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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, June 16, 2011.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced, in the rear of the Chamber, a group of high school girls from Newton Country Day School. The students are participating in an urban immersion program and learning about poverty, hunger and homelessness in the city. They were accompanied by teacher, Ms. Anne Theriault. The Senate welcomed them with applause and they withdrew from the Chamber.

Petitions.

Petitions were severally presented and referred, as follows:

By Mr. Tarr, a petition (accompanied by bill, Senate No. 1941) of Bruce E. Tarr (by vote of the town) for legislation to provide for the establishment of a fire department in the town of Newbury [Local approval received];

**Under Senate Rule 20, to the committee on Municipalities and Regional Government.
Sent to the House for concurrence.**

By Mr. McGee, a petition (subject to Joint Rule 12) of Thomas M. McGee for legislation to establish a sick leave bank for Michelle Chandler, an employee of the Executive Office of Health and Human Services;

By Mr. Tarr (by request), a petition (subject to Joint Rule 12) of John Lahoud for legislation relative to terms of employment; and

By Mr. Wolf, a petition (subject to Joint Rule 12) of Daniel A. Wolf for legislation relative to shellfish reporting;

Severally, under Senate Rule 20, to the committees on the two branches, acting concurrently.

Reports of Committees.

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on petition, a Bill relative to an exclusive and perpetual easement within Monroe State Forest (Senate, No. 1899, changed in line 35, by striking out the words "the joint committee");

Read and, under Senate Rule 26C, referred to the committee on Bonding, Capital Expenditures and State Assets.

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on petition, a Bill to enhance the quality of security services on state property (Senate, No. 1572) (Representative Levy of Marlborough dissenting);

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

Committee Discharged

Mr. Richard T. Moore, for the committee on Health Care Financing, reported, asking to be discharged from further consideration of the Bill regarding families and children engaged in services (House, No. 3492),-- **and recommending that the same be referred to the Senate committee on Ways and Means.**
Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence.

PAPERS FROM THE HOUSE

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 3497) of Kate Hogan and Jennifer L. Flanagan (by vote of the town) for legislation to authorize the town of Bolton to grant an additional liquor license for the sale of all alcoholic beverages to be drunk on the premises;

Petition (accompanied by bill, House, No. 3498) of Kate Hogan and Jennifer L. Flanagan (by vote of the town) for legislation to authorize the town of Bolton to grant an additional liquor license for the sale of all alcoholic beverages to be drunk on the premises;

Petition (accompanied by bill, House, No. 3499) of Rhonda L. Nyman and Thomas P. Kennedy (by vote of the town) for legislation to authorize the town of Hanover to grant an additional license for the sale of wine and malt beverages to be drunk on the premises; and

Petition (accompanied by bill, House, No. 3500) of John W. Scibak and Michael R. Knapik (with the approval of the mayor and city council) for legislation to authorize the city of Easthampton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises;

Severally, to the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 3501) of Charles A. Murphy (by vote of the town) for legislation relative to the town meeting form of government in the town of Burlington;

Petition (accompanied by bill, House, No. 3502) of Rhonda L. Nyman and Thomas P. Kennedy (by vote of the town) for legislation to authorize a parks and recreation revolving fund in the town of Hanover;

Petition (accompanied by bill, House, No. 3503) of Sarah K. Peake (by vote of the town) for legislation relative to the capital outlay provisions of the charter of the town of Harwich;

Petition (accompanied by bill, House, No. 3504) of Sarah K. Peake (by vote of the town) for legislation relative to the charter of the town of Harwich and the election of members to the Monomoy Regional School District Committee; and

Petition (accompanied by bill, House, No. 3505) of John W. Scibak and Michael R. Knapik (with the approval of the mayor and city council) for legislation to make certain changes in the charter of the city of Easthampton;

Severally, to the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 3506) of William C. Galvin and Brian A. Joyce (by vote of the town) for legislation to exempt the position of deputy chief of police in the town of Canton for the civil service law;

Petition (accompanied by bill, House, No. 3507) of David Paul Linsky and others (by vote of the town) for legislation to exempt the position of Inspector of Buildings in the town of Natick from provisions of the civil service law;

Petition (accompanied by bill, House, No. 3508) of David Paul Linsky, Alice Hanlon Peisch and Karen E. Spilka (by vote of the town) for legislation to exempt the position of fire chief in the town of Natick from provisions of the civil service law; and

Petition (accompanied by bill, House, No. 3509) of Paul W. Mark and Benjamin B. Downing (by vote of the town) for legislation to exempt the position of fire chief in the town of Beckett from the provisions of the civil service law;

Severally, to the committee on Public Service.

