

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.



Thursday, July 21, 2011.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Spilka and Ms. Chang-Diaz for the purpose of an introduction. Ms. Spilka then introduced, in the rear of the Chamber, Genesis Dominguez, a rising senior at Brighton High School. Genesis joined Burns and Levinson LLP as an intern in June 2010, attending the Boston Bar Association Summer Jobs Program last year. Ms. Chang-Diaz then introduced Aderita Fontes, a rising Junior at Brighton High School. She joined Burns and Levinson LLP this July and is attending the Boston Bar Association Summer Jobs Program while working with them full time. The Senate applauded their accomplishments and they withdrew from the Chamber. Genesis Dominguez and Aderita Fontes.

Petition.

Ms. Clark, presented a petition (subject to Joint Rule 12) of Katherine M. Clark and Paul Brodeur for legislation to establish a sick leave bank for JoAnne Pierce, an employee of the Executive Office of Health and Human Services; JoAnne Pierce,
Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. Kennedy, for the committee on Consumer Protection and Professional Licensure, on petition, (accompanied by bill, Senate, No. 124), a Bill extending simulcasting (Senate, No. 1971);
Read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Welch, for the committee on Municipalities and Regional Government, on petition, a Bill relative to a certain parcel of land in the city of Taunton (Senate, No. 1050) [Local approval received];
By the same Senator, for the same committee, on petition, a Bill amending contract procedures in the city of Boston (Senate, No. 1054) [Local approval received];
By the same Senator, for the same committee, on petition, a Bill to authorize the town of Foxborough to sell by auction town property located at 40 School Street (Senate, No. 1888) [Local approval received];
Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Committees Discharged

Mr. Berry, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Resolve to study the financial impact of the nexus between the insurance industry and law enforcement (Senate, No. 1257),-- **and recommending that the same be referred to the Senate committee on Ethics and Rules.**

Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE

A Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of land in the town of Hopkinton (House, No. 3341, amended,-- **on petition**);

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

Bills

Relative to unclaimed property in the Commonwealth (House, No. 2043,-- on petition);

Reforming alimony in the Commonwealth (House, No. 3617, amended,-- on Senate, No. 665); .

Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

Report of the committee on Public Service asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2977) of Ron Keohan for legislation relative to the additional compensation of assessors who have been awarded certificates as Massachusetts accredited assessors;-- **and recommending that the same be referred to the committee on Revenue,-- was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

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-five minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

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 Ms. Flanagan and Mr. Brewer) "honoring Lance Corporal John C. Gemborys of the 1st Battalion United States Marine Corps on his dedicated service and ultimate sacrifice for his country";

Resolutions (filed by Ms. Murray and Mr. Wolf) "congratulating Leo Fein on the occasion of his seventieth birthday."

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

July 21, 2011

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

Dear Mr. Clerk:

On Monday, July 11, 2011, I was unavoidably absent from the State House because I had a medical appointment. Therefore, I was unable to be present for the following Roll Calls:

#50 on House Bill 3580
#51 on Senate Bill 1028
#52 on Senate Bill 1569
#53 on Senate Bill 1930

Had I been present, I would have voted in the affirmative on each of these Roll Calls. I respectfully request that this letter be printed in the Senate Journal as part of the official record for July 11, 2011. Thank you for your assistance in this matter.

Sincerely,
SUSAN C. FARGO
3rd Middlesex District

On motion of Mr. Brewer, the above communication was ordered printed in the Journal of the Senate. Ordered printed.

PAPER FROM THE HOUSE

Engrossed Bill.

An engrossed Bill establishing a sick leave bank for Toby Miller, an employee of the Department of Developmental Services (see House, No. 3473, amended) (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 President and laid before the Governor for his approbation.

Orders of the Day

Prior to the consideration of the Orders of the Day, at twenty-one minutes before two o'clock P.M., Mr. Tarr doubted the presence of a quorum; and at eighteen minutes before two o'clock P.M., the President declared that a quorum was present.

The Orders of the Day were considered as follows:

The Senate Committee Bill extending simulcasting (Senate, No. 1970),-- **was read a third time.**

After remarks, and pending the question on passing the bill to be engrossed, Mr. Ross moved that the bill be amended in section 15, by inserting after the word "Suffolk" the following words:- "or Norfolk".

