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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE
IN JOINT SESSION.

Wednesday, February 3, 2016.

Joint Session of the Two Houses to Consider
Specific Amendments to the Constitution.

At fourteen minutes past one o'clock P.M., the two House met in

JOINT SESSION

and were called to order by the Honorable Stanley C. Rosenberg, President of the Senate

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

Pursuant to an order previously adopted, the two Houses are in Joint Session for the purpose of considering proposals for amendments to the Constitution. The matters that have been called for consideration are seasonably laid before this session in conformity with the provisions of Articles XLVIII and LXXXI of the Amendments to the Constitution.

The following additional initiative proposal for amendments to the Constitution was seasonably laid before the joint session for consideration:

Proposal for an Initiative Amendment to the Constitution to provide resources for education and transportation through an additional tax on incomes in excess of one million dollars (House, No. 3933), having been reported ought to pass from the committee on the Revenue [For majority report, see Senate, No. 2122] [For minority report, see Senate, No. 2123].

The Proposal for a Legislative Amendment to the Constitution relative to corporate rights and political spending (see Senate, No. 53),-- was read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT ARTICLE CXXI

Section 1. Corporations are not people and may be regulated. The rights afforded to the human inhabitants of the Commonwealth, under this Constitution, are not applicable to corporations, limited liability companies, any corporate entity or any artificial person. Any references to persons, citizens, inhabitants, subjects, men, women, people, individuals or like terms in this Constitution, are not to be construed in any way to be referring to a corporation, limited liability company, any corporate entity or any artificial person. Corporations, limited liability companies, any corporate entity or any artificial person, shall do business in this state under the regulation of laws passed by the legislature which shall set the rights of such entities to do business to promote the common good and strengthen the social compact of this Commonwealth.

Section 2. Money is not free speech and may be regulated. To protect the political process and the functioning of government to serve in the best interests of the citizens of the Commonwealth, money shall not be considered free speech. The legislature shall

have the power to regulate the raising and spending of money and inkind equivalents for any primary or election of a public official and for ballot measures. This shall include regulation of any advertising for or against any candidate in a primary or election for public office and any ballot measure.

Section 3. Nothing contained in this Amendment shall be construed to abridge the freedom of the press.

On motion of Mr. Donnelly, the further consideration of the proposal was postponed, until after disposition of the remaining matters in the Orders of the Day.

The Proposal for a Legislative Amendment to the Constitution requiring a supermajority vote for the utilization of rainy day funds (Senate, No. 61),-- was read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

The constitution is hereby amended by inserting at the end thereof the following new article:- In the furtherance of the foregoing powers, the general court shall have the power to appropriate funds held, in the stabilization fund, so-called, as provided for by section 2H of chapter 29, and shall expend those funds in said manner provided that said funds shall be expended in laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the General Court.

After debate, the question on ordering the proposal to a third reading was determined by a call of the yeas and nays at four minutes past two o'clock P.M. as follows to wit (*Yeas 49 - Nays 140*) [**Senate Yeas and Nays No. 235**] [**House Yeas and Nays No. 196**]:

YEAS.

Senators.

deMacedo, Viriato M.

Ross, Richard J.

Fattman, Ryan C.

Tarr, Bruce E.

Humason, Donald F., Jr.

Timilty, James E. — **6.**

YEAS.

Representatives.

Bradley H. Jones, Jr.

Randy Hunt

Bradford R. Hill

Hannah Kane

Elizabeth
. Poirier

James M. Kelcourse

Susan Williams Gifford

Kevin J. Kuros

Paul K. Frost

Marc T. Lombardo

F. Jay Barrows

James J. Lyons, Jr.)

Donald R. Berthiaume, Jr.

Joseph D. McKenna

Nicholas A. Boldyga

Leonard Mirra

Thomas J. Calter	David K. Muradian, Jr.
Kate D. Campanale	Mathew Muratore
Josh S. Cutler	Shaunna L. O'Connell
David F. DeCoste	Keiko M. Orrall
Angelo L. D'Emilia	John H. Rogers
Geoff Diehl	Dennis A. Rosa
Shawn Dooley	Todd M. Smola
Peter J. Durant	Thomas M. Stanley
James J. Dwyer	David T. Vieira
Kimberly N. Ferguson	Timothy R. Whelan
Colleen M. Garry	Susannah M. Whipps Lee
Sheila C. Harrington	Donald H. Wong
Paul R. Heroux	Jonathan D. Zlotnik – 43.
Steven S. Howitt	

**NAYS.
Senators.**

Barrett, Michael J.	Keenan, John F.
Brady, Michael D.	Lewis, Jason M.
Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.

Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 31.
Joyce, Brian A.	

NAYS.
Representatives.

Robert A. DeLeo	Mary S. Keefe
Ronald Mariano	Kay Khan
Patricia A. Haddad	Peter V. Kocot
Garrett J. Bradley	Robert M. Koczera
Paul J. Donato	Stephen Kulik
James Arciero	John J. Lawn, Jr.)
Brian M. Ashe	David Paul Linsky
Cory Atkins	Jay D. Livingstone
Bruce J. Ayers	Adrian Madaro
Ruth B. Balser	Timothy R. Madden
Christine P. Barber	John J. Mahoney

Jennifer E. Benson	Elizabeth A. Malia
Paul Brodeur	Brian R. Mannal
Antonio F. D. Cabral	Paul W. Mark
Linda Dean Campbell	Christopher M. Markey
James M. Cantwell	Joseph W. McGonagle, Jr
Gailanne M. Cariddi	Paul McMurtry)
Evandro C. Carvalho	James R. Miceli
Tackey Chan	Aaron Michlewitz
Nick Collins	Rady Mom
Edward F. Coppinger	Frank A. Moran
Brendan P. Crighton	Michael J. Moran
Claire D. Cronin	James M. Murphy
Daniel Cullinane	David M. Nangle
Mark J. Cusack	Harold P. Naughton, Jr
Michael S. Day	James J. O'Day
Marjorie C. Decker	Jerald A. Parisella
Brian S. Dempsey	Sarah K. Peake
Marcos A. Devers	Alice Hanlon Peisch
Diana DiZoglio	Thomas M. Petrolati
Daniel M. Donahue	William Smitty Pignatelli
Michelle M. DuBois	Denise Provost
Carolyn C. Dykema	Angelo J. Puppolo, Jr.

Lori A. Ehrlich	David M. Rogers
Tricia Farley-Bouvier	Jeffrey N. Roy
Robert F. Fennell)	Daniel J. Ryan
John V. Fernandes	Jeffrey Sánchez
Ann-Margaret Ferrante	Angelo M. Scaccia
Michael J. Finn	Paul A. Schmid, III
Carole A. Fiola	John W. Scibak
William C. Galvin	Alan Silvia
Sean Garballey	Frank I. Smizik
Denise C. Garlick	Ellen Story)
Carmine L. Gentile	William M. Straus
Thomas A. Golden, Jr.	Benjamin Swan
Carlos Gonzalez	Walter F. Timilty
Kenneth I. Gordon	Timothy J. Toomey, Jr
Danielle W. Gregoire	Jose F. Tosado
Jonathan Hecht	Paul Tucker
Kate Hogan	Steven Ultrino
Russell E. Holmes	Aaron Vega
Kevin G. Honan	John C. Velis
Daniel J. Hunt	RoseLee Vincent
Louis L. Kafka	Joseph F. Wagner – 109.
Jay R. Kaufman	

ABSENT OR NOT VOTING.
Senators.

Lesser, Eric P. – **1.**

ABSENT OR NOT VOTING.
Representatives.

Fox, Gloria L.

Speliotis, Theodore C.

Rushing, Byron

Walsh, Chris – **4.**

Sannicandro, Tom

The yeas and nays having been completed at twelve minutes past two o'clock P.M., the proposal was *rejected*.

The Proposal for a Legislative Amendment to the Constitution for an independent redistricting commission (see House, No. 567),-- was read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

Article CI of the Articles of Amendment to the Constitution of the Commonwealth is hereby annulled, and the following is adopted in place thereof:--

Article CI

SECTION 1. The house of representatives shall consist of 160 members, each of whom shall be elected from one representative district. Every representative shall have been an inhabitant of the district for which he is chosen for at least one year at least immediately preceding his election and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth; provided, however, that for the first redistricting following the adoption of this article, the general court may suspend the residency requirement of this section.