Bills

Establishing a sick leave bank for Toby Miller, an employee of the Executive Office of Health and Human Services (House, No. 3473,-- on petition);

Establishing a sick leave bank for Michael W. Kaplon, an employee of the Department of Revenue (House, No. 3482,-- on petition); and

Making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3510, amended,-- on House, No. 3493, in part);

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

A Bill authorizing the city of Marlborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 3344,-- on petition) [Local approval received];

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

Recess.

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at twenty-one minutes past one 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 severally considered forthwith and adopted, as follows:--

Resolutions (filed by Mr. Baddour) "congratulating Northern Essex Community College President David F. Hartleb on the occasion of his retirement and the dedication of the David F. Hartleb Technology Center";
Resolutions (filed by Mr. Joyce) "congratulating Captain John Buckley on receiving the 2011 Public Safety Award from the Knights of Columbus Father John J. Flatley Council 2095 of Canton";
Resolutions (filed by Mr. Joyce) "congratulating Officer Robert Zepf, Jr. on receiving the 2011 Public Safety Award from the Knights Of Columbus Father John J. Flatley Council 2095 of Canton";
Resolutions (filed by Mr. Kennedy) "congratulating the Brockton Council on Aging Mary Cruise Kennedy Senior Center on the occasion of its tenth anniversary"; and
Resolutions (filed by Mr. Kennedy) "congratulating the National Scoliosis Foundation on its observance of June 2011 as National Scoliosis Awareness Month."

PAPER FROM THE HOUSE

Emergency Preamble.

An engrossed Bill establishing a sick leave bank for Christine S. Drew, an employee of the Trial Court (see Senate, No. 1925), 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 10 to 0.**
The bill was signed by the President and sent to the House for enactment.

Reports of Committees.

By Mr. Brewer, that the House Bill establishing a sick leave bank for Mark E. Lopes, an employee of the Bristol County Sheriff's Office (House, No. 3388, amended),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Rodrigues, 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, that the House Bill establishing a sick leave bank for Mitch Dembowski, an employee of the Department of Developmental Services (House, No. 3393, amended),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Brewer, 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. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Brian A. Joyce, Bruce J. Ayers, Mark Cusack and Walter F. Timilty for legislation to establish a sick leave bank for Frank Silveira, an employee of the Department of Revenue.

The rules were suspended, on motion of Mr. Tolman, 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.

Petition.

On motion of Ms. Spilka, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Ms. Chandler, (accompanied by bill) of Harriette L. Chandler for legislation to establish the Worcester County Commission on the Status of Women,-- **and the same was referred to the committee on Municipalities and Regional Government. Sent to the House for concurrence.**

PAPERS FROM THE HOUSE

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 3513) of John D. Keenan for legislation to clarify the status of employees of franchisors;

Under suspension of Joint Rule 12, to the committee on the Community Development and Small Business.

Petition (accompanied by bill, House, No. 3514) of Charles A. Murphy and Kenneth J. Donnelly for legislation relative to elevator, escalator and moving walk safety;

Under suspension of Joint Rule 12, to the committee on Public Safety and Homeland Security.

A petition of Marty Walz and others (accompanied by bill) for legislation to regulate the compensation payable to board members of public charities,-- **came from the House with the endorsement that they had suspended Joint Rule 12 and**

referred the petition to the committee on Consumer Protection and Professional Licensure. On motion of Mr. Berry, the Senate concurred in the suspension of Joint Rule 12, NON-concurred in the referral to the committee on Consumer Protection and Professional Licensure and referred the petition to the committee on the Judiciary. Sent to the House for its action.

Engrossed Bills.

The following engrossed bills (the first of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

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 (see Senate, No. 1062, amended); Designating a certain bridge in the town of Lakeville in honor of James Warren Buzzell, Jr. (see House, No. 1787, amended); and Establishing a sick leave bank for Daniel Murphy, an employee of the Department of Correction (see House, No. 3250).

Orders of the Day.

The Orders of the Day were considered as follows, to wit:

Bills

Amending the city of Gloucester charter (Senate, No. 1059); Exempting Dimitri P. Karpouzis from the maximum age requirement for police officer in the town of Ashland (Senate, No. 1891); and Authorizing the town of Edgartown to use a certain parcel of conservation land for grass field airport purposes (House, No. 2888);

Were severally read a second time and ordered to a third reading.

