

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, August 11, 2016.

Met at thirteen minutes past eleven o'clock A.M. (Ms. Lovely in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Ms. Lovely), members, guests and staff then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, the Chair (Ms. Lovely) handed the gavel to Mr. Humason for the purpose of an introduction. Mr. Humason then introduced, in the rear of the Chamber, Officer Sean McNulty and his wife Audrey, visiting from the Commonwealth of Ireland. Officer McNulty is retired from the Police Service of Northern Ireland, formally known as the "Royal Ulster Constabulary". He is also a current member of the International Police Association, UK Section Region Number 2. The Senate welcomed them with applause and they withdrew from the Chamber. They were the guests of Senator Tarr.

Communications.

The following communications were severally received and placed on file, to wit:

Communication from the Honorable Eileen M. Donoghue in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Tuesday, August 9, 2016 at a half past four o'clock P.M.); and Communication from the Department of Public Health submitting plans of corrections for the following facilities: Berkshire County Jail and House of Correction, Hampshire County Jail and House of Correction and Essex County Correctional Facility (received August 10, 2016).

Reports.

The following reports were severally received and placed on file, to wit:

Report of the Department of Energy Resources (pursuant to Section 22(d) of Chapter 25 of the General Laws) submitting its completed 2014 annual report on behalf of the Energy Efficiency Advisory Council (received August 8, 2016);

Report of the Division of Insurance (pursuant to Section 17 of Chapter 175 of the General Laws) submitting its annual reports for years 2011-2014 (received August 10, 2016); and

Report of the Department of Public Health (under the provisions of Sections 5, 20 and 21 of Chapter 111 of the General Laws) relative to inspection of MCI Cedar Junction, Walpole (received August 10, 2016).

Reports of a Committee.

By Ms. L'Italien, for the committee on Municipalities and Regional Government, on petition, a Bill authorizing the Town of Boxford to establish a reserve fund for certain special education costs (Senate, No. 2437) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill creating a department of municipal finance in the town of Carver under the direction of a finance director (Senate, No. 2460) [Local approval received];
Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Committees Discharged.

Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Financial Services to make an investigation and study of a certain current Senate document relative to public funds (Senate, No. 2478),-- and recommending that the same be referred to the committee on Rules;
Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Communication from the Insurance Fraud Bureau (see Section 1(k) of Chapter 338 of the Acts of 1990, as most recently amended by Section 5 of Chapter 279 of the Acts of 2002) submitting a semi-annual report relative to referrals involving automobile insurance fraud, workers' compensation fraud and other insurance fraud,-- **was read for its information and returned to the House.**

A petition (accompanied by bill, House, No. 4575) of Stephen Kulik (by vote of the town) that the town of Middlefield be authorized to appoint a superintendent of streets for said town,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

Bills

Relative to firefighters in the town of Concord (House, No. 3878,-- on petition) [Local approval received];
Relative to the town manager in the town of Tewksbury (House, No. 3893,-- on petition) [Local approval received];
Increasing the exemption for residential property in the town of Provincetown (House, No. 4216,-- on House, No. 3587) [Local approval received on House, No. 3587]; and
Authorizing the town of Littleton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4453,-- on House, No. 4374) [Local approval received on House, No. 4374];
Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Report of the committee on Health Care Financing asking to be discharged from further consideration of the House Bill to improve access to pharmacy services in hospitals (House, No. 1971),-- and recommending that the same be referred to the House committee on Ways and Means,-- was considered forthwith, under Senate Rule 36, and accepted, in concurrence in so much as relates to the discharge of the joint committee.

Notice was received from the House announcing the following appointments:

That the Speaker had appointed Representative Mariano of Quincy to the special commission established (under Section 9 of Chapter 115 of the Acts of 2016) to review variation in prices among healthcare providers; and

That the Minority Leader had appointed Representative DeCoste of Norwell as his designee to serve on the Massachusetts Post-Deployment Special Commission established (under Section 26 of Chapter 141 of the Acts of 2016).

Engrossed Bill.

