

**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, June 16, 2005.

Met at seventeen minutes past one o'clock P.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.*

There being no objection, the Chair (Mr. Havern) handed the gavel to Mr. Timilty for the purpose of introducing, seated in the Senate Gallery, students, parents and teachers from the St. Mary's School in Mansfield. The students were recent first place winners of the Scholastic Kids are Authors book writing competition.

There being no objection, the Chair (Mr. Havern) handed the gavel to Mr. Brown for the purpose of introducing, seated in the rear of the Chamber, TyLynn Graham of North Attleboro. TyLynn was Ms. Teen Massachusetts for 2004, as well as an all-scholastic track athlete. She will be attending the University of Rhode Island in the Fall. TyLynn was accompanied into the Chamber by her mother Lisa Graham.

### *Petitions.*

Petitions were presented and referred as follows:

By Mr. O'Leary, a petition (accompanied by bill, Senate, No. 2090) of Robert A. O'Leary, Matthew C. Patrick, Demetrius J. Atsalis and Jeffrey Davis Perry (by vote of the town) for legislation to amend real property interests under the Cape Cod Open Space Acquisition Program in the town of Barnstable [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate, No. 2091) of Robert A. O'Leary, Matthew C. Patrick, Demetrius J. Atsalis and Jeffrey Davis Perry (by vote of the town) for legislation to further amend the provisions of the Community Preservation Act in Barnstable County [Local approval received];

**Severally, under Senate Rule 20, to the committee on Revenue.  
Severally sent to the House for concurrence.**

### *Reports of Committees.*

By Ms. Fargo, for the committee on Public Health, on petition, a Bill to promote organ and tissue donations and reduce preventable deaths (Senate, No. 1240); and

By the same Senator, for the same committee, on Senate, No. 1296 and House, No. 2688, a Bill relative to the treatment of blood disorders (Senate, No. 1296);

**Read and under Joint Rule 1E, referred to the committee on Health Care Financing.**

By Ms. Fargo, for the committee on Public Health, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1213) of Charles E. Shannon and Carl M. Sciortino, Jr. for legislation relative to organ donations;  
**Referred, under Senate Rule 36, to the committee on Ethics and Rules.**

*Committee Discharged.*

Ms. Fargo, for the committee on Public Health, reported, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 1245) of John A. Hart, Jr. and Martin J. Walsh for legislation relative to the retirement benefits of emergency medical technicians; and

Of the petition (accompanied by bill, Senate, No. 1246) of John A. Hart, Jr. and Martin J. Walsh for legislation relative to the retirement benefits of emergency medical technicians;

And recommending that the same severally be referred to the committee on Public Service.

**Under Senate Rule 36, the reports were severally considered forthwith and accepted.  
Severally sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to amending the taxation of capital gains (House, No. 4165),— **was referred, in concurrence, to the committee on Revenue.**

A Bill to update and improve certain tax provisions of the Commonwealth (House, No. 4169,— on House, No. 2606),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

*Resolutions.*

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

Resolutions (filed by Mr. O’Leary and Ms. Murray) “observing June 23, 2005 as the Cape Cod Crusade Against Cancer Day.”

PAPERS FROM THE HOUSE.

*Engrossed Bills — Land Taking for Conservation, Etc.*

An engrossed Bill authorizing certain easements in the town of Holbrook for construction and maintenance of a water main (see Senate, No. 2077, amended) (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 nineteen minutes past one o’clock P.M., as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 49**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
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.
Buoniconti, Stephen J.	Panagiotakos, Steven C.

Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

**The yeas and nays having been completed at twenty-eight minutes before two 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 Acting President and laid before the Governor for his approbation.**

An engrossed Bill authorizing the conveyance of a certain parcel of land in the town of Shrewsbury (see House, No. 2794) (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 twenty-six minutes before two o'clock P.M., as follows, to wit (yeas 37 — nays 0) [Yeas and Nays No. 50]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
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.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.

Fargo, Susan C.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

**The yeas and nays having been completed at twenty-three minutes before two 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 Acting President and laid before the Governor for his approbation.**

*Emergency Preamble Adopted.*

An engrossed Bill 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 (see Senate, No. 2038, 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 9 to 0.

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

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

Designating a portion of state highway route 122 as a scenic road (see Senate, No. 1881, changed); and

Authorizing William F. Felton to receive workers' compensation benefits without offset against his retirement allowance (see House, No. 4058).