SECTION 2. The senate shall consist of 40 members, each of whom shall be elected from one senatorial district. Every senator shall have been an inhabitant of the commonwealth for at least five years immediately preceding his election and shall be an inhabitant of the district for which he has been selected at the time of his election and shall cease to represent such senatorial district when he ceases to be an inhabitant of the commonwealth.

SECTION 3. The manner of calling and conducting the elections for the choice of representatives, senators, and councilors, and of ascertaining their election, shall be prescribed by law.

SECTION 4. The federal census shall be the basis for determining the representative, senatorial, and governor's council districts for the ten year period beginning with the first Wednesday of the third January following the commencement of the taking of said census.

SECTION 5. In the year after each census is commenced, and only in that year, an independent redistricting commission, herein referred to as the commission, shall be convened and shall divide the commonwealth into 160 representative districts, 40 senatorial districts, and eight councilor districts. All districts shall comprise contiguous territory, shall be equal in population to the extent required by law, and shall comply with federal constitutional and statutory requirements. No district shall be drawn for the purpose or with the effect of diluting the voting strength of any group based on race, ethnicity or language minority status, or for the purpose of augmenting or diluting the voting strength of a political party, or any individual. In drawing district lines, the commission shall not consider residential address, party affiliation, or partisan voting history of any individual or groups of individuals, except to the extent necessary to avoid dilution of voting strength based on race, ethnicity or language minority status. In addition, to the maximum extent possible, district boundaries shall be drawn so as to: (1) maintain the unity of well-defined municipal neighborhoods; (2) observe municipal boundaries; (3) establish senatorial districts that follow representative district boundaries; (4) establish councilor districts that follow representative district boundaries and (5) promote geographic compactness of districts. If it is not possible to draw district boundaries that fully comply with these criteria while also complying with the mandatory requirements set forth herein, then districts shall be drawn to optimize the criteria in the order of priority set forth hereinabove. The commission shall also consider communities of interest in determining which cities, towns, or neighborhoods thereof to aggregate into a single district.

SECTION 6. (a) The commission shall consist of seven member commissioners. On or before January 15 of the year following

the commencement of the federal census, the following offices shall each appoint one member of the commission: the governor of the commonwealth, who shall appoint a dean or professor of law or political science or government at an institution of higher learning in the commonwealth; the attorney general of the commonwealth, who shall appoint a retired justice who resides in the commonwealth; and the secretary of the commonwealth, who shall appoint an expert in civil rights law who is a resident of the commonwealth.

(b) By the same date, the house speaker, the house minority leader, the senate president, and the senate minority leader shall each nominate three individuals. The appointees chosen by the governor, attorney general, and secretary of the commonwealth shall then select one of the three nominees named by each said official.

(c) If nominations or appointments are not made by January 15 of such year, the office responsible for making the appointment or nominations shall forfeit its rights under this section and the remaining direct appointees shall then make an appointment to fill the vacancy. Nominations and appointments shall reflect the geographic, racial, ethnic, gender, and age diversity of the commonwealth to the maximum extent feasible and shall be selected on the basis of civic involvement and knowledge of redistricting policy, civil rights, political science, demographics or statistics, election expertise, voting rights, community organizing, or law. No person nominated or appointed to the commission, in the five years preceding such nomination or appointment, shall have held Congressional, state legislative or statewide elective office, or shall have served as mayor or city councilor of a city in the commonwealth, governor's councilor, or shall have been elected to a state or federal party committee; or shall be a current employee, agent or family member of any of the above; or, in the two years preceding such nomination or appointment, shall have been a legislative agent. The commissioners shall agree: (1) not to stand for election to the general court, congress, or the governor's council until districts are redrawn following the next census; (2) to apply the provisions of this article in an honest, independent, and impartial fashion; and (3) to act at all times so as to uphold public confidence in the integrity of the redistricting process.

SECTION 7. The commission shall be convened no later than February 15 of the year following the commencement of the decennial census. The commission shall disband only upon final adoption and exhaustion of judicial review of challenges to representative, councilor, and senatorial districts.

SECTION 8. The commission shall hire staff and may retain experts to assist it in the performance of its duties. The commission shall establish rules governing its operation and procedures. Commissioners may receive compensation for actual time spent on commission duties and shall be reimbursed for reasonable and necessary expenses. The budget of the commonwealth shall provide adequate funding for the operation of the commission.