The Senate Bill authorizing the city of Westfield to convert a seasonal license for the sale of all alcoholic beverages not to be drunk on the premises to an annual license for the sale of all alcoholic beverages not to be drunk on the premises (Senate, No. 1876),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Mr. Knapik offered an amendment substituting a new draft with the same title (Senate, No. 1939).

The amendment was adopted.

The bill (Senate, No. 1939) was then ordered to a third reading. The rules were suspended, on motion of Mr. Knapik, and the bill was read a third time and passed to be engrossed.

Sent to the House for concurrence.

The House Bill providing for an increase in the membership of the board of selectmen in the town of Rehoboth (House, No. 3293),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Mr. Timilty presented an amendment striking out all after the enacting clause and inserting in place thereof the following text:-

“SECTION 1. Section 1 of article III of the by-laws of the town of Rehoboth, is hereby amended by striking out the sentence ‘Three Selectmen, each for a term of three years, of which one shall be elected at each Annual Meeting.’ and inserting in place thereof the following sentence:- Five Selectmen, each for a term of 3 years, of which 1 or 2 shall be elected at each Annual Town Meeting.

SECTION 2. Notwithstanding any general or special law or by-law to the contrary, at the next annual town election occurring at least 64 days following the effective date of this act, the town shall elect 2 members in addition to the 1 member otherwise to be elected. One member shall be elected to a 2-year term and 1 member to a 3-year term; both offices shall be listed separately on the ballot. Thereafter, all members of the board of selectmen shall be elected to 3-year terms.

SECTION 3. This act shall not affect the terms of office of incumbent members of the board of selectmen on the effective date of this act.”; and by striking out the title and inserting in place thereof the following title:- “An Act increasing the membership of the board of selectmen in the town of Rehoboth.”.

The amendment was adopted.

The bill, as amended, was then ordered to a third reading. The rules were suspended, on motion of Mr. Timilty, and the bill was read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

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 authorizing the town of Sturbridge to convey a certain parcel of land (House, No. 574),-- was read a third time. Pending the question on passing the bill to be engrossed, in concurrence, Mr. Brewer moved that the bill be amended by striking

out section 2 and inserting in place thereof the following section:-

“SECTION 2. In consideration for the conveyance authorized in section 1, the grantees shall convey to the board of selectmen of the town of Sturbridge for completion of the Burgess Elementary School project a square-shaped parcel of land, containing approximately 11,157 square feet, lying to the north of the grantees’ property at 408 Main street near the southwest corner of land of the town of Sturbridge. The parcel to be conveyed to the board of selectmen by the grantees is shown on the sketch described in section 1 and is a portion of the parcel of land identified in the assessors’ office in the town of Sturbridge as parcel number 415-02446-408. The consideration for the conveyance authorized in section 1 shall include such other terms and conditions as the board of selectmen deems appropriate.”

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill making appropriations for the Fiscal Year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3510, amended),-- ought to pass, with an amendment in section 2, by striking out, in line 49, the words “Correction Officer” and inserting in place thereof the following words:- “Essex County Correctional Officers”; In section 2A, by striking out item 0521-XXXX, and inserting in place thereof the following item under the following caption:-

SECRETARY OF THE COMMONWEALTH.
Office of the Secretary of the Commonwealth

“0521-0012

For reimbursements to municipalities for costs associated with the special primary and the special election to fill the house of representatives’ seat for the sixth Worcester district; provided, that the state secretary shall only reimburse the municipalities for costs that have previously been certified by the division of local mandates within the office of the state auditor; and provided further, that any unexpended funds in this item shall be made available in fiscal year 2012
.....\$37,628”; and

By inserting after section 7 the following section:-

“SECTION 7A. Item 0521-0004 of section 2 of chapter 9 of the acts of 2011 is hereby amended by striking out the figure ‘\$51,183’ and inserting in place thereof the following figure:- \$25,000.”

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

Mr. Rosenberg in the Chair, after remarks, Mr. Tarr moved that the bill be amended in section 2A, by striking line item 4000-0005 in its entirety; and by inserting, in said section 2A, after line item 7004-0108, the following:-

“8100-0111

For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security..... \$10,000,000”.
After debate, the amendment was *rejected*.

