

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, October 22, 2015.

Met at ten minutes past eleven o'clock A.M.

The Senator from Essex and Middlesex, Mr. Tarr, led the President, members, guests and staff then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the following guests were recognized:

The President handed the gavel to Mr. Wolf for the purpose of an introduction. Mr. Wolf then introduced, in the rear of the Chamber, Lisa Brown and her students from Nauset Regional High School. They are in the State House today to attend The Shutdown Pilgrim Speak Out. This group of 12 young students from the high school's "Exploring & Respecting Differences" who wish to engage in citizen activism. Three of the students will be speaking at the rally today. The Senate welcomed them with applause and they withdrew from the Chamber.

The President handed the gavel to Mr. Pacheco for the purpose of an introduction. Mr. Pacheco then welcomed Domingos Teixeira de Abreu Fezas Vita, the Ambassador of Portugal to the United States, and his General Counsel, José Rui Velez Caroço. Ambassador Teixeira de Abreu Fezas Vita briefly addressed the Chamber, signed the guest book and along with the General Counsel withdrew from the Chamber.

Communication.

Communication from the Honorable Bruce E. Tarr, Senate Minority Leader, announcing the appointment (pursuant to Chapter 450 of the Acts of 2014) of Ms. Maureen Flatley of Essex as his designee to the Commission within the Executive Office of Health and Human Services to make an investigation and study relative to services for unaccompanied homeless youth,-- **was placed on file**

Report.

Report of the Department of Revenue (pursuant to Section 12 of Chapter 2 of the Acts of 2015) submitting its report detailing the results of the spring 2015 tax amnesty program (received October 20, 2015),-- **was placed on file.**

Petition.

Mr. Fattman presented a petition (accompanied by bill) (subject to Joint Rule 12) of Ryan C. Fattman and Kevin J. Kuros for legislation relative to the town of Bellingham and water main easement,-- **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Report of a Committee.

By Mrs. L'Italien, for the committee on Municipalities and Regional Government, on petition (accompanied by bill, Senate, No. 1960), a Bill establishing a department of public works in the town of Plainville (Senate, No. 2037) [Local approval received on Senate, No 1960];

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

Committee Discharged.

Ms. Gobi, for the committee on Environment, Natural Resources and Agriculture, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 428) of Donald F. Humason, Jr., Bruce E. Tarr and Paul R. Heroux for legislation relative to firearms and recreational vehicles,-- **and recommending that the same be referred to the committee on Public Safety and Homeland Security;**
Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

A Message from His Excellency the Governor recommending legislation relative to substance use treatment, education and prevention. (House, No. 3817),-- **was referred, in concurrence, to the committee on Mental Health and Substance Abuse.**

A Bill relative to the trafficking of fentanyl (House, No. 3798,-- on House, No. 3755),-- **was read and under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill designating the 2nd Sunday in June annually as Massachusetts Race Amity Day (House, No. 2745, amended,-- on petition),-- **was read and under Senate Rule 26, referred to the committee on Rules.**

Bills

Relative to an affordable housing trust in the town of Duxbury (House, No. 3325,-- on petition) [Local approval received];
Establishing a 3 member board of health in the town of Charlemont (House, No. 3635,-- on petition) [Local approval received];
Authorizing the town of Natick to lease certain town-owned property (House, No. 3645,-- on petition) [Local approval received];
and

Authorizing the town of Natick to lease certain town-owned property (House, No. 3646,-- on petition) [Local approval received];
Were severally read, under Senate Rule 26, placed in the Orders of the Day for the next session.

Report of the committee on Consumer Protection and Professional Licensure asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 151) of Bruce J. Ayers that certain fraternal organizations be exempt from the tax on the sale of alcoholic beverages,-- and recommending that the same be referred to the committee on Revenue,-- was considered forthwith, under Senate Rule 36, and accepted, in concurrence.

Matter Taken 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 city known as the town of Watertown to increase the exemption for certain residential real property (House, No. 3586) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE

Emergency Preambles Adopted.

