obligations, including lease, contract and other written obligations shall remain valid and enforceable under their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract and other written obligations. The governor shall designate an appropriate agency or authority that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract and other written obligations. The designated agency or authority shall provide payment from the sources of payment of the bond under the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract and other written obligations, under their terms, whether from taxes, revenues or otherwise, until the bonds and interest on the bonds are paid in full and all other obligations, including lease, contract and other written obligations, are performed and paid in full. If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract and other written obligations, shall remain with the comptroller or the previously designated trustees. If the proceedings do not provide that the funds remain with the comptroller or the previously designated trustees, the funds shall be transferred to the designated agency or authority.

Section 16. (a) The commission may issue a subpoena to compel the attendance of witnesses and the production of books, records, papers and other objects necessary or proper for the purposes of the commission proceedings. The subpoena may be served on a witness at any place in the commonwealth.

(b) If a majority of the commission directs the issuance of a subpoena, the chairman shall issue the subpoena in the name of the commission.

(c) If the chairman is absent, the chairman's designee may issue a subpoena or other process in the same manner as the chairman.

(d) If necessary to obtain compliance with a subpoena or other process, the commission may issue attachments. The attachments may be addressed to and served by a constable, sheriff or deputy sheriff in the commonwealth.

(e) Testimony taken under subpoena shall be reduced to writing and given under oath subject to the penalties of perjury.

(f) A witness who attends a commission proceeding under process shall be paid the same fees and mileage paid witnesses in courts of the commonwealth.

Section 17. (a) The commission may request the assistance of agencies. When assistance is requested, an agency or an agency officer shall reasonably assist the commission.

(b) In carrying out its functions under this chapter, the commission or its designated staff member may inspect the records, documents and files of any agency or authority.

Section 18. (a) A working paper, including all documentary or other information, prepared and maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report shall be exempt from the public disclosure requirements of chapter 66.

(b) A record held by another entity that is considered to be confidential by law and that the commission receives in connection with the performance of the commission's functions under this chapter or another law remains confidential and shall be exempt from the public disclosure requirements of chapter 66.

Section 19. If an employee is displaced because an agency, authority or advisory committee is abolished, reorganized or continued, the head of the agency, authority or advisory committee and the personnel administrator of the commonwealth shall make a reasonable effort to relocate the displaced employee. Except as otherwise expressly provided, abolition of an agency,

authority or advisory committee shall not affect the rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose or proceedings that were begun before the effective date of abolition.

Section 20. (a) Each bill filed in the legislature that would create a new agency, authority or advisory committee to an agency shall be reviewed by the commission.

(b) The commission shall review the bill to determine whether:

- (1) the proposed functions of the agency, authority or committee could be administered by 1 or more existing agencies, authorities or advisory committees;
- (2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;
- (3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and
- (4) the bill provides for adequate protection against conflicts of interest within the agency, authority or advisory committee.

(c) On request, the commission shall forward a written comment on the legislation to the legislator who filed the bill and to the presiding officer of the legislative committee to which the bill has been referred.

Section 21. (a) The commission may accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other item of value made to the commonwealth or the commission for carrying out the purpose of this chapter.”;

In section 97, in proposed section 1 of chapter 29 of the General Laws, in the definition of “Tax expenditures”, by adding the following sentence:- “Sales that do not involve tangible personal property shall not result in tax expenditures under this definition.”;

In said section 97, in line 3892, by striking out the words “section 5C” and inserting in place thereof the following words:- “sections 5C and 5G”. ; and

In said section 97, by striking out the third paragraph of proposed section 5B of said chapter 29, and inserting in place thereof the following paragraph:- “The commissioner of revenue shall annually prepare and present with the governor’s proposed budget actual or updated estimates of tax expenditures which occurred during the preceding fiscal year, based on the best available information, and estimates of tax expenditures which in his judgment will occur during the current fiscal year and the ensuing fiscal year. Such estimates of tax expenditures shall be prepared to facilitate a comparison of increases or decreases from actual or estimated tax expenditures of the preceding fiscal year to the estimates of tax expenditures for the current fiscal year and to the ensuing fiscal year. Such estimates shall also compare actual or updated estimates of tax expenditures during the preceding fiscal year, based on the best available information, to estimates previously presented for that fiscal year by the commissioner of revenue under this paragraph. The commissioner shall identify and analyze reasons for updates in estimates or for significant discrepancies identified under the preceding sentence.”

Order Adopted.

Mr. Berry offered the following order:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to improve the administration of state government and finance (Senate, No. 1905) with the recommended Senate Ways and Means amendment, shall be placed in the Orders of the Day for a second reading on Thursday June 9, 2011.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 12:00 noon, on Tuesday, June 7, 2011. 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 it 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 on Ethics and Rules, reported, recommending that the order ought to be adopted.

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the order was considered forthwith and adopted.

The bill (Senate, No. 1905), with the recommended Ways and Means amendment pending, was placed in the Orders of the Day for Thursday, June 9, 2011, for a second reading with the amendment pending.

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of John A. Hart, Jr. for legislation to establish a sick leave bank for Louceta Hodge, an employee of the Department of Revenue.

The rules were suspended, on motion of Mr. Tarr, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

Petitions.

On motion of Mr. Keenan, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Berry, (accompanied by bill) of Frederick E. Berry for legislation to authorize the Division of Capital Asset Management and Maintenance, in consultation with the board of trustees of Essex Independent Agricultural and Technical Institute, to sell and convey land in the town of Newbury,-- **and the same was referred to the committee on State Administration and Regulatory Oversight. Sent to the House for concurrence.**

On motion of Ms. Fargo, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Berry, (accompanied by bill) of Frederick E. Berry for legislation to establish a sick leave bank for Louise D'Orsi, an employee of the Department of Transportation,-- **and the same was referred to the committee on Public Service. Sent to the House for concurrence.**

PAPER FROM THE HOUSE

A joint petition (accompanied by bill, House, No. 3473) of Todd M. Smola and Stephen M. Brewer for legislation to establish a sick leave bank for Toby Miller, an employee of the Executive Office of Health and Human Services,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill authorizing the Norfolk County Commissioners to borrow money for the repair, renovation and constructing, equipping and furnishing of buildings at Norfolk County Agricultural High School in the town of Walpole (Senate, No. 1062),-- **ought to pass, with an amendment adding the following section:-** "SECTION 3. This act shall take effect upon its passage."

There being no objection, the rules were suspended, on motion of Mr. Rodrigues, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 1062, amended) was then 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 Third Reading to read as follows: "An Act authorizing the Norfolk County Commissioners to borrow money for the repair, renovation and construction, equipping and furnishing of buildings at Norfolk County Agricultural School in the town of Walpole".

Sent to the House for concurrence.

Recess.

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

PAPERS FROM THE HOUSE

Engrossed Bills.

An engrossed Bill relative to the establishment of voting precincts in the town of Harvard (see House Bill, printed in House, No. 3439) (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, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

An engrossed Bill relative to the establishment of voting precincts in the town of Lancaster (see House Bill, printed in House, No. 3440) (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, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Rosenberg) 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.

On motion of Mr. Tarr, at twenty-one minutes past two o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.