After remarks, the amendment was adopted.

After further remarks, the bill (Senate, No. 1970, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill providing the terms of certain bonds to finance the municipal road and bridge maintenance needs of the Commonwealth (printed in House, No. 3511),-- **was read a third time and, after remarks, was passed to be engrossed, in concurrence.**

The Senate Bill relative to community housing and services (Senate, No. 1967),-- **was read a third time.**

After remarks, and pending the question on passing the bill to be engrossed, Mr. Tarr and Ms. Jehlen moves to amend the bill by adding the following section:-

"SECTION 3. The department of elder affairs shall study the establishment of a comprehensive elder affairs ombudsmen program to service the needs of elderly citizens. The study shall include, but not be limited to, a review of the current ombudsmen programs in place and the identification of elderly citizens not currently being serviced by an ombudsmen program who could benefit from such services. The study shall address the implementation of a comprehensive elder care ombudsmen program that covers persons age 60 and over, acting on either their own behalf or through any individual organization or government agency, utilizing the services of community-based programs, including but not limited to, the home care program established under chapter 19A of the General Laws, residents of long term care facilities, residents of nursing homes, residents of assisted living facilities, residents of supportive housing, and other programs as defined by the secretary of the executive office of elder affairs. The study shall review the effectiveness of existing ombudsmen programs, address ways to improve and expand on existing ombudsmen programs and outline the department's current interaction with other state agencies providing a similar service to elders. The department shall prepare a report on the findings and recommendations together with recommendations for legislation necessary to implement those recommendations by filing the same with the clerks of the house of representatives and the senate, the chairs of the joint committee on elder affairs and the chairs of the house and senate committees on ways and means not later than October 15, 2011."

After remarks, the amendment was adopted.

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at six minutes past two o'clock P.M., on motion of Mr. Eldridge, as follows, to wit (*yeas 38 – nays 0*) [**Yeas and Nays No. 55**]:

YEAS

Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia	Moore, Richard T.

Stone
 DiDomenico, Sal N. Pacheco, Marc R.
 Donnelly, Kenneth J. Petruccelli, Anthony
 Donoghue, Eileen M. Rodrigues, Michael J.
 Downing, Benjamin B. Rosenberg, Stanley C.
 Eldridge, James B. Ross, Richard J.
 Fargo, Susan C. Spilka, Karen E.
 Finegold, Barry R. Tarr, Bruce E.
 Flanagan, Jennifer L. Timilty, James E
 Hart, John A., Jr. Tolman, Steven A.
 Hedlund, Robert L. Welch, James T.
 Jehlen, Patricia D. Wolf, Daniel A. — **38.**

NAYS — 0.

ABSENT OR NOT VOTING

Rush, Michael F.—
1.

**The yeas and nays having been completed at ten minutes past two o'clock P.M., the bill (Senate, No. 1967, amended) was passed to be engrossed.
 Sent to the House for concurrence.**

PAPERS FROM THE HOUSE

Engrossed Bills Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the use of direct cash assistance for purchases of alcoholic beverages, lottery tickets or tobacco products (see House, No. 3577) [being the text of section 27 of the General Appropriation Bill (see House, No. 3535)] [for message, see attachment C of House, No. 3581],— **came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows:**

By striking out all after the enacting clause and inserting in place thereof the following:-

“Chapter 18 of the General Laws is hereby amended by inserting after section 5H the following 3 sections:-

Section 5I. Notwithstanding any general or special law to the contrary, eligible recipients of direct cash assistance shall not use direct cash assistance funds for the purchase of alcoholic beverages, lottery tickets or tobacco products. An eligible recipient of direct cash assistance who makes a purchase in violation of this section shall reimburse the department for such purchase.

Section 5J. Notwithstanding any general or special law to the contrary, an individual or store owner shall not accept direct cash assistance funds held on electronic benefit transfer cards for the purchase of alcoholic beverages, lottery tickets or tobacco products. An individual or store owner who knowingly accepts electronic benefit transfer cards in violation of this section shall be punished by a fine of not more than \$500 for the first offense, a fine of not less than \$500 nor more than \$1,000 for the second offense and a fine of not less than \$1,000 for the third or subsequent offense.

