

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, March 25, 2004.

Met at twenty-six minutes before one o'clock P.M.

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

Distinguished Guests.

The President introduced, seated in the rear of the Chamber, the Dominic Savio High School Hockey Team. The team is the Division III North Champions. The team was accompanied by their coaches, Joe Ciccarello, James Mosca, Mike Armata, Bob Alioto, Paul Capurso and Jay Whalen and were the guests of Senator Travaglini.

The President handed the gavel to Senator Glodis, who introduced, standing in the rear of the Chamber, the Westborough Women's Club. The club was the guests of Representative Polito of Shrewsbury and Senator Resor.

The Chair (Mr. Havern) introduced Charles Lyons, the President of the National League of Cities.

Petitions.

Petitions were presented and referred, as follows:

By Mr. Berry, a petition (subject to Joint Rule 12) of Frederick E. Berry for legislation relative to the Salem retirement board;

By Mr. Morrissey, a petition (subject to Joint Rule 12) of Michael W. Morrissey for legislation relative to educational credits for public safety officers;

By the same Senator, a petition (subject to Joint Rule 12) of Michael W. Morrissey for legislation relative to the sex offender registry; and

By Ms. Tucker, a petition (subject to Joint Rule 12) of Susan C. Tucker, Linda J. Melconian and Stephen J. Buoniconti for legislation relative to the sale of municipal tax receivables;

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

Reports of Committees.

By Mr. Antonioni, for the committee on Education, Arts and Humanities, on petition, a Bill restoring student transportation services (Senate, No. 2172);

By Mr. Moore, for the committee on Health Care, on Senate, No. 255 and House, No. 1075, a Bill relative to the creation of a sports injury commission (Senate, No. 255);

By the same Senator, for the same committee, on petition, a Bill to reduce asthma rates and associated costs in the Commonwealth (Senate, No. 535);

By the same Senator, for the same committee, on Senate, No. 638 and House, No. 1862, a Bill to increase protections of blood banking operation (Senate, No. 2270);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 675), a Bill requiring certain information to be furnished to hospital patients (Senate, No. 2271);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 640), a Bill to create a division within the office of the Auditor of the Commonwealth to assess the health care needs of the uninsured and to monitor the financial stability of the Commonwealth's Health Care Safety Net (Senate, No. 2273);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 597), a Bill protecting the public health of the Commonwealth from bio-terrorism, other forms of terrorism and activities related to terrorism, otherwise known as the Massachusetts emergency health powers act (Senate, No. 2287);

By Ms. Tucker, for the committee on Human Services and Elderly Affairs, on petition, a Bill providing for a living wage for human services workers phased in by region (Senate, No. 748);

By the same Senator, for the same committee, on petition, a Bill providing for a living wage for human services workers (Senate, No. 749);

By the same Senator, for the same committee, on petition, a Bill to provide access for the protection and advocacy on behalf of persons with disabilities (Senate, No. 750);

By the same Senator, for the same committee, on petition, a Bill relative to veterans services officers at public institutions of higher education (Senate, No. 753);

By the same Senator, for the same committee, on petition, a Bill to ensure payment for criminal offender record information checks for long term care employees (Senate, No. 783);

By the same Senator, for the same committee, on petition, a Bill relative to medical screening and evaluation within the foster care system (Senate, No. 801);

By the same Senator, for the same committee, on petition, a Bill protecting juveniles and parental rights in juvenile alcohol and drug rehabilitation (Senate, No. 802);

By the same Senator, for the same committee, on petition, a Bill relative to appointing veterans' agents and veterans' service officers (Senate, No. 805); and

By the same Senator, for the same committee, on petition, a Bill establishing regional medical diagnostic centers for child sexual abuse (Senate, No. 820); **Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

By Mr. Hart, for the committee on Commerce and Labor, on petition, a Bill relative to pilotage in Massachusetts (Senate, No. 2097);

By Mr. McGee, for the committee on Criminal Justice, on Senate, Nos. 153, 177, 179, 188 and 203 and House, No. 2568, a Bill prohibiting illegal videotaping (Senate, No. 177);