An engrossed Bill preventing animal suffering and death (see Senate, No. 2369, amended) (which originated in the Senate), 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 Acting President (Ms. Lovely) and laid before the Governor for his approbation.

Petition.

On motion of Mr. Humason, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Ross (accompanied by bill) of Richard J. Ross and Elizabeth A. Poirier for legislation to establish a sick leave bank for Donna Paul, an employee of the Department of Correction,— **and the same was referred to the committee on Public Service.**
Sent to the House for concurrence.

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for William Horohoe, an employee of the Massachusetts Department of Transportation (House, No. 4480, amended),-- ought to pass, with an amendment inserting after the word "department", in line 3, the first time it appears, the following words: - " , to care for his spouse".

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

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

Sent to the House for concurrence in the amendment.

Matters Taken out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:

The House Bill authorizing the lease or other disposition of certain parcels of land in the city of Boston (House, No. 4468) (its title having been changed by the committee on Bills in the Third Reading),-- was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Boncore presented an amendment striking out section 3, in its entirety, and inserting in place thereof the following 3 sections:-

“SECTION 3. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation may convey to entities which have been designated by the department all or a portion of parcels of land in the city of Boston, Suffolk county, Massachusetts being further described as those certain parcels of land with the improvements located thereon referred to as Parcel 15 and situated at Boylston Street, Cambria Street, Dalton Street and St. Cecilia Street, in the city of Boston, county of Suffolk, and commonwealth of Massachusetts being more particularly described as Parcel B2-9 shown on Land Court plan no. 20418B, filed with said registry district with certificate of title no. 84478; Parcels B2-9, B2-10, B2-11, B2-12, B2-13, B2-14, B2-15 and B2-16 and a portion of Parcel B2-17, shown on Taking Plan for Order of Taking B2, recorded in book 7655, page 576.

SECTION 4. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation may convey to entities which have been designated by the department all or a portion of parcels of land in the city of Boston, Suffolk county, Massachusetts being further described as those certain parcels of land with the improvements located thereon, referred to as Parcel 12 and situated at Boylston Street, Massachusetts Avenue and Newbury Street in the city of Boston, county of Suffolk, and commonwealth of Massachusetts being more particularly described as Parcel B1-13, B1-14 & B1-15 shown on Order of Taking Plan No. B1, as shown on book 7639, page 50; a portion of Parcel B2-1, Parcels B2-2, B2-3, B2-4, B2-5 and B2-6 shown on Order of Taking Plan No. B2 in book 7655, page 576; being also shown on a Taking Plan No. B50, recorded at book 7710, page 172; excluding Lot 100 shown on plan in book 2014, page 202; excepting a lot containing 81 sq. ft. shown on plan at book 8599, page 724; and excepting Taking 72 sq. ft. shown on plan in book 8617, page 44.

SECTION 5. An independent appraisal of the fair market value and value in use of the parcels described in sections 1, 3 and 4 shall be prepared in accordance with the usual and customary professional appraisal practices by a qualified appraiser commissioned by the Massachusetts Department of Transportation. Consideration for the grant of the interests in sections 1, 3 and 4 shall be the full and fair market value or the value in proposed use, whichever is greater, as determined by the department, and calculated with regard to the full development potential as assembled with other lands owned or otherwise controlled by the grantees. The department shall submit any appraisals to the inspector general for the inspector general's review and comment. The inspector general shall review and approve the appraisals, and the reviews shall include an examination of the methodology utilized for the appraisals. The inspector general shall prepare reports of the review and file the reports with the department for submission by the department to the senate and house committees on ways and means and the senate and house chairs of the joint committee on state administration and regulatory oversight. The secretary of transportation shall submit copies of the appraisals and the inspector general's reviews and approvals and any comments to the senate and house committees on ways and means and the senate and house chairs of the joint committee on state administration and regulatory oversight at least 30 days prior to the execution of any documents effecting the transfers described in sections 1, 3 and 4.”

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.

The House Bill authorizing the city of Salem to establish the Salem Harbor Port Authority (House, No. 4479),-- was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Lovely moved that the bill be amended by striking out, in line 93, the words “include, but not be limited to,” and inserting in place thereof the following words:- “consist of”.