An engrossed Bill establishing a sick leave bank for Kenneth Bascomb, an employee of the Department of Correction (see Senate, No. 2009), 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 5 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill relative to commitments of persons found incompetent to stand trial or not guilty by reason of mental illness (see House, No. 3672, 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 4 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Vickie Myers, an employee of the Department of Correction (see House, No. 51, 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 8 to 0. The bill was signed by the President and sent to the House for enactment.

Report of Committees.

By Mr. Montigny, for the committee on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Marc R. Pacheco, Michael J. Rodrigues and Keiko M. Orrall for legislation to authorize the town of Lakeville to convey certain property to the city of Taunton.

The rules were suspended, on motion of Mr. Pacheco, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Municipalities and Regional Government.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3820) of Hannah Kane and Michael O. Moore for legislation to establish a sick leave bank for Jane Mihalich, an employee of the Department of Public Health.- referred in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.

Reports of Committees.

Mr. Montigny, for the committee on Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill designating a certain area in the Dorchester section of the city of Boston in memory of Trooper Mark S. Charbonnier and Deputy Sheriff Sgt. Richard "Ricky" Dever (House, No. 692).

There being no objection, the rules were suspended, on motion of Ms. Forry, 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 Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Shannon Griffin, an employee of the Department of Developmental Services (House, No. 3791),-- **ought to pass.**

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

Matters Taken Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows:
The Senate Bill authorizing the city of Lynn to grant an additional liquor license for the sale of wine and malt beverages not to be drunk on the premises (Senate, No. 40),-- **was a read a third time.**

Pending the question on passing the bill to be engrossed, Mr. McGee moved that the bill be amended by substituting a new draft entitled "An Act authorizing the city of Lynn to grant 1 additional license for the sale of all alcoholic beverages not to be drunk on the premises" (Senate, No. 2038).

The amendment was adopted.

The bill (Senate, No. 2038) was then passed to be engrossed.

The House Bill authorizing the town of Tyngsborough to grant additional licenses for the sale of alcoholic beverages (House, No. 3691),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Ms. Donoghue moved that the bill be amended by striking sections 1, 2 and 3, and inserting in their place the following:-

"SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Tyngsborough may grant 10 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138; provided, however, that 1 such license shall be restricted to an entity located in the town center, a designated economic development zone which is 2,000 feet from the intersection of Middlesex road and Kendall road with a maximum of 50 seats; provided further, that 1 such license shall be restricted to an entity located in the town center with a maximum of 75 seats; and provided further, that 1 such license shall be restricted to an entity located in the town center with a maximum of 100 seats. The licenses authorized in this subsection shall be subject to all of said chapter 138 except said section 17.

(b) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Tyngsborough may grant 2 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of said chapter 138; provided, however, that 1 such license shall be restricted to an entity located in the town center with a maximum of 50 seats. The licenses authorized in this subsection shall be subject to all of said chapter 138 except said section 17.

(c) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Tyngsborough may grant 2 additional licenses for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of said chapter 138; provided, however, that the licenses shall be restricted to entities located on the east side of the Merrimack river.

The licenses authorized in this subsection shall be subject to all of said chapter 138 except said section 17.

(d) Notwithstanding subsections (a) and (b), 1 license for the sale of all alcoholic beverages to be drunk on the premises under said subsection (a) or 1 license for the sale of wines and malt beverages to be drunk on the premises under said subsection (b) shall be further restricted to an entity with frontage on Kendall road, Middlesex road or Pawtucket boulevard and such frontage shall be as required by the zoning by-laws of the town or by variance or shall be a legal pre-existing, nonconforming lot.

(e) Once issued, the licensing authority of the town of Tyngsborough shall not approve the transfer of a license issued pursuant to this act to any other person, partnership, corporation, limited liability company, organization or other entity for 3 years after the date of original issuance but it may approve the transfer of any such license to another location, subject to any restrictions applicable to that license. Thereafter, if a license is transferred it may be granted to a new applicant if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

(f) If a license granted pursuant to this section is cancelled, revoked or no longer in use, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant under the same conditions as specified in the original authorization.