By Ms. Tucker, for the committee on Human Services and Elderly Affairs, on petition, a Bill relative to the definition of Korean War veteran (Senate, No. 2136); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 764), a Bill requiring written responses to inquiries from family members and guardians of nursing home, rest home and long-term care facility residents (Senate, No. 2275);

Severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

By Ms. Chandler, for the committee on Housing and Urban Development, on petition (accompanied by bill, Senate, No. 720), a Bill relative to the Nantucket Housing Authority (Senate, No. 2274) [Local approval received on Senate, No. 720]; and

By Ms. Wilkerson, for the committee on State Administration, on petition, a Bill authorizing the city of Waltham to continue the use of certain park land for water purposes (printed as House, No. 3849) [Local approval received];

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

PAPERS FROM THE HOUSE.

The report of the Department of Education (under the provisions of Section 9 of Chapter 70B of the General Laws) submitting a copy of interim regulations for the School Building Assistance Program (House, No. 4589),— **was referred, in concurrence, to the committee on Education, Arts and Humanities.**

Bills

Relative to the removal of veterans' commemorative flag holders (House, No. 2390,— on petition); and

Relative to public charities (House, No. 4234,— on petition);

Were severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Bills

Relative to provisional employees in the city of Worcester (House, No. 3839,— on petition) [Local approval received];

Relative to the charter of the city of Gloucester (House, No. 4092,— on petition) [Local approval received];

Authorizing the town of Norfolk to establish a department of public works (House, No. 4313,— on petition) [Local approval received];

Relative to the release of a conservation restriction in the town of Grafton (House, No. 4352,— on petition) [Local approval received]; and

Providing for a charter for the town of Dudley (House, No. 4428,— on petition) [Local approval received];

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

Reports

Of the committee on Insurance, ought NOT to pass, on so much of the recommendations of the Division of Medical Assistance (House, No. 57) as relates to the MassHealth insurance claim payment intercept program (accompanied by bill, House, No. 60); and

Of the committee on Transportation, ought NOT to pass, on the message from His Excellency the Governor (accompanied by bill, House, No. 3804) recommending legislation relative to the financial sustainability of the Massachusetts Turnpike Authority; **Were severally referred, under Senate Rule 36, to the committee on Steering and Policy.**

The report of the Department of Education (under the provisions of Section 9 of Chapter 70B of the General Laws) submitting a copy of interim regulations for the School Building Assistance Program (House, No. 3827) (having been sent by the House to the Senate for its information),— **was returned to the House to be placed on file.**

Order Adopted.

On motion of Ms. Menard,—

Ordered, That a committee of the Senate be appointed to wait upon His Excellency the Governor, Mitt Romney, and the Honorable Council and inform them that the Senate is in session and awaits their presence for the swearing in of Scott P. Brown of Wrentham as Senator from the Norfolk, Bristol and Middlesex district.

Senators Menard, Sprague and Hart were appointed to the committee.

Subsequently, Ms. Menard, for the committee reported that His Excellency the Governor, Mitt Romney and the Honorable Council would immediately attend upon the Senate. The committee was discharged.

Soon after Mitt Romney, the Governor and the Honorable Council came into the Senate Chamber under the escort of the Sergeant-at-Arms.

The Honorable Scott P. Brown, at nineteen minutes before one o'clock P.M., on Wednesday, March 25, 2004, before the Governor and Council, did take and subscribe the oath of office as State Senator from the Norfolk, Bristol and Middlesex district.

The President then recognized Representatives Pope of Wayland, Poirier of North Attleboro, Lepper of Attleboro and Peterson of Grafton who served with Senator Brown in the House. The President then recognized relatives of Senator Brown in the persons of Callie Huff, Paul, Jennifer and Josh Cook and Peggy Kennedy Brown.

The President then recognized members of Senator Brown's immediate family being Bruce Brown, the father of Senator Brown, his nephew Rich Reilly, his sister Lee Ann Reilly, his niece Maeve Reilly, his mother Judy Brown, his daughters Arianna and Ayla and his wife Gail.

Senator Brown briefly addressed the Senate.

Seat Assignment.

The President announced the assignment of Senator Scott P. Brown to seat number 9 on the President's Right and that Harriette L. Chandler had moved to seat number 13 on the President's Left.