SECTION 9. A member of the commission or an appointing authority may petition the supreme judicial court to remove a commissioner on the grounds of neglect, misconduct, or inability to perform the duties of a commissioner. A vacancy so created shall be filled by the office which appointed the removed commissioner or by the nomination and selection process set forth in section 6, as applicable.

SECTION 10. All meetings of the commission shall be open to the public, consistent with the laws of the commonwealth concerning open meetings as of the date of the adoption of this Article. All documents produced by or for the commission shall be public. The commission shall hold public hearings in at least five geographically disbursed counties. The public shall be afforded the opportunity to submit proposed maps for consideration by the commission and the commission shall make map-making software available for public use. The commission shall take all steps necessary to ensure that the public can exercise its right to review and comment on proposed district maps before they are approved and shall publish all preliminary and final plans in publicly accessible forums that are free of charge and that ensure wide public distribution. Proposed districts shall be presented in both graphic and narrative form.

SECTION 11. (a) Within 120 days of the completion of the decennial census, the commission shall prepare and publish for public comment a preliminary plan for representative, councilor, and senatorial districts. The public shall have a three-week period to comment on the preliminary district plan. The commission may revise the preliminary district plan in response to public comment and shall submit the revised plan to the general court, which shall vote on the revised plan. If the plan is rejected, the commission shall prepare, publish, revise, and submit a second-round preliminary district plan in the same manner as the first. Following the period for public comment, the commission shall submit the revised plan to the general court for a vote. If the general court votes to reject the second-round plan, the commission shall prepare, publish, revise, and submit a third-round preliminary district plan, in the same manner as the first. If the general court rejects the third-round plan, then the commission shall prepare, publish, and revise a fourth-round plan in the same manner. The plan, so revised, shall become law without submission to or approval by the general court.

(b) With respect to each plan the commission submits to the general court for a vote, the vote must be taken within two weeks of submission. No amendments to the plan as submitted may be made. If the plan is approved by a majority of the members of the house of representatives and the senate present and voting or if no vote is taken within the two-week period, then the plan as submitted shall become law.

SECTION 12. Original jurisdiction is hereby vested in the supreme judicial court upon the petition of any voter of the commonwealth for judicial relief relative to the establishment of the representative, councilor, and senatorial districts. The general court may by law limit the time within which judicial proceedings may be instituted to challenge any redistricting map. After debate, the question on ordering the proposal to a third reading was determined by a call of the yeas and nays at twenty-seven minutes before three o'clock P.M. as follows to wit (*Yeas 43 - Nays 146*) [**Senate Yeas and Nays No. 236**] [**House Yeas and Nays No. 197**]:

**YEAS.
*Senators.***

deMacedo, Viriato M.	Jehlen, Patricia D.
Downing, Benjamin B.	Joyce, Brian A.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Tarr, Bruce E. – 9.
Humason, Donald F., Jr.	

**YEAS.
*Representatives.***

Jones, Bradley	Hunt, Randy
Hill, Bradford	Kane, Hannah
Poirier, Elizabeth	Kelcourse, James
Gifford, Susan	Kuros, Kevin
Frost, Paul	Lombardo, Marc
Barrows, F.	Lyons, James
Berthiaume, Donald	McKenna, Joseph
Boldyga, Nicholas	Mirra, Leonard
Campanale, Kate	Muradian, David
D'Emilia, Angelo	Muratore, Mathew
DeCoste, David	O'Connell, Shaunna
Diehl, Geoff	Orrall, Keiko
Dooley, Shawn	Smola, Todd
Durant, Peter	Vieira, David

[Ferguson, Kimberly](#)

[Whelan, Timothy](#)

[Harrington, Sheila](#)

[Whipps Lee, Susannah](#)

[Howitt, Steven](#)

[Wong, Donald](#) – 43.

NAYS.
Senators.

Barrett, Michael J.

L'Italien, Barbara A.

Brady, Michael D.

Lovely, Joan B.

Brownsberger, William N.

McGee, Thomas M.

Chandler, Harriette L.

Montigny, Mark C.

Chang-Diaz, Sonia

Moore, Michael O.

Creem, Cynthia Stone

O'Connor Ives, Kathleen

DiDomenico, Sal N.

Pacheco, Marc R.

Donnelly, Kenneth J.

Rodrigues, Michael J.

Donoghue, Eileen M.

Rosenberg, Stanley C.

Flanagan, Jennifer L.