SECTION 2. This act shall take effect upon its passage.”

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.

PAPERS FROM THE HOUSE

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:

Establishing a sick leave bank for Kenneth Bascomb, an employee of the Department of Correction (see Senate, No. 2009); and
Establishing a sick leave bank for Vickie Myers, an employee of the Department of Correction (see House, No. 51, amended).

Orders of the Day.

The Orders of the Day were considered as follows:

There being no objection the following matter was taken out of order and considered as follows:

The House Bill establishing a State Workforce Development Board (House, No. 3772),-- **was read a second time.**

After debate, further consideration thereof was moved to the end of the calendar.

There being no objection, during consideration of the Orders of the Day, the following matter was considered as follows:

PAPERS FROM THE HOUSE

Engrossed Bill Returned with Recommendation of Amendment.

A Message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill establishing a public art commission (see House, No. 3667) [being the text contained in Section 28 of the General Appropriations Bill (see House, No. 3650) [for message, see Attachment D of House, No. 3675],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment striking out all after the enacting clause and inserting in place thereof the following:-

“Chapter 7C of the General Laws is hereby amended by adding the following section:-

Section 73. (a) There shall be a Massachusetts per cent for art program, or MPAP, to be administered by the public art commission established in subsection (b). The MPAP shall provide for the creation and preservation of public art. Under this program and in connection with construction or substantial renovation of any commonwealth-owned, managed and occupied building, not less than 0.5 per cent of the budgeted capital cost of the project, not to exceed \$250,000, shall be expended for the creation or preservation of public art in or on the site, including, but not limited to, expenses related to selection processes and design and development. The MPAP shall apply only when the budgeted capital cost of a construction or renovation project exceeds \$4,000,000.

(b) There shall be a public art commission which shall administer the MPAP by: (i) working with the division of capital asset management and maintenance, project managers and contractors to identify opportunities and locations for art; (ii) reviewing each project to ensure the relevance of and support for the public art, including engaging the relevant local site users and community stakeholders for their input; (iii) making curatorial decisions on a project-by-project basis; (iv) establishing partnerships and relationships as relevant to the program and projects with members of the commonwealth’s artist community,

including artists, cultural institutions, arts organizations and educational institutions; (v) consulting with local art and cultural commissions; (vi) promoting and encouraging public art; (vii) promoting public access to and education with respect to art installations in public facilities; (viii) ensuring an inventory of and maintenance plan for the public art collection; and (ix) coordinating with the executive department to ensure compliance with and participation in the MPAP. The commission may coordinate with educational, arts and cultural organizations, municipalities and other organizations to provide alternative sources of funding for public art and programming for arts and cultural education, and research alternative funding mechanisms, including, but not limited to, public-private partnerships that may increase the total pool of funds for public art, and may suggest the development of programming for education and promotion regarding public art. All state agencies within the executive department shall cooperate with and provide assistance to the commission as necessary.

(c) The commission shall consist of: the commissioner of capital asset management and maintenance or a designee who shall serve as chair; the executive director of the Massachusetts cultural council or a designee; 2 persons to be appointed by the president of the Massachusetts College of Art and Design, each of whom shall have a background in public art or architecture; and 5 persons to be appointed by the governor, 1 of whom shall have municipal government experience and who shall be selected from a list of 3 individuals nominated by the Massachusetts Municipal Association, Inc., 1 of whom shall be a project designer with experience in the creation and installation of public art, 1 of whom shall be an artist or representative from a nonprofit or community organization associated with the arts who shall be selected from a list of 3 individuals nominated by the executive director of the Massachusetts cultural council, and 1 of whom shall be a faculty or staff member specializing in art or architecture at a public institution of higher education in the commonwealth. At least 1 member of the commission shall be an artist and at least 1 member shall be an architect. The governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth. The MPAP coordinator appointed pursuant to subsection (d) shall be a nonvoting member of the commission and shall serve as its secretary. Commission members shall serve without compensation or reimbursement for expenses. Commission members shall serve for terms of 5 years. Commissioner members may be reappointed but shall not serve for more than 2 consecutive terms. The commission shall meet at least quarterly and otherwise at the discretion of the chair.