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

Communication.

The Clerk read the following communication from the Secretary of the Commonwealth, to wit:

THE COMMONWEALTH OF MASSACHUSETTS
SECRETARY OF THE COMMONWEALTH
STATE HOUSE, BOSTON, MASSACHUSETTS

March 25, 2004.

To the Honorable Senate:

I have the honor to lay before you the return of votes cast at the special election held in this Commonwealth on the second day of March, 2004 for Senator from the Norfolk, Bristol and Middlesex District, together with the schedules showing the number of ballots which appear to have been cast for each person.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the Senate, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

FOR STATE SENATOR IN GENERAL COURT
NORFOLK, BRISTOL AND MIDDLESEX DISTRICT
(to fill vacancy)

Scott P. Brown of Wrentham (Republican) has18,867 votes
Angus G. McQuilken of Millis (Democrat) has18,518 votes
All others75 votes
Blanks205 votes
Total Votes Cast37,665 votes

On motion of Mr. Lees, the communication was ordered printed in the Journal of the Senate.

Order Adopted.

On motion of Mr. Lees,—

Ordered, That the returns of votes for Senator to fill a vacancy in the Norfolk, Bristol and Middlesex district be referred to a special committee to consist of three members of the Senate.

Senators Magnani, Tarr and Hedlund were appointed the committee.

Subsequently, Mr. Magnani, for the committee, reported, that from an examination of the returns, it appears the Honorable Scott P. Brown of Wrentham had been duly elected to said district.

The report was read and accepted.

PAPERS FROM THE HOUSE.

*Engrossed Bill Returned by Governor
With His Objections Thereto.*

The engrossed Bill providing for a special election to fill a vacancy on the board of selectmen in the town of Wilmington (see House, No. 3921, changed), which, on Wednesday, March 3, 2004, had been laid before His Excellency the Governor for his approbation,— came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing [for message, see House, No. 4569] and having passed that branch, notwithstanding said objections.

The message (House, No. 4569) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

After remarks, the question on passing the bill, in concurrence, the objections 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 thirteen minutes after two o'clock P.M., as follows, to wit (yeas 36 — nays 0) [**Yeas and Nays No. 486**]:

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 36.

NAYS — 0.

ABSENT OR NOT VOTING.

Barrios, Jarrett T.	Joyce, Brian A. — 3.
Hart, John A., Jr.	

The yeas and nays having been completed at eighteen minutes past two o'clock P.M., the bill was passed by Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Message from the Governor — Disapproval and Reductions in Supplemental Appropriation 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 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which on Wednesday, November 19, 2003, 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. 4365) was read; and the Senate proceeded to reconsider several items, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Item 0710-0000 (State Auditor) was considered as follows:

“0710-000057,250”.

After debate, the question on passing item 0710-0000 (contained in section 2), in concurrence, the objections 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 twenty-six minutes past two o'clock P.M., as follows, to wit (yeas 32 — nays 4) [**Yeas and Nays No. 487**]:

YEAS.

Antonioni, Robert A.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O’Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tarr, Bruce E.
Magnani, David P.	Tisei, Richard R.
McGee, Thomas M.	Tolman, Steven A.
Melconian, Linda J.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne — 32.

NAYS.

Brown, Scott P.	Lees, Brian P.
Knapik, Michael R.	Sprague, Jo Ann — 4.

ABSENT OR NOT VOTING.

Barrios, Jarrett T.	Joyce, Brian A. — 3.
Hart, John A., Jr.	

The yeas and nays having been completed at a half past two o'clock P.M., item 0710-0000 (contained in section 2), stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Mr. Havern in the Chair, item 1599-3000 (Suffolk County Sheriffs Lawsuit) was considered as follows:

“1599-3000

For the Suffolk county sheriff’s Department to cover costs relating to a deficit incurred by the Mack Settlement, so-called, in

fiscal year 20032,000,000”.

During consideration, at nineteen minutes before three o'clock P.M., at the request of Mr. Lees, for the purposes of a minority caucus, the Chair (Mr. Havern) declared a recess; and, at three minutes before three o'clock P.M., the Senate reassembled, Mr. Havern in the Chair.