Section 5K. Notwithstanding any general or special law to the contrary, whoever embezzles, steals or obtains by fraud any funds, assets or property provided by the department of transitional assistance and whoever receives, conceals or retains such funds, assets or property for his own interest knowing such funds, assets or property have been embezzled, stolen or obtained by fraud shall, if such funds, assets or property are of a value of \$100 or more, be punished by a fine of not more than \$25,000 or by imprisonment in a jail or house of correction for not more than 2 ½ years, or imprisonment in the state prison for not more than 5 years, or both such fine and imprisonment, or if such funds, assets or property are of a value of less than \$100, by a fine of not more than \$1,000 or by imprisonment in a jail or house of correction for not more than 1 year, or both such fine and imprisonment.”.

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

The rules were suspended, on motion of Mr. Berry, and the Governor's amendment was considered forthwith and adopted, in concurrence.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill establishing a special commission to study the police career incentive pay program (see House, No. 3578) [being the text of section 185 of the General Appropriation Bill (see House, No. 3535)] [for message, see attachment D of House, No. 3581],— **came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows: Police career incentive pay program.**

By striking out all after the enacting clause and inserting in place thereof the following:-

“There shall be established a commission to investigate and report on current funding levels and municipal contractual obligations established by section 108L of chapter 41 of the General Laws, known as the police career incentive pay program. The commission shall be composed of 8 members, 1 appointed by the speaker of the house of representatives, 1 appointed by the senate president, 1 appointed by the minority leader of the house of representatives, 1 appointed by the minority leader of the senate, the secretary of the executive office of public safety and security or her designee, a representative from the Massachusetts Chiefs of Police Association, a representative from the Massachusetts Coalition of Police and a representative from the Massachusetts Municipal Association. The commission shall file a report with its findings and any legislative recommendations with the house and senate clerks on or before April 30, 2012.”.

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

The rules were suspended, on motion of Mr. Wolf, and the Governor's amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the adult day health program (see House, No. 3579) [being the text of section 203 of the General Appropriation Bill (see House, No. 3535)] [for message, see attachment E of House, No. 3581],— **came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment:**

By striking out all after the enacting clause and inserting in place thereof the following:

“ (a) The executive office of health and human services shall conduct a study of the feasibility and potential cost savings of implementing a moratorium on the acceptance and approval of applications for enrollment of new adult day health providers and expansion of the certified capacity of already approved adult day health providers as provided in 130 C.M.R. 404.400 et seq. This moratorium shall not apply to a PACE program as defined in 42 U.S.C. section 1396u-4(a)(2).

The executive office shall continue to develop regulations that include statewide requirements for the licensure of adult day health programs and shall, after a public hearing, promulgate said regulations.

(b) There shall be established an adult day services working group, hereinafter called the working group, to study and make recommendations on the present structure of adult day services. The working group shall consist of 9 members, 1 of whom shall be the secretary of health and human services, or a designee, who shall serve as chair; 1 of whom shall be the secretary of elder affairs, or a designee, 1 of whom shall be the director of the office of Medicaid, or a designee, 2 of whom shall be the chairs of the joint committee on elder affairs, 2 of whom shall be the chairs of the joint committee on health care financing, and 2 of whom shall be appointed by the governor, and 1 of whom shall be from the Massachusetts Adult Day Services Association. The working group shall complete a study that includes recommendations to (1) update the basis for the current adult day health rate structure by developing a model for imputing actual costs into the rate structure and stabilizing the overall financing structure of adult day services; (2) assess the current manner of categorizing clients as basic or complex; and (3) project the commonwealth's current and future adult day health services needs so as to be able to recommend changes that these needs require. The working group shall report the results of its study and any recommendations to the house and senate committees on ways and means on or before December 31, 2011.

(c) Notwithstanding the provisions of any general or special law or regulation to the contrary, the division of medical assistance and the division of health care finance and policy shall make no changes in the clinical eligibility or level of reimbursement paid to providers of adult day health services for basic and complex levels of care prior to filing of the working group's report.”.

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

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

Mr. Brewer moved that the Senate concur with the House amendment with a further amendment, in subsection (c) by

striking out the words “filing of the working group’s report” and inserting in place thereof the following words:-
“December 31, 2011”.

