

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Thursday, May 5, 2005.

Met at three minutes past eleven o'clock A.M. (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).

The Chair (Mr. Havern), members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guests.

The Chair (Mr. Havern) introduced, seated in the rear of the Chamber, Miss Laurel E. Labdon. Laurel is Miss Wheelchair Massachusetts and she will be competing in the National Wheelchair pageant this summer in Albany, NY. Laurel is from Cape Cod and was the guest of Senator O'Leary.

The Chair (Mr. Havern) handed the gavel to Mr. Augustus for the purpose introducing Timothy Murray, Mayor of the city of Worcester.

The Chair (Mr. Havern) handed the gavel to Mr. Brown for the purpose of introducing, seated in the rear of the Chamber, Joseph Graham of Brockton. Mr. Graham made the winning bid at the "New Hope Gala" to be Senator for the day.

Report.

A report of the Division of Health Care Finance and Policy (under the provisions of Section 4 of Chapter 118G of the General Laws) submitting its annual report for fiscal year 2004 (received Friday, April 29, 2005),— **was placed on file.**

Petitions.

Petitions were presented and referred as follows:

By Mr. Barrios, a petition (accompanied by bill, Senate, No. 2044) of Jarrett T. Barrios and Timothy J. Toomey, Jr. (with approval of the mayor and city council) for legislation to establish a project mitigation contribution ("linkage") program for affordable housing in the city of Somerville [Local approval received];

Under Senate Rule 20, to the committee on Housing.

By the same Senator, a petition (accompanied by bill, Senate, No. 2045) of Jarrett T. Barrios and Timothy J. Toomey, Jr. (with approval of the mayor and city council) for legislation to establish a project mitigation contribution ("linkage") program for open space and historic preservation in the city of Somerville [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate, No. 2046) of Jarrett T. Barrios and Timothy J. Toomey, Jr. (with approval of the mayor and city council) for legislation to authorize the establishment of a municipal open space and historic preservation trust fund in the city of Somerville [Local approval received];

Severally, under Senate Rule 20, to the committee on Tourism, Arts and Cultural Development.

Severally sent to the House for concurrence.

Petitions were presented and referred, as follows:

By Mr. Montigny, a petition (subject to Joint Rule 12) of Mark C. Montigny for legislation to promote the financial integrity of public charities;

By Mr. Moore, a petition (subject to Joint Rule 12) of Richard T. Moore, Susan C. Fargo, Brian A. Joyce, Steven A. Tolman and other members of the General Court for legislation to honor distinguished women of Massachusetts; and

By Ms. Tucker (by request), a petition (subject to Joint Rule 12) of Norma L. Powell for legislation to reform the judicial system;

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

Reports of a Committee.

By Mr. Barrios, for the committee on Public Safety and Homeland Security, on petition, a Resolve to establish a special commission to the training of law enforcement officers (Senate, No. 1352, changed in line 17 by inserting after the word “designee,” the words “the Massachusetts Psychological Association, the Mental Health and Substance Abuse Corporation of Massachusetts, Inc., M-Power,”);

Read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

By Mr. Barrios, for the committee on Public Safety and Homeland Security, on petition, a Bill relative to standards for protective headgear for operators or passengers on motor-cycles (Senate, No. 1344) (Senator Menard and Representative Rivera of Springfield dissenting);

Read and under Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3839) of Eugene L. O’Flaherty and others (with the approval of the mayor and city council) relative to the holding of public school classes in the city of Chelsea on Bunker Hill Day,— **was referred, in concurrence, to the committee on Education.**

A Bill making appropriations for the fiscal year 2006 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 (House, No. 4001,— on House, No. 1, in part),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill authorizing the town of Rowley to lease certain conservation land (House, No. 1721,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Resolutions.

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

Resolutions (filed by Mr. Creedon) “on the occasion of the retirement of Patricia Diane Giannakoulis after 38 years of teaching in the Rockland School System”;

Resolutions (filed by Mr. Knapik) “commending Joan C. Steiger”;

Resolutions (filed by Mr. Pacheco) “congratulating Donald and Pearl Barrows on the occasion of their fiftieth wedding anniversary”;

Resolutions (filed by Mr. Pacheco) “congratulating Dr. Victor DeSantis”;

Resolutions (filed by Ms. Resor) “honoring Reginald C. Brown for his outstanding career of public service”;

Resolutions (filed by Messrs. Tolman and Barrios) “on the occasion of the retirement of Sergeant Joseph McSweeney”; and

Resolutions (filed by Ms. Walsh) “congratulating Maureen Hachey on the occasion of her sixtieth birthday.”