Subsequently, after the recess, item 1599-3000 was further considered.

Mr. Lees moved that the matter be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

Section 78 (Central Artery/Third Harbor Tunnel) was considered as follows:

“SECTION 78. Item 0710-0000 of said section 2 of said chapter 26 is hereby amended by adding the following words:— ; and provided further, that not less than \$57,250 shall be expended for the position of executive director of the central artery/third harbor tunnel project oversight coordination commission, as established in section 2B of chapter 205 of the acts of 1996, such that the position may continue to provide administrative and investigative functions to said commission in a manner that is consistent with the provisions of said section 2B.”

After debate, the question on passing Section 78, in concurrence, the objections 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 one minute past three o'clock P.M., as follows, to wit (yeas 32 — nays 5) **[Yeas and Nays No. 488]**:

YEAS.

Antonioni, Robert A.	Glodis, Guy W.
Baddour, Steven A.	Havern, Robert A.
Barrios, Jarrett T.	Hedlund, Robert L.
Berry, Frederick E.	Magnani, David P.
Brewer, Stephen M.	McGee, Thomas M.
Chandler, Harriette L.	Melconian, Linda J.
Creedon, Robert S., Jr.	Menard, Joan M.
Creem, Cynthia Stone	Montigny, Mark C.
Fargo, Susan C.	Moore, Richard T.
Morrissey, Michael W.	Shannon, Charles E.
Murray, Therese	Tarr, Bruce E.
Nuciforo, Andrea F., Jr.	Tisei, Richard R.
Pacheco, Marc R.	Tolman, Steven A.
Panagiotakos, Steven C.	Tucker, Susan C.
Resor, Pamela	Walsh, Marian
Rosenberg, Stanley C.	Wilkerson, Dianne —

32.

NAYS.

Brown, Scott P.	O'Leary, Robert A.
Knapik, Michael R.	Sprague, Jo Ann —
Lees, Brian P.	5.

ABSENT OR NOT VOTING.

Hart, John A., Jr.	Joyce, Brian A. —
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The yeas and nays having been completed at five minutes past three o'clock P.M., Section 78, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Report of a Committee.

Ms. Murray, for the committee on Ways and Means, that the House Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4559),— reported, in part, a “Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects” (Senate, No. 2304).

There being no objection, the rules were suspended, on motion of Ms. Murray, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means, ordered to a third reading and read a third time.

Pending the question on passing the bill (Senate, No. 2304) to be engrossed, Ms. Resor moved that the bill be amended, in Section 2A, in item 1599-3385, by striking out the words “Massachusetts High Technology Council” and inserting in place thereof the following words:— “Massachusetts Technology Collaborative”.

The amendment was *rejected*.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at ten minutes past three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 489**]:

YEAS.

Antonioni, Robert A.	Creedon, Robert S., Jr.
Baddour, Steven A.	Creem, Cynthia Stone
Barrios, Jarrett T.	Fargo, Susan C.
Berry, Frederick E.	Glodis, Guy W.
Brewer, Stephen M.	Havern, Robert A.
Brown, Scott P.	Hedlund, Robert L.
Chandler, Harriette L.	Knapik, Michael R.
Lees, Brian P.	Panagiotakos, Steven C.
Magnani, David P.	Resor, Pamela
McGee, Thomas M.	Rosenberg, Stanley C.
Melconian, Linda J.	Shannon, Charles E.
Menard, Joan M.	Sprague, Jo Ann
Montigny, Mark C.	Tarr, Bruce E.
Moore, Richard T.	Tisei, Richard R.
Morrissey, Michael W.	Tolman, Steven A.
Murray, Therese	Tucker, Susan C.
Nuciforo, Andrea F., Jr.	Walsh, Marian
O’Leary, Robert A.	Wilkerson, Dianne —
Pacheco, Marc R.	37.

NAYS — 0.

ABSENT OR NOT VOTING.