(d) The commissioner of capital asset management and maintenance, in coordination with the commission, shall appoint an MPAP coordinator who shall report to the commissioner and shall have the requisite qualifications related to public art programs and project management to administer the MPAP. The coordinator's appointment shall be subject to approval by the commission. In coordination with the commission and any other agencies as the commissioner may deem appropriate, the coordinator shall, without limitation: (i) recommend the guidelines and parameters for the MPAP; (ii) coordinate the MPAP, including soliciting artists, setting up proposal review, overseeing artists' work and developing and managing community engagement and educational activities; (iii) research other successful funding mechanisms that increase the total pool of funds for public art; and (iv) oversee the creation of a central entity to host a variety of shared resources relating to the implementation, installation, maintenance and preservation of public art. All guidelines, policies and regulations for the MPAP shall be approved by the commission.

(e) In selecting art installations for construction or renovation projects, the commission shall give preference to artists residing in the commonwealth.

(f) The commonwealth shall have sole ownership of all artwork acquired through the MPAP, subject to exceptions approved by the commission. The artist shall retain copyright of the artwork unless otherwise noted in the contract for the work.

(g) Annually, not later than September 1, the commission shall provide a report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on tourism, arts and cultural development and the clerks of the senate and the house of representatives describing the actions of the MPAP and the commission and any other information the commission considers pertinent."

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. Lesser.

After remarks, the question on the rejection of the Governor's recommendation of amendment was determined by a call of the yeas and nays, at one minute before twelve o'clock noon, as follows, to wit (*yeas 31 — nays 6*) [**Yeas and Nays No. 187**]:

YEAS.

Barrett, Michael J.

Lesser, Eric P.

Brownsberger, William N.

Lewis, Jason M.

Chandler, Harriette L.

L'Italien, Barbara A.

Chang-Diaz, Sonia

Lovely, Joan B.

Creem, Cynthia Stone	McGee, Thomas M.
DiDomenico, Sal N.	Montigny, Mark C.
Donnelly, Kenneth J.	Moore, Michael O.
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Petrucelli, Anthony
Flanagan, Jennifer L.	Rodrigues, Michael J.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. – 31.
Keenan, John F.	

NAYS.

deMacedo, Viriato M.	Humason, Donald F., Jr.
Fattman, Ryan C.	Ross, Richard J.
Hedlund, Robert L.	Tarr, Bruce E. – 6.

ABSENT OR NOT VOTING.

Rush, Michael F. – **1.**

The yeas and nays having been completed at three minutes past twelve o'clock noon, the Governor's amendment was rejected.

The House amendment was considered; and it was adopted, in concurrence (as corrected BTR).

Sent to the House for re-enactment.

Orders of the Day

The Orders of the Day were further considered as follows:

Bills

Exempting the position of deputy fire chief in the town of Shrewsbury from the civil service law land (Senate, No. 1929);
Exempting the positions of patrolman, sergeant and lieutenant in the police department of the town of Maynard from the civil service law (House, No. 3331, amended);

Authorizing the town of Scituate to convey certain land (House, No. 3599);

Establishing a department of municipal finance for the town of Milford (House, No. 3634);

Directing the department of capital asset management and maintenance to lease a certain parcel of land in the town of Southborough (House, No. 3762); and

Authorizing the town of Bedford to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 3802);

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

The Senate Bill relative to enhanced enforcement of civil penalties (Senate, No. 967),-- was read a second time.

After debate, and pending the question on ordering the bill to a third reading, Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new subsection:-

“(c) If, however, an employer shows by clear and convincing evidence to the court that the act or omission giving rise to such action pursuant to subsection (a) was in good faith and that the employer had reasonable grounds for believing that its act or omission was not a violation, the court shall award no liquidated damages or award any multiple of the amount of the employee’s lost wages and benefits.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seven minutes before one o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 12 — nays 26*) [**Yeas and Nays No. 188**]:

YEAS.