A Bill authorizing certain expenditures by the town of Seekonk (House, No. 4164,— being a message from His Excellency the Governor),— was read.

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

*Report 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 Marc R. Pacheco for legislation to authorize the certification and eligibility as fire fighters in the city of Taunton.

**Senate Rule 36 was 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 Public Service.**

**Sent to the House for concurrence.**

A Bill authorizing the town of Milton to appropriate money for retroactive wage adjustments (House, No. 4114,— on petition) [Local approval received],— was read.

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

*Recess.*

There being no objection, at nineteen minutes before two o'clock P.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at twenty-eight minutes before four o'clock P.M., the Senate reassembled, the President in the Chair.

*Orders of the Day.*

The Orders of the Day were considered, as follows:

The Senate Bill providing timely access to emergency contraception (Senate, No. 2073) (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. Brown moved that the bill be amended, in section 4, by adding the following paragraph:—

Nothing in this section shall impose any requirements upon any employee, physician or nurse of any facility to the extent that administering the contraception conflicts with a sincerely held religious belief. In determining whether an employee, physician or nurse of any facility has a sincerely held religious belief administering the contraception, the conflict shall be known and disclosed to said facility and on record at said facility.

If it is deemed that said employee, physician or nurse of any facility has a sincerely held religious conflict administering the contraception, then said treating facility shall have in place a validated referral procedure policy for referring patients for administration of the emergency contraception that will administer the emergency contraception, which may include a contract with another facility. The referrals shall be made at no additional cost to the patient.

After remarks, Messrs. Hart, Nuciforo, Joyce, Panagiotakos and O'Leary moved that the amendment be amended by substituting the following text:

Nothing in this section shall impose any requirements upon any employee, physician or nurse of any facility to the extent that contraception conflicts with a sincerely held religious belief. If any employee, physician or nurse refuses to follow the requirements of this section concerning contraception, the employee, physician or nurse shall provide written notice of the objection, in advance, to the hospital governing board. The hospital governing board shall establish alternative systems and protocols to ensure that female sexual assault victims are able to obtain at that facility the standard of care as set forth in this section, notwithstanding the objection. Notwithstanding this paragraph, an employee, physician or nurse shall not refuse to follow the requirements of this section if there is no other employee, physician or nurse immediately available at that facility to discharge the facility's obligations under this section."

Ms. Menard in the Chair, after debate, the further amendment was *rejected*.

The pending amendment (Brown) was again considered; and it was *rejected*.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty minutes before five o'clock P.M., on motion of Mr. Fargo, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 51**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
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.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne — 37.
McGee, Thomas M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Moore, Richard T. — 1.

**The yeas and nays having been completed at seventeen minutes before five o’clock P.M., the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill requiring distribution of citation books to the Office of Law Enforcement in the Executive Office of Environmental Affairs. (Senate, No. 1338),— was considered.

**Pending the motion, previously moved by Mr. Creedon, to lay the matter on the table, and pending the main question on passing the bill to be engrossed, on motion of Mr. Brewer, the further consideration thereof was postponed until Thursday, July 14, 2005.**

*Matter Taken Out of the 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 Senate Bill clarifying the powers and duties of the Charlton water and sewer commission (Senate, No. 1163),— 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.**

*Moment of Silence.*

The President requested that a moment of silence be observed in remembrance of former Assistant Senate Majority Leader Mary L. Fonseca of Fall River.

*Order Adopted.*

On motion of Mr. Brewer,—

*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.

*Adjournment in Memory of The Reverend J. Joseph Quigley.*

The Senator from Hampshire and Franklin, Mr. Rosenberg, presented a request that when the Senate adjourns today, it do so as a mark of respect to the memory of Reverend J. Joseph Quigley, longtime director of the Newman Catholic Center at the University of Massachusetts-Amherst.

A World War II veteran, Reverend Quigley was ordained in 1956 and served as Chaplain at St. Mary's parish in Westfield and St. Brigid's in Amherst before joining the UMass Newman Center in 1963. He also served as Chaplain for the Amherst Police Department, Amherst College and Post 148 of the American Legion in Amherst.

Famous for his boundless compassion and overflowing sense of humor, he was a beloved community figure since his arrival in western Massachusetts and long after his retirement from the University in 1993. He will be greatly missed by all who were fortunate enough to know "Father Joe".

Accordingly, as a mark of respect to the memory of Reverend J. Joseph Quigley, at thirteen minutes before five o'clock P.M. on motion of Mr. Brewer, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.