Hart, John A., Jr.	Joyce, Brian A. — 2.
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The yeas and nays having been completed at fourteen minutes past three o’clock P.M., the bill (Senate, No. 2304) was passed to be engrossed.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Message from the Governor — Disapproval and Reductions in Supplemental Appropriation 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 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which on

Wednesday, November 19, 2003, 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. 4365) was read; and the Senate proceeded to reconsider an item, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 110 (Estate Recovery Effective Date) was considered as follows:

“SECTION 110. Section 703 of said chapter 26 is hereby amended by striking out the words “the effective date of this act” and inserting in place thereof the following words:— July 1, 2004.”

The President in the Chair, the question on passing Section 110, in concurrence, the objections 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 twenty-five minutes before four o'clock P.M., as follows, to wit (yeas 36 — nays 1) [**Yeas and Nays No. 490**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 36.

NAYS.

Sprague, Jo Ann — **1.**

ABSENT OR NOT VOTING.

Hart, John A., Jr. Joyce, Brian A. — **2.**

Mr. Havern in the Chair, the yeas and nays having been completed at twenty-two minutes before four o'clock P.M., Section 110, stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Matter Taken Out of the Orders of the Day.

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

The House Bill establishing an exemption for low-income seniors from proposition 2½ overrides (House, No. 4519) was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, with the amendment previously adopted by the Senate, Ms. Fargo moved that the bill be amended by striking out section 5 and inserting in place thereof the following section:—

“SECTION 5. Said section 6 of said chapter 62 of the General Laws, as so appearing, is hereby further amended by striking out, in line 437, the figure ‘\$400,000’ and inserting in place thereof the following figure: — \$750,000”.
After remarks, this amendment was *rejected*.

Messrs. Morrissey, Creedon and McGee moved to amend the bill by inserting after the enacting clause the following section:—

“SECTION 1. Section 7 of chapter 58A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the figure ‘\$50,000.’, in line 30, the following sentence:— A person over the age of 65, whose annual household gross income is equal to or less than 300 per cent of the federal poverty level of that calendar year and whose assessed property value is equal to or less than \$500,000 shall pay an entry fee of not more than \$25.”.
After remarks, this amendment was **adopted**.

Mr. Magnani moved to amend the bill by inserting after section 4 the following section:—

“SECTION 4A. Subsection (k) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby further amended by inserting after the word ‘commissioner.’, in line 399, the following sentence:— The real estate tax payment to be considered for purposes of calculating this credit shall also include the value of volunteer services provided pursuant to section 5K of chapter 59.”

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

Ms. Menard in the Chair, after further remarks, the question on passing the bill to be engrossed, in concurrence, with the amendments, was determined by a call of the yeas and nays, at four minutes before four o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 36 — nays 0) [**Yeas and Nays No. 491**]:

YEAS.

Antonioni, Robert A.	Creedon, Robert S., Jr.
Baddour, Steven A.	Creem, Cynthia Stone
Barrios, Jarrett T.	Fargo, Susan C.
Berry, Frederick E.	Glodis, Guy W.
Brewer, Stephen M.	Havern, Robert A.
Brown, Scott P.	Hedlund, Robert L.
Lees, Brian P.	Knapik, Michael R.
Magnani, David P.	Panagiotakos, Steven C.
McGee, Thomas M.	Resor, Pamela
Melconian, Linda J.	Rosenberg, Stanley C.
Menard, Joan M.	Shannon, Charles E.
Montigny, Mark C.	Sprague, Jo Ann
Moore, Richard T.	Tarr, Bruce E.
Morrissey, Michael W.	Tisei, Richard R.
Murray, Therese	Tolman, Steven A.
Nuciforo, Andrea F., Jr.	Tucker, Susan C.
O’Leary, Robert A.	Walsh, Marian
Pacheco, Marc R.	Wilkerson, Dianne —

36.

NAYS — 0.

ABSENT OR NOT VOTING.

Chandler, Harriette L. Joyce, Brian A. — **3.**
Hart, John A., Jr.

The yeas and nays having been completed at two minutes past four o’clock P.M., the bill was passed to be engrossed, in

concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

PAPERS FROM THE HOUSE.

Message from the Governor — Disapproval and Reductions in Economic Stimulus Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain sections, and reductions in certain sections contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which on Wednesday, November 19, 2003, had been laid before the Governor for his approbation,— came from the House, in part, several sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4366) was read; and the Senate proceeded to reconsider an item, which had been reduced or disapproved in accordance with the provisions of the Constitution.