Brownsberger, William N.

Lovely, Joan B.

deMacedo, Viriato M.

Moore, Michael O.

Donoghue, Eileen M.

O'Connor Ives, Kathleen

Fattman, Ryan C.

Rodrigues, Michael J.

Hedlund, Robert L.

Ross, Richard J.

Humason, Donald F., Jr.

Tarr, Bruce E. — **12.**

NAYS.

Barrett, Michael J.

Keenan, John F.

Chandler, Harriette L.

Lesser, Eric P.

Chang-Diaz, Sonia

Lewis, Jason M.

Creem, Cynthia Stone

L'Italien, Barbara A.

DiDomenico, Sal N.

McGee, Thomas M.

Donnelly, Kenneth J.

Montigny, Mark C.

Downing, Benjamin B.

Pacheco, Marc R.

Eldridge, James B.

Petrucelli, Anthony

Flanagan, Jennifer L.

Rush, Michael F.

Forry, Linda Dorcena

Spilka, Karen E.

Gobi, Anne M.

Timilty, James E.

Jehlen, Patricia D.

Welch, James T.

Joyce, Brian A.

Wolf, Daniel A. – **26.**

The yeas and nays having been completed at four minutes before one o'clock P.M., the amendment was *rejected*.

Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION XX. Section 150 of said chapter 149 is hereby amended by adding at the end thereof the following sentence:- ‘If, however, an employer shows by clear and convincing evidence to the court that the act or omission giving rise to such action was in good faith and that the employer had reasonable grounds for believing that its act or omission was not a violation, the court shall award no liquidated damages or award any multiple of the amount of the employee’s lost wages and benefits.’.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at three minutes before one o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 13 — nays 25*) [**Yeas and Nays No. 189**]:

YEAS.

Brownsberger, William N.

Moore, Michael O.

deMacedo, Viriato M.

O'Connor Ives, Kathleen

Donoghue, Eileen M.

Rodrigues, Michael J.

Fattman, Ryan C.

Ross, Richard J.

Hedlund, Robert L.

Tarr, Bruce E.

Humason, Donald F., Jr.

Timilty, James E. – **13.**

Lovely, Joan B.

NAYS.

Barrett, Michael J.

Keenan, John F.

Chandler, Harriette L.

Lesser, Eric P.

Chang-Diaz, Sonia	Lewis, Jason M.
Creem, Cynthia Stone	L'Italien, Barbara A.
DiDomenico, Sal N.	McGee, Thomas M.
Donnelly, Kenneth J.	Montigny, Mark C.
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Petrucelli, Anthony
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 25.
Joyce, Brian A.	

The yeas and nays having been completed at one minute past one o'clock P.M., the amendment was *rejected*.

The bill (Senate, No. 967) was then ordered to a third reading and read a third time.

After debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at seven minutes past one o'clock P.M., on motion of Mr. deMacedo, as follows, to wit (*yeas 27 — nays 11*) [**Yeas and Nays No. 190**]:

YEAS.

Brownsberger, William N.	Moore, Michael O.
deMacedo, Viriato M.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Hedlund, Robert L.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, James E. – 13.
Lovely, Joan B.	

NAYS.

Barrett, Michael J.	Keenan, John F.
Chandler, Harriette L.	Lesser, Eric P.
Chang-Diaz, Sonia	Lewis, Jason M.
Creem, Cynthia Stone	L'Italien, Barbara A.
DiDomenico, Sal N.	McGee, Thomas M.
Donnelly, Kenneth J.	Montigny, Mark C.
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Petrucelli, Anthony
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 25.
Joyce, Brian A.	

The yeas and nays having been completed at ten minutes past one o'clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

Recess.