After remarks, the Governor’s amendment was then rejected.

After further remarks, the House amendment was considered. The amendment previously recommended by Mr. Brewer was adopted; and the House amendment, as amended, was then adopted.

Sent to the House for concurrence in the further amendment.

Order Adopted.

On motion of Ms. Creem,--

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. Time of meeting.

Moment of Silence.

At the request of the President, the members, guests and employees stood in a moment of silence and reflection to the memory of Myra Hiatt Kraft.

Recess.

Mr. Petruccelli in the Chair, there being no objection, at a quarter past three o’clock P.M., the Chair (Mr. Petruccelli) declared a recess, subject to the call of the Chair; and at eight minutes before four o’clock P.M., the Senate reassembled, Mr. Petruccelli in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE

The Senate Bill extending simulcasting (Senate, No. 1970, amended),-- **came from the House passed to be engrossed, in concurrence with an amendment adding the following two sections:**

"Section 16. Section 15 of this act is hereby repealed.

Section 17. Section 16 of this act shall take effect on January 1, 2012.”. Simulcasting.

The rules were suspended, on motion of Mr. Ross, and the House amendment was considered forthwith and adopted, in concurrence.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill extending simulcasting (see Senate, No. 1970, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 2 to 0. Simulcasting.**

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

Subsequently, the bill, which originated in the Senate, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Petruccelli) and laid before the Governor for his approbation.

Adjournment in Memory of Myra Hiatt Kraft

The Senator from Middlesex and Norfolk, Ms. Creem, and the Senator from Plymouth and Barnstable, Ms. Murray, requested that when the Senate adjourns today, it adjourn in memory of Myra Hiatt Kraft, who died Wednesday, July 20, 2011, following a courageous battle with cancer.

Myra was born and raised in Worcester Massachusetts. From an early age, she emulated her father Jacob Hiatt, a man devoted to charitable good works. As a 5-year-old in 1948, Myra decided to knock on doors to “raise money for poor children in Europe and Palestine.” In telling the story later in life, Myra said her mother was relieved and proud when she returned with a sack of money donated by neighbors.

Myra married Robert Kraft in 1963, gave birth to their first son the next year, and also received her Bachelor of Arts degree from Brandeis University in 1964.

While raising her four sons, she also participated in many charitable endeavors.

In 1994, Myra established and became president of the New England Patriots Charitable Foundation. She was also a trustee of the Robert K. and Myra H. Kraft Foundation, steering it toward educational initiatives and other civic-minded causes. Giving back to

the community was always Myra's objective.

From 1995 - 2002, Myra was the first woman chair of the Boys & Girls Clubs of Boston, an organization with which she consistently remained active. Myra served as chair of the Combined Jewish Philanthropies' Board of Directors and twice served as co-chair for their Annual Campaign, advancing the development of the fastest growing campaign in the nationwide Federation system. Myra also served on numerous academic, cultural, medical, civic and religious boards, including, but not limited to, the United Way of Massachusetts Bay, Brandeis University, Brigham and Women's Hospital, and the American Repertory Theatre.

In 2003, she was selected one of the 20 most powerful women in Boston by Boston Magazine. Her vision and actions in the arts, education, women's issues, health care, religion, American and Israeli issues, and even in sports will continue to be an influence in New England, the United States and internationally.

Along with her volunteer leadership and philanthropic endeavors, Myra was known for her compassion for those who needed her help, her generosity of spirit and her ability to inspire. She was an extraordinarily kind individual who often gave of herself anonymously. She was a mentor to many women, and active in her synagogue, as well as other women's organizations.

She was a soft-spoken, unassuming woman known for her involvement in bringing many legislators to Israel, and always believing the need for all people to understand the importance of Israel's survival.

Devoted to her family, Myra is survived by her husband, Robert; sons Jonathan, Daniel, Joshua and David; her sister, Janice; and eight grandchildren. Myra Kraft will be fondly remembered by so many and missed dearly by her family, friends and the global philanthropic community.

Accordingly, as a mark of respect to the memory of Myra Hiatt Kraft, at a half past four o'clock P.M., on motion of Mr. Ross, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.