Section 65. (Massachusetts Community Development Finance Corporation Funding) was considered as follows:

“SECTION 65. Notwithstanding any general or special law to the contrary, not less than \$1,000,000 from the Economic Stimulus Trust Fund shall be made available to the Massachusetts Community Development Finance Corporation for the recapitalization of said corporation.”

The question on passing Section 65 in concurrence, the objections 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 three minutes past four o'clock P.M., as follows, to wit (yeas 31 — nays 5) [**Yeas and Nays No. 492**]:

YEAS.

Antonioni, Robert A.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O’Leary, Robert A.
Brown, Scott P.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Havern, Robert A.	Tisei, Richard R.
Magnani, David P.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —
Montigny, Mark C.	31.

NAYS.

Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E. — 5.
Lees, Brian P.	

ABSENT OR NOT VOTING.

Chandler, Harriette L.	Joyce, Brian A. — 3.
Hart, John A., Jr.	

The yeas and nays having been completed at seven minutes past four o'clock P.M., Section 65 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

The Senate Bill relative to the commitment of sexually dangerous persons (Senate, No. 1005, amended),— came from the House passed to be engrossed, in concurrence *with amendments* in section 2 (as printed), in line 21, by striking out the words “sex, lewd” and inserting in place thereof the words “sex and lewd”; and in lines 22 and 23, by striking out the words “and indecent exposure”.

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

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Mr. Baddour) “honoring the memory of United States Marine Corporal David Vicente”;

Resolutions (filed by Ms. Chandler) “on the twenty-fifth anniversary of the Center for Fire Safety Studies at Worcester Polytechnic Institute”;

Resolutions (filed by Ms. Creem) “congratulating Brooke K. Lipsitt on the occasion of her retirement from the Newton Board of Aldermen”; and

Resolutions (filed by Messrs. Tarr and Baddour, Ms. Creem and Messrs. McGee, Panagiotakos and Lees) “honoring Metropolitan Methodios.”

PAPERS FROM THE HOUSE.

The Senate Bill relative to adjudicatory hearings of the Board of Registration in Medicine (Senate, No. 2151),— came from the House passed to be engrossed, in concurrence *with an amendment* striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4538.

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

On further motion of Ms. Murray, the Senate concurred in the House amendment *with a further amendment* striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2311.

Sent to the House for concurrence in the further amendment.

Engrossed Bills — Land Taking for Conservation, Etc.

Mr. Havern in the Chair, an engrossed Bill authorizing a change in land use in the town of Lakeville (see House, No. 4112, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at eleven minutes past four o'clock P.M., as follows, to wit (yeas 34 — nays 1) [**Yeas and Nays No. 493**]:

YEAS.

Antonioni, Robert A.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Brown, Scott P.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.

Magnani, David P.	Tisei, Richard R.
McGee, Thomas M.	Tolman, Steven A.
Melconian, Linda J.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne —

34.

NAYS.

Lees, Brian P. — **1.**

ABSENT OR NOT VOTING.

Chandler, Harriette L.	Havern, Robert A.
Hart, John A., Jr.	Joyce, Brian A. — 4.

The yeas and nays having been completed at fourteen minutes past four o'clock P. M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

An engrossed Bill regulating the use of Lowell Park in the town of Barnstable (see Senate, No. 1935) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at a quarter past four o'clock P. M., as follow, to wit (yeas 34 — nays 1) [**Yeas and Nays No. 494**]:

YEAS.

Antonioni, Robert A.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Brown, Scott P.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Magnani, David P.	Tisei, Richard R.
McGee, Thomas M.	Tolman, Steven A.
Melconian, Linda J.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne —

34.

NAYS.

Lees, Brian P. — **1.**

ABSENT OR NOT VOTING.

Chandler, Harriette L.	Havern, Robert A.
Hart, John A., Jr.	Joyce, Brian A. — 4.

The yeas and nays having been completed at nineteen minutes past four o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Matter Taken Out of the Orders of the Day.