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS SENATE

STATE HOUSE, BOSTON 02133-1053

May 4, 2005.

Mr. William Welch, *Clerk of the Senate*
Commonwealth of Massachusetts
State House
Boston, MA

Dear Mr. Clerk:

My unavoidable absence from the Senate's formal session held on Tuesday April 26, 2005 caused me to be recorded as absent on 4 separate roll call votes. Had I been present at the session I would have voted in the affirmative on the following:

On the question of passing to be enacted:

- House bill 36 authorizing the conservation commission of the town of Reading to grant certain easements.
- House bill 1719 authorizing the city Waltham to construct a veterans memorial and community bandstand and to install certain plaques on open space land.
- House bill 1726 authorizing the town of Westport to convey certain conservation land to the board of selectmen for the purpose of constructing a public safety complex.

On the question of passing to be engrossed:

- Senate bill 2040 requiring special state police officers to collect certain data.

Please enter this into the record of the next session of the Senate.

Sincerely,

MARK C. MONTIGNY,
Senator,
2nd Bristol and Plymouth District.

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

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill enhancing regenerative medicine in the commonwealth (see Senate, No. 2039), 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 3 to 0.

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

Report of a Committee.

Ms. Menard, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill validating the actions taken at an annual town meeting and special town meeting of the town of Rockland (printed in House, No. 999).

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

Reports of Committees.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Therese Murray for legislation to authorize the Department of Highways to acquire and transfer certain parcels of land in the town of Bourne.

Senate Rule 36 was suspended, on motion of Mr. Augustus, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Bonding, Capital Expenditures and State Assets.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Edward M. Augustus, Jr. and Andrea F. Nuciforo, Jr. for legislation relative to the payment of referral fees to unlicensed employees of insurance producers.

Senate Rule 36 was suspended, on motion of Mr. Augustus, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Financial Services.

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Joan M. Menard for legislation relative to creditable service of certain Massachusetts Community College Council employees.

Senate Rule 36 was suspended, on motion of Mr. Augustus, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.

Severally sent to the House for concurrence.

Report of a Committee.

Ms. Murray, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Carol G. Davis, an employee of the George Fingold Library (Senate, No. 2029),— ought to pass, with an amendment in section 1, by adding the following sentence:— “Whenever Carol G. Davis terminates employment with the library or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.”.

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

The bill (Senate, No. 2029, amended) was ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill enhancing regenerative medicine in the Commonwealth (see Senate, No. 2039) (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 was signed by the Acting President and laid before the Governor for his approbation.**

Recess.

There being no objection, at thirteen minutes past eleven o'clock A.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at four minutes past twelve o'clock noon, the Senate reassembled, Mr. Havern in the Chair.

Report of a Committee.

By Mr. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, on petition, a Bill providing for a partial release of certain land in the town of Granby from the operation of a non-development covenant (Senate, No. 2038).

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

Pending the question on ordering the bill to a third reading, Mr. Tolman moved that the bill be amended by adding the following 2 sections:—

“SECTION 4. The last sentence of the first paragraph of subsection (a) of section 279 of chapter 149 of the acts of 2004 is hereby amended by striking out the words ‘and Veterans Memorial Rink, Waltham’ and inserting in place thereof the following words:— Veterans Memorial Rink, Waltham; and Daly Memorial Rink, Brighton district of the city of Boston.

SECTION 5. Section 121 of chapter 352 of the acts of 2004 is hereby repealed.”;

By inserting before the enacting clause the following emergency preamble:—

“*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to partially release a non-development covenant restriction on certain land in the town of Granby and to authorize certain agreements for the Daly Memorial Rink, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”; and

By striking out the title and inserting in place thereof the following title: “An Act partially releasing a non-development covenant restriction on certain land in the town of Granby and authorizing certain agreements for the Daly Memorial Rink in Brighton.”.

The amendment was adopted.

The bill (Senate, No. 2038, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Brown,—

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 six minutes past twelve o’clock noon, the Senate adjourned to meet on the following Monday at eleven o’clock A.M.