At eleven minutes past one o'clock P.M., at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at nine minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

At nine minutes before two o'clock P.M., Mr. Tarr doubted the presence of a quorum. The President having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently, at two minutes before two o'clock P.M., a quorum was declared present.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill relative to fairness in worker's compensation disfigurement benefits (Senate, No. 968),-- **was read a second time.**

After remarks and pending the question adoption of the amendment previously recommended by the committee on Ways and Means substituting a new draft with the same title (Senate, No. 2033) and pending the main question on ordering the bill to a third reading, Mr. Tarr moved that the proposed new draft be divided.

The President ruled that pending matter before the Senate was a recommended new draft and could not be divided for the reason that it would cause the matter to be totally rewritten and therefore was not in order.

Mr. Tarr doubted the ruling of the Chair; and this motion was seconded by Mr. Humason.

After debate, the question on "Shall the ruling of the Chair stand?" was determined by a call of the yeas and nays at a quarter past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 30 – nays 6*) **[Yeas and Nays No. 191]:**

YEAS.

Barrett, Michael J.	Keenan, John F.
Brownsberger, William N.	Lesser, Eric P.
Chandler, Harriette L.	Lewis, Jason M.
Chang-Diaz, Sonia	L'Italien, Barbara
Creem, Cynthia Stone	Lovely, Joan B.
DiDomenico, Sal N.	Montigny, Mark C.
Donnelly, Kenneth J.	Moore, Michael O.
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Rodrigues, Michael J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. – 30.

NAYS.

deMacedo, Viriato M.	Humason, Donald F., Jr.
Fattman, Ryan C.	Ross, Richard J.
Hedlund, Robert L.	Tarr, Bruce E. – 6.

ABSENT OR NOT VOTING.

McGee, Thomas M.	Petrucelli, Anthony – 2.
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The yeas and nays having been completed at twenty-one minutes past two o'clock P.M., the ruling of the Chair stood.

Mr. Tarr moved that the proposed new draft be amended by inserting at the end thereof the following new sections:-

"SECTION 4:- Notwithstanding any general or special law to the contrary, there shall be a special commission to study equitable compensation for bodily disfigurement of employees in the commonwealth. The commission shall review alternative methods of implementing equitable compensation of injuries subject to subsection (k) of section 36 of chapter 152, including sums of specific dollar amounts, sums equal to the average weekly wage in the commonwealth, and other methods which may be considered. The commission shall hold at least 1 public hearing as part of such a review. The commission shall report its findings and proposed legislation, if any, to the clerks of the senate and the house of representatives within 180 days of the effective date of this act.

The special commission shall consist of 7 members. Members shall be appointed by the governor, 1 of whom shall be the director of industrial accidents, or his designee; 2 of whom shall be representatives from organized labor, 1 of whom shall be a representative of Associated Industries of Massachusetts, Inc ., 1 whom shall be a representative of the Massachusetts chapter of the National Federation of Independent Business, 1 of whom shall be an economist with experience in workers' compensation and evaluation of permanent bodily impairments, and one of whom shall be an attorney with substantial experience in workers' compensation and scar-based disfigurement. The special commission shall file its report along with any recommendations within 180 of the effective date of this act with the clerks of the senate and the house of representatives, the joint committee on labor and workforce development and the house and senate committees on ways and means.

Section 5. Section 1 shall take effect 30 days after said report has been filed."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a half past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 9 — nays 27*) [**Yeas and Nays No. 192**]:

YEAS.

Barrett, Michael J.	Moore, Michael O.
deMacedo, Viriato M.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Humason, Donald F., Jr.	Tarr, Bruce E. — 9.
Lovely, Joan B.	

NAYS.

Brownsberger, William N.	Joyce, Brian A.
Chandler, Harriette L.	Keenan, John F.
Chang-Diaz, Sonia	Lesser, Eric P.
Creem, Cynthia Stone	Lewis, Jason M.
DiDomenico, Sal N.	L'Italien, Barbara A.
Donnelly, Kenneth J.	Montigny, Mark C.
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Downing, Benjamin B.	Pacheco, Marc R.