Rush, Michael F.

Forry, Linda Dorcena

Spilka, Karen E.

Gobi, Anne M.

Timilty, James E.

Keenan, John F.

Welch, James T.

Lewis, Jason M.

Wolf, Daniel A. – 28.

NAYS.
Representatives.

DeLeo, Robert

Keefe, Mary

Mariano, Ronald	Khan, Kay
Haddad, Patricia	Kocot, Peter
Bradley, Garrett	Koczera, Robert
Donato, Paul	Kulik, Stephen
Arciero, James	Linsky, David
Ashe, Brian	Livingstone, Jay
Atkins, Cory	Madaro, Adrian
Ayers, Bruce	Madden, Timothy
Balser, Ruth	Mahoney, John
Barber, Christine	Malia, Elizabeth
Benson, Jennifer	Mannal, Brian
Brodeur, Paul	Mark, Paul
Cabral, Antonio	Markey, Christopher
Calter, Thomas	McGonagle, Joseph
Campbell, Linda	McMurtry, Paul
Cantwell, James	Miceli, James
Cariddi, Gailanne	Michlewitz, Aaron
Carvalho, Evandro	Mom, Rady
Chan, Tackey	Moran, Frank
Collins, Nick	Moran, Michael
Coppinger, Edward	Murphy, James
Cronin, Claire	Nangle, David

Cullinane, Daniel	Naughton, Harold
Cusack, Mark	O'Day, James
Cutler, Josh	Parisella, Jerald
Day, Michael	Peake, Sarah
Decker, Marjorie	Peisch, Alice
Dempsey, Brian	Petrolati, Thomas
Devers, Marcos	Pignatelli, William
DiZoglio, Diana	Provost, Denise
Donahue, Daniel	Puppolo, Angelo
DuBois, Michelle	Rogers, David
Dwyer, James	Rogers, John
Dykema, Carolyn	Rosa, Dennis
Ehrlich, Lori	Roy, Jeffrey
Farley-Bouvier, Tricia	Ryan, Daniel
Fennell, Robert	Sánchez, Jeffrey
Fernandes, John	Sannicandro, Tom
Ferrante, Ann-Margaret	Scaccia, Angelo
Finn, Michael	Schmid, Paul
Fiola, Carole	Scibak, John
Galvin, William	Silvia, Alan
Garballey, Sean	Smizik, Frank
Garlick, Denise	Speliotis, Theodore

Garry, Colleen	Stanley, Thomas
Gentile, Carmine	Story, Ellen
Golden, Thomas	Straus, William
Gonzalez, Carlos	Swan, Benjamin
Gordon, Kenneth	Timilty, Walter
Gregoire, Danielle	Toomey, Timothy
Hecht, Jonathan	Tosado, Jose
Heroux, Paul	Tucker, Paul
Hogan, Kate	Ultrino, Steven
Holmes, Russell	Vega, Aaron
Honan, Kevin	Velis, John
Hunt, Daniel	Vincent, RoseLee
Kafka, Louis	Wagner, Joseph
Kaufman, Jay	Zlotnik, Jonathan – 117.
Danielle W. Gregoire	

ABSENT OR NOT VOTING.
Senators.

Lesser, Eric P. – 1.

Representatives.

Rushing, Byron	Lawn, John
Crighton, Brendan	Walsh, Chris – 5.

Fox, Gloria

The yeas and nays having been completed at eighteen minutes before three o'clock P.M., the proposal was rejected.

The Proposal for a Legislative Amendment to the Constitution to declare that corporations are not people, money is not speech (see House, No. 933),- was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

Corporations are not people and may be regulated. The rights afforded to the human inhabitants of the commonwealth, under this constitution, are not applicable to corporations, limited liability companies or any other corporate entity. Any references to persons, citizens, inhabitants, subjects, men, people, individuals or like terms in this constitution, are not to be construed in any way to be referring to a corporation, limited liability company or any other corporate entities.

After remarks, on motion of Mr. Rogers of Cambridge, the further consideration of the proposal was postponed, until after disposition of the remaining matters in the Orders of the Day.

Without further action on the matters duly and constitutionally assigned for consideration, at sixteen minutes before three o'clock P.M., on motion of Mr. Tarr, the Joint Session was recessed until Wednesday, April 6, 2016 at one o'clock P.M.