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.

The House Bill relative to certain affordable housing in the city of Boston (House, No. 3617),-- **was read a third time and passed to be engrossed, in concurrence.**

PAPER FROM THE HOUSE.

A Bill designating a certain boat launch in the town of Somerset as the William and Harold Meehan Memorial Boat Launch (House, No. 4538,-- on petition),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Humason, and the bill was read a second time,

ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Order Adopted.

On motion of Mr. Humason,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

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

The House Bill authorizing the town of Norfolk to continue the employment of fire chief Coleman Bushnell (House, No. 3196, amended),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Norfolk to continue the employment of police chief Charles H. Stone, Jr. (House, No. 3197, amended),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Maynard to grant 6 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and 1 additional license for the sale of wines and malt beverages not to be drunk on the premises (House, No. 3371, amended),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Eldridge presented an amendment in section 1, in subsection (c), by adding the following words:- “ ; provided, however, that a transfer of a license granted pursuant to this act shall only be granted to a new applicant if the new 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”; and

In said section 1, in subsection (d), by striking out the words “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”.

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.

Reports of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Jennifer Fitzgibbon, an employee of the trial court (House, No. 3902),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Petruccelli, 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 Elizabeth Missett Browning, an employee of the Trial Court (House, No. 3913),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Petruccelli, 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 Senate Bill regulating the processing of lobsters (Senate, No. 469),-- **ought to pass.**

Referred, under Senate Rule 26, to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported that the matter be placed in the Orders of the Day for Thursday, January 21, 2016, for a second reading.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill relative to 2030 and 2040 emissions benchmarks (Senate, No. 458),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2092).**

Order Adopted.

Ms. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill relative to 2030 and 2040 emissions benchmarks (Senate, No. 458) (the committee on Ways and Means having recommended that the bill be amended by

substituting a new draft, Senate, No. 2092) shall be placed in the Orders of the Day for a second reading on Thursday, January 21, 2016.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 2:00 P.M., on Tuesday, January 19, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2092), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Brownsberger, and the order was considered forthwith and adopted.

The bill (Senate, No. 458) was placed in the Orders of the Day for Thursday, January 21, 2016, with the Ways and Means new draft (Senate, No. 2092) pending.

Report of a Committee.

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 Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2032) (the committee on Rules recommending that the bill be amended by substituting a new draft with the same title, Senate, No. 2093).

Order Adopted.

Mr. McGee offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2032) (the committee on Rules having recommended substituting a new draft, Senate, No. 2093) shall be placed in the Orders of the Day for a second reading on Thursday, January 21, 2016.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 2:00 P.M., on Tuesday, January 19, 2016. All such amendments shall be second-reading amendments All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2093), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Tarr, and the order was considered forthwith and adopted.

The bill (Senate, No. 2032) was placed in the Orders of the Day for Thursday, January 21, 2016, with the Rules new draft (Senate, No. 2093) pending.

PAPERS FROM THE HOUSE.

The Senate Bill relative to motor vehicle license suspension (Senate, No. 2021),-- came from the House passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting after section 4 the following section:-
SECTION 4A. Chapter 90 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting the following new section:-

22 ½ The registrar shall suspend, without hearing, the license or right to operate of a person who is convicted of a violation of paragraphs (b) (c) or (d) of section 32E of chapter ninety-four C or adjudged a delinquent child by reason of having violated paragraphs (b) (c) or (d) of section 32E of chapter ninety-four C; provided, however, that the period of such suspension shall not exceed five years; and provided further, however, that such person may after the completion of any time served apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes or any other hardship purpose for the balance of any such license suspension. The registrar, at his or her discretion, may issue such license under such terms or conditions as he may prescribe.”; striking sections 5, 6 and 7 and inserting in place thereof, the following sections:

“Section 5. Sections 2 and 4 shall take effect July 1, 2016.”; and by inserting before the enacting clause, the following emergency preamble:

“Whereas, The deferred operation of the act would tend to defeat its purpose, which is to provide forthwith for the prohibition of

automatic license suspensions for non-vehicle-related drug offenses, therefor it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

The rules were suspended, on motion of Mr. Brownsberger, and the House amendment was considered forthwith. Ms. Chandler presented a motion that the Senate concur with the House amendment with a further amendment, by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2094.