Eldridge, James B.

Rush, Michael F.

Flanagan, Jennifer L.

Spilka, Karen E.

Forry, Linda Dorcena

Timilty, James E.

Gobi, Anne M.

Welch, James T.

Hedlund, Robert L.

Wolf, Daniel A. – 27.

Jehlen, Patricia D.

ABSENT OR NOT VOTING.

McGee, Thomas M.

Petrucelli, Anthony – 2.

The yeas and nays having been completed at twenty-six minutes before three o'clock P.M., the amendment was *rejected*.

Mr. Tarr moved that the proposed new draft be amended in section 3, by striking out, in line 9, the words “claims filed” and by inserting in place thereof the following words:-“personal injuries occurring”; and by inserting after section 2 the following section:-

“SECTION 2A. Item 0810-0399 of section 2 of chapter 46 of the acts of 2015 is hereby amended by inserting after the words “by law” the following words:- “and those who may seek to defraud the system.”

After remarks, the amendment was **adopted**.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2033, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at eighteen minutes before three o'clock P.M., on motion of Mr. DiDomenico, as follows, to wit (*yeas 36 — nays 1*) [**Yeas and Nays No. 193**]:

YEAS.

Barrett, Michael J.

Keenan, John F.

Brownsberger, William N.

Lesser, Eric P.

Chandler, Harriette L.

Lewis, Jason M.

Chang-Diaz, Sonia

L'Italien, Barbara A.

Creem, Cynthia Stone

Lovely, Joan B.

DiDomenico, Sal N.

Montigny, Mark C.

Donnelly, Kenneth J.

Moore, Michael O.

Donoghue, Eileen M.

O'Connor Ives, Kathleen

Downing, Benjamin B.

Pacheco, Marc R.

Eldridge, James B.

Petrucelli, Anthony

Fattman, Ryan C.

Rodrigues, Michael J.

Flanagan, Jennifer L.

Ross, Richard J.

Forry, Linda Dorcena

Rush, Michael F.

Gobi, Anne M.

Spilka, Karen E.

Hedlund, Robert L.

Tarr, Bruce E.

Humason, Donald F., Jr.

Timilty, James E.

Jehlen, Patricia D.

Welch, James T.

Joyce, Brian A.

Wolf, Daniel A. – **36.**

NAYS.

deMacedo, Viriato M. – **1.**

ABSENT OR NOT VOTING.

McGee, Thomas M. – **1.**

The yeas and nays having been completed at eleven minutes before three o'clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

The House Bill establishing a State Workforce Development Board (House, No. 3772),-- **was again considered, the main question being on ordering the bill to a third reading.**

Ms. Chang-Diaz, Mrs. L'Italien and Mr. Montigny moved that the bill be amended in line 53, by inserting after the word "improvement" the following clause:-

", shall develop recommended strategies to promote the proportionate workforce participation of women, people of color, veterans, and persons with disabilities across industry sectors in the commonwealth,"

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before three o'clock P.M., on motion of Mr. deMacedo, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 194**]:

YEAS.

Barrett, Michael J.

Keenan, John F.

Brownsberger, William N.

Lesser, Eric P.

Chandler, Harriette L.

Lewis, Jason M.

Chang-Diaz, Sonia	L'Italien, Barbara A.
Creem, Cynthia Stone	Lovely, Joan B.
deMacedo, Viriato M.	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.	Petrucelli, Anthony
Eldridge, James B.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 37.
Joyce, Brian A.	

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at one minute past three o'clock P.M., the amendment was **adopted**.

Ms. Chang-Diaz, Mrs. L'Italien and Mr. Montigny moved that the bill be amended by inserting after subsection (b) the following subsection (b ½):-

"The membership of the board shall include women, people of color, veterans and persons with disabilities, or representatives of industry or workforce associations representative of their perspectives, in such proportion as these groups exist in the commonwealth's population as periodically determined by the state secretary as the commonwealth's chief census officer."