Mr. Tarr moved that the bill be amended by striking item 4000-0005 in its entirety
The amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 2A, by striking item 4000-0005 in its entirety; and by inserting after item 700-0108 the following new item:-

“8100-0111

For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security, to support regional, multidisciplinary approaches to combat gang violence through coordinated programs for prevention and intervention, coordinated law enforcement, including regional gang task forces and regional crime mapping strategies, focused prosecutions and reintegration strategies for ex-convicts; provided, that the secretary of public safety and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) demonstrate high levels of youth violence, gang problems and substance abuse in a region, with priority given to those programs targeting the reduction of youth violence among young persons at highest risk for being perpetrators or victims of gun violence in those municipalities with the highest number of youth homicides and serious assaults as determined by the executive office of public safety and security; (b) demonstrate a commitment to regional, multijurisdictional strategies to deal with such community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (c) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (d) make a written commitment to match grant funds with a 25 per cent match provided by either municipal or private contributions; and (e) identify

a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorney's offices, may apply for such funds; provided further, that such funds shall be considered one-time grants awarded to public agencies and shall not annualize into fiscal year 2013 or subsequent years; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further, that the executive office of public safety and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 16, 2011; provided further, that awards shall be made to applicants not later than December 15, 2011; and provided further, that the executive office of public safety and security may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering the program \$10,000,000”.

After remarks, the amendment was *rejected*.

Mr. Tarr moves to amend the bill in section 2A, in item 4000-0005, by striking the figure “\$10,000,000” and inserting in place thereof the figure “\$4,100,000”; and by inserting after item 7004-0108 the following new item:-

“8100-0111

For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security..... \$5,900,000”.

After remarks, the amendment was *rejected*, by a vote of 2 to 14.

Mr. Tarr moved to amend the bill in section 2A, in item 4000-0005, by adding at the end thereof the following:- “provided, that the executive office of health and human services shall only grant funds to existing programs actively engaged in youth violence prevention at the time of the passage of this act; provided further, that no funds shall be expended on public safety personnel costs, including but not limited to salaries and related employment benefits, provided further, that said office shall make publicly available on the Commonwealth’s website the following information: (1) the names of grant recipients; (2) the geographical region served by funds granted under this item; (3) the amounts granted to each recipient; (4), an itemization of expenditures by category of funds provided under this item, including but not limited to salary, contractual, and administrative costs”.

The amendment was *rejected*.

The bill, as amended, was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed, in concurrence, with the amendment was determined by a call of the yeas and nays, at seven minutes past three o’clock P.M., as follows, to wit (*yeas 35 – nays 0*) [**Yeas and Nays No. 42**]:

YEAS

Baddour, Steven A.	Kennedy, Thomas P.
Berry, Frederick E.	Knapik, Michael R.
Brewer, Stephen M.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	Pacheco, Marc R.
Creem, Cynthia Stone	Petrucelli, Anthony
DiDomenico, Sal N.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Finegold, Barry R.	Timilty, James E.
Flanagan, Jennifer L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 35.
Keenan, John F.	

NAYS — 0.

ANSWERED “PRESENT”.

Hedlund, Robert L. —

1.

ABSENT OR NOT VOTING

Donnelly, Kenneth J. Rush, Michael F.—**3.**

Hart, John A., Jr.

The yeas and nays having been completed at thirteen minutes past three o’clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Ms. Spilka,

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.

Moment of Silence.

At the request of the Chair (Mr. Rosenberg), the members, guests and employees stood in a moment of silence and reflection to the memory of Marine Sergeant William Voitowicz.

Adjournment in Memory of Marine Sergeant William Voitowicz

The Senator from Middlesex, Ms. Donoghue, requested that when the Senate adjourns today, it adjourn in memory of Marine Sergeant William Voitowicz.

Sergeant Voitowicz, or “Billy” as he was more commonly called, joined the United States Marine Corps shortly after his High School Graduation in 2007. He was a graduate of Groton Dunstable High School, Class of 2007 where he was involved in athletics and played on the basketball team. Sergeant Voitowicz was a member of the 2nd Marine Special Operations Battalion where he served with distinction. He was serving in Afghanistan on June 7, 2011 when he was shot and killed in a firefight. He received several awards including the Purple Heart; Combat Action Ribbon; Marine Corps; Good Conduct Medal; National Defense Service Medal; Afghanistan Campaign Medal; Global War on Terrorism Service Medal; Sea Service Deployment Ribbon; and the NATO International Security Assistance Force Medal.

He leaves behind his parents, Kevin and Rosemary, his brother, Christopher, his sister, Amanda and his grand-parents, Albert and Carol Labelle; as well as many relatives and friends. Billy courageously volunteered for this mission and has died a true hero.

Accordingly, as a mark of respect to the memory of Marine Sergeant William Voitowicz, at a quarter past three o’clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o’clock A.M.