After remarks, on motion of Mr. Tarr, the question on concurring in the House amendment with a further amendment (Chandler) was determined by a standing vote; subsequently, by a vote of 2 to 1 the Senate concurred in the House amendment with the further amendment.

Sent to the House for concurrence in the further amendment.

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

Petition (accompanied by bill, House, No. 3945) of Kay Khan and others relative to persons under the age of 22 with special needs;

Under suspension of Joint Rule 12, to the committee on Children, Families and Persons with Disabilities.

Petition (accompanied by bill, House, No. 3938) of Garrett J. Bradley relative to relief from liabilities on joint tax returns;

Under suspension of Joint Rule 12, to the committee on Revenue.

Initiative petition of Jerald N. Fishbein and others for the passage of An Act the Massachusetts fair health care pricing act (House, No. 3931),-- **came from the House, having been referred to the committee on Financial Services.**

The Senate NON-concurred in the reference to the committee on Financial Services.

Mr. Welch presented a motion that the initiative petition be referred to the committee on the Health Care Financing; and this motion prevailed.

Sent to the House for its action.

Engrossed Bills.

The following engrossed bills (the first two 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 Acting President (Mr. Donnelly) and laid before the Governor for his approbation, to wit:

Authorizing the town of Dalton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see Senate, No. 1927, amended);

Authorizing the town of Mount Washington to establish, own and operate broadband infrastructure and services and to issue bonds or notes therefor (see Senate, No. 1978); and

Extending a certain property tax exemption for seniors in the town of Sudbury (see House, No. 3890).

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Tuesday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Moment of Silence.

At the request of the Chair (Mr. Donnelly), the members, guests and staff stood in a moment of silence and reflection to the memory of Peter A. Todd .

Adjournment in Memory of Peter A. Todd.

The Senator from Essex and Middlesex, Mr. Tarr moved that when the Senate adjourns today, it adjourn in memory of Peter A. Todd who passed away December 15, 2015, at the age of 72, after a lengthy battle with cancer.

Mr. Todd was born in Gloucester on January 10, 1943. He attended public school in Gloucester and spent his youth shining shoes on Main Street in Gloucester.

Mr. Todd worked at Gloucester City Hall for 18 years as a custodian before retiring. After this time, he enlisted in the Merchant Marines. Using the skill and knowledge he learned while serving, Mr. Todd established Pete's Janitorial Service which he owned and operated for many years. His company garnered a strong reputation for his quality of work and attention to detail.

In August of 2014, Mr. Todd was named the Poet Laureate of the City of Gloucester. He drew inspiration for his poems from the city, its history, and its bustling waterfront. Many of more recent poems demonstrated his personal connections to religion and faith. Since 1976, he has written over 500 poems.

Beyond his poetry and service to his city, Mr. Todd was involved in a number of fraternal organizations. He was a member of the Ancient Free and Accepted Masons and a Past Master of the Tyrian, Ashler, Acacia and Charles C. Dame Lodges. He was also a member of the Lawrence United Lodge and awarded the Joseph Warren Distinguished Service Medal by the Grand Lodge of Massachusetts for his steadfast dedication to the organization. Mr. Todd and his wife, Barbara, were formerly members of Martha Washington Chapter #21 Order of the Eastern Star, and served for some time as its Worthy Matron and Worthy Patron.

Mr. Todd is survived by his wife with whom he celebrated 40 years of marriage on July 5, 2015. He is also survived by his daughter Jenice C. Sawyer and her husband Everett of Gloucester, his twelve siblings, his granddaughter Ashley Dennis of New Hampshire, and his beloved great grandchildren Nathaniel J. Mosher and Daniel B. Mosher.

Accordingly, as a mark of respect to the memory of Peter A. Todd, at twenty-five minutes before twelve o'clock noon, on motion of Mr. Petruccelli, the Senate adjourned to meet again on Tuesday next at eleven o'clock A.M.