Pending the question on adoption of the amendment Ms. Chandler moved that the pending amendment (Chang-Díaz et al) be amended by adding at the end the following words:-

And inserting after the word “associations” in line 18, the following words:- “, at least one of which must be appointed by the Massachusetts Manufacturing Extension Partnership”.

After remarks, the further amendment was adopted.

The pending amendment (Chang-Diaz), as amended (Chandler), was then adopted.

The bill, as amended, was the ordered to a third reading, read a third time, and after remarks, was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

Moment of Silence.

At the request of the President, the members, guests and staff stood in a moment of silence and reflection to the memory of Richard Donahue of Lowell.

PAPERS FROM THE HOUSE

*Message from the Governor — Disapproval
General Appropriations Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2016 for the maintenance of the departments, boards commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3650), which on Wednesday, July 8, 2015, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 3675) was read; and the Senate proceeded to reconsider one item, which had been disapproved in accordance with the provisions of the Constitution.

Section 50. (Promulgation of Regulations) was considered as follows:

“SECTION 50. Section 6D of chapter 30A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Each executive office shall publish on its website a list of statutes passed in the previous 24 months for which regulations are required and for which regulations have not been adopted, identifying the session law in which the statutory authority was passed and containing a brief statement as to the agency’s plan to adopt the regulations. Semi-annually, the plan shall be updated on the website and filed with the clerks of the house of representatives and the senate and the chairs of the joint committee on state administration and regulatory oversight.

The Governor disapproved this section.

After remarks, the question on passing section 50, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at a quarter past three o’clock P.M., as follows, to wit (*yeas 30 — nays 6*) [**Yeas and Nays No. 195**]:

YEAS.

Barrett, Michael J.	Lesser, Eric P.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
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.

Petrucelli, Anthony

Eldridge, James B.

Rodrigues, Michael J.

Forry, Linda Dorcena

Rush, Michael F.

Gobi, Anne M.

Spilka, Karen E.

Jehlen, Patricia D.

Timilty, James E.

Joyce, Brian A.

Welch, James T.

Keenan, John F.

Wolf, Daniel A. – **30.**

NAYS.

deMacedo, Viriato M.

Humason, Donald F., Jr.

Fattman, Ryan C.

Ross, Richard J.

Hedlund, Robert L.

Tarr, Bruce E. – **6.**

ABSENT OR NOT VOTING.

Flanagan, Jennifer L.

McGee, Thomas M. – **2.**

The yeas and nays having been completed at eighteen minutes past three o'clock P.M., section 50 stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bill.

An engrossed Bill authorizing the city known as the town of Watertown to increase the exemption for certain residential real property (see House, No. 3586) (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.

Order Adopted.

On motion of Mr. Tarr,--

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.

Adjourn In Memory of Richard Donahue

The Senator from Middlesex, Ms. Donoghue, moved that when the Senate adjourns today, it do so in memory of Richard Donahue of Lowell.

Richard Donahue died at the age 88 on Tuesday, September 15, leaving behind his beloved wife Nancy and their 11 children, Richard Jr., Abigail Morris, Timothy, Stephen, Christopher, Tara, Alicia, Michael, Nancy, Daniel, and Philip.

Donahue is remembered nationally for his connection to the Kennedy family and for his tenure as president and C.O.O of Nike.

He worked on John Kennedy's campaigns for Senate and the White House before serving as special assistant to the president from 1961 to 1963. He also worked for Ted Kennedy's presidential campaign and served as vice chairman of the John F. Kennedy Library Foundation.

But in his hometown of Lowell, Donahue is celebrated for his philanthropy and his deep commitment to the community.

His contributions to the city are too numerous to list in full, but they include forming the Merrimack Repertory Theater, chairing the Lowell Plan, founding the Greater Lowell Community Foundation, and serving as chairman of University of Lowell's board of trustees.

The City of Lowell is a better place because of Richard Donahue, and it will miss his leadership and his generosity.

Accordingly, as a mark of respect in memory of Richard Donahue, at nineteen minutes 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.