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

The Senate Bill relative to the computerization of the examination for certification for the practice of public accountancy (Senate, No. 2210),— was read a third time. Mr. Shannon for the committee on Bills in the Third Reading, reported, recommending that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2305.

This amendment was **adopted**.

The question on passing the bill (Senate, No. 2210, amended) to be engrossed was determined by a call of the yeas and nays, at twenty-two minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 495**]:

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Baddour, Steven A.	Fargo, Susan C.
Barrios, Jarrett T.	Glodis, Guy W.
Berry, Frederick E.	Hart, John A., Jr.
Brewer, Stephen M.	Havern, Robert A.
Brown, Scott P.	Hedlund, Robert L.
Creedon, Robert S., Jr.	Knapik, Michael R.
Lees, Brian P.	Panagiotakos, Steven C.
Magnani, David P.	Resor, Pamela
McGee, Thomas M.	Rosenberg, Stanley C.
Melconian, Linda J.	Shannon, Charles E.
Menard, Joan M.	Sprague, Jo Ann
Montigny, Mark C.	Tarr, Bruce E.
Moore, Richard T.	Tisei, Richard R.
Morrissey, Michael W.	Tolman, Steven A.
Murray, Therese	Tucker, Susan C.
Nuciforo, Andrea F., Jr.	Walsh, Marian
O'Leary, Robert A.	Wilkerson, Dianne —
Pacheco, Marc R.	37.

NAYS — 0.

ABSENT OR NOT VOTING.

Chandler, Harriette L. Joyce, Brian A. — **2.**

**The yeas and nays having been completed at twenty-five minutes past four o'clock P.M., the bill (Senate, No. 2210, amended) was passed to be engrossed.
Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

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 and laid before the Governor for his approbation, to wit:

Establishing a traffic commission in the city of Westfield (see Senate, No. 1932);

Relative to the designation of a scenic byway in the towns of Hadley and South Hadley (see Senate, No. 2012);

Authorizing the town of Salisbury to make an appeal to the Appellate Tax Board (see House, No. 4296); and

Relative to certain housing in the city known as the town of Methuen (see House, No. 4416).

Matters Taken Out of the 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 requiring late counting of certain overseas absentee ballots in municipal elections (Senate, No. 2164),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act requiring late counting of certain overseas absentee ballots in city elections”.**

Sent to the House for concurrence.

The House Bill providing for the annual observance of Armenian-American Heritage Month (House, No. 2695),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Order Adopted.

Mr. Magnani offered the following order, to wit:—

Ordered, That notwithstanding any rule to the contrary, during the week beginning March 29, 2004, the Senate Committee on Steering and Policy may meet outside the State House to conduct its business under Rule 12B.

There being no objection, the order was considered forthwith; and it was adopted.

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 Senate Bill relative to the registration of podiatrists (Senate, No. 671),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The Senate Bill relative to the worker’s compensation exclusive remedy (Senate, No. 72, amended) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

Pending the main question on passing the bill to be engrossed, on motion of Mr. Creedon, the further consideration thereof was postponed until Wednesday, March 31.

Communication.

The Clerk read the following communication:

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

March 25, 2004.

The Honorable William Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

On March 25, 2004, I was speaking at a conference in Manitoba, Canada, working to make prescription drugs affordable for seniors in the Commonwealth. Accordingly, I was absent from the Senate Chamber and missed the following roll call votes:

H-3921: An Act Providing for a Special Election to Fill a Vacancy on the Board of Selectmen in the Town of Wilmington.

H-4430: Item 0710-0000 Office of the State Auditor.

Had I been present, I would have voted in the affirmative on the above-referenced matters. I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for Thursday, March 25, 2004. Thank you for your assistance in this matter. I am,

Sincerely yours,
JARRETT T. BARRIOS,
State Senator,
Middlesex, Suffolk and Essex.

On motion of Ms. Murray, the above communication was ordered printed in the Journal of the Senate.

Petition.

On motion of Mr. McGee, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. McGee, (accompanied by bill) of Thomas M. McGee, Steven A. Baddour, Michael A. Costello and J. Michael Ruane for legislation to establish a sick leave bank for Leslie A. Donahue, a Justice of the Trial Court of the Commonwealth,— **and the same was referred to the committee on the Judiciary. Sent to the House for concurrence.**

Order Adopted.

On motion of Mr. Baddour,—

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

Recess.

At twenty-one minutes before five o'clock P.M., the President declared a recess subject to the call of the Chair; and, at a twenty-four minutes before seven o'clock P.M., the Senate reassembled, Ms. Walsh in the Chair.

PAPERS FROM THE HOUSE.

The Senate Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2304, amended),— came from the House passed to be engrossed, in concurrence *with an amendment* striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4613.

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

On further motion of the same Senator, the Senate concurred in the House amendment *with further amendments* (Murray) in section 2, by inserting after item 1232-0200, the following item:—

“1599-3385

For a one-time matching grant to the Massachusetts High Technology Council for the purposes of maximizing private sector funding for the Massachusetts Defense Technology Initiative; provided, that the funds shall support the operations of the Massachusetts Defense Technology Initiative for the purposes of preventing the closure of Massachusetts military installations in the present Department of Defense Base Realignment and Closure process; and provided further, that the matching grant shall be matched dollar-for-dollar from private sources500,000”;

by striking out section 19 and inserting in place thereof the following section:—

“SECTION 19. The tenth paragraph of section 1I of chapter 69 of the General Laws, as amended by section 73 of chapter 46 of the acts of 2003, is hereby further amended by striking out the third sentence and inserting in place thereof the following 2 sentences:— Each school improvement plan shall be submitted to the superintendent for review and approval not later than July 1 of the year in which the plan is to be implemented according to a plan development and review schedule established by the district superintendent. Upon request of the school committee, copies of the plans shall be made available to the committee for review in order to ensure consistency with the 3-year district improvement plan and the district annual action plan; provided, however, that the superintendent shall have final approval authority of all school improvement plans.”; by inserting after section 26 the following 2 sections:—

“SECTION 26A. Section 2A of chapter 262 of the General Laws, inserted by section 497 of chapter 26 of the acts of 2003, is hereby amended by adding the following paragraph:—

The anniversary fee shall not be assessed against the commonwealth.

SECTION 6B. Section 4D of said chapter 262, inserted by section 502 of said chapter 26, is hereby amended by adding the following paragraph:—

The anniversary fee shall not be assessed against the commonwealth.”

And by striking out section 56 and inserting in place thereof the following 2 sections:—

“SECTION 56. Sections 12 and 26 shall take effect on July 1, 2004.

SECTION 57. Sections 26A and 26B shall take effect as of October 1, 2003.”

The amendment was **adopted**.

The House amendment, as amended, was adopted.

Sent to the House for concurrence in the further amendment.

Recess.

At twenty minutes before seven o'clock P.M., the Chair (Ms. Walsh), declared a recess subject to the call of the Chair; and, at thirteen minutes before eight o'clock P.M., the Senate reassembled, Mr. Havern in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

Suspension of Senate Rule 38A.

Mr. Tarr moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and, there being no objection, on further motion of the same Senator, the rule was suspended without a recorded yea and nay vote.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see Senate, No. 2304, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 2 to 0.

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

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

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Havern) and laid before the Governor on Friday, March 26, 2004 for his approbation.

Adjournment in Memory of Marine Corporal David Vicente.

The Senator from Essex, Mr. Baddour, moved that when the Senate adjourns today, it adjourn in memory of US Marine Corporal David Vicente. Corporal Vicente died last Friday while serving his country in Iraq. As an honor student at Greater Lawrence Technical School, Corporal Vicente was known for his warm personality, strong character and his lifelong desire to serve in the US Marine Corps. On behalf of a grateful commonwealth, the Massachusetts Senate joins with the family of Corporal Vicente in mourning their loss and offers its heartfelt condolences.

The Senator from Norfolk, Bristol and Plymouth, Mr. Joyce, presented a request that when the Senate adjourns today, it adjourn in memory of William Fitzsimmons of Milton, a member of the House between 1947-1948.

Accordingly, as a mark of respect to the memories of US Marine Corporal David Vicente and William Fitzsimmons at eight o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at a quarter before ten o'clock A.M.