

**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, June 22, 2006.

Met at four minutes past one o'clock P.M. (Mr. Tolman in the Chair).

#### *Reports of Committees.*

By Mr. Antonioni, for the committee on Education, an Order relative to authorizing the joint committee on Education to make an investigation and study of certain current Senate documents numbered 297, 345, 350 and 2320, relative to education (Senate, No. 2596);

**Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.**

By Mr. O'Leary, for the committee on Higher Education, on petition, a Bill authorizing the University of Massachusetts to convey a certain parcel of land in the city of Boston to the United States of America acting by and through the National Archives and Records Administration (Senate, No. 2597);

**Read and, under Joint Rule 1F, referred to the committee on Bonding, Capital Expenditures and State Assets.**

By Mr. Timilty, for the committee on Municipalities and Regional Government, on petition, a Bill authorizing the conservation commission of the city of Pittsfield to convey a certain parcel of conservation land for public purposes (Senate, No. 2576) [Local approval received];

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

Mr. Buoniconti, for the committee on Ethics and Rules, reported that the following matters be placed in the Orders of the Day for the next session:

The Senate bills

Relative to the observance of Veterans Day (Senate, No. 1845); and

To ban the use of methyl tertiary butyl ether (Senate, No. 2179); and

The House Bill relative to certain housing in the town of Westborough (printed in House, No. 4609).

#### *Committees Discharged.*

Mr. Buoniconti, for the committee on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Consumer Protection and Professional Licensure to make an investigation and study of certain Senate documents relative to consumer protection issues in the Commonwealth (Senate, No. 2564), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, Senate No. 1837) of Robert S. Creedon, Jr., Thomas P. Kennedy, Geraldine Creedon and Christine E. Canavan relative to state and county fairs,— and recommending that the same be recommitted to the committee on Consumer Protection and Professional Licensure.

**Under Senate Rule 36, the report was considered forthwith and accepted.**

Mr. Augustus, for the committee on Election Laws, reported, asking to be discharged from further consideration of the recommitted petition (accompanied by bill, Senate, No. 2503) of Susan C. Fargo (by vote of the town) for legislation to authorize

the town of Lincoln to issue a single license for the sale of wine and malt beverages,— and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure.

**Under Senate Rule 36, the report was considered forthwith and accepted.  
Sent to the House for concurrence.**

#### **PAPERS FROM THE HOUSE.**

A petition (accompanied by bill, House, No. 5014) of Robert K. Coughlin and Marian Walsh (by vote of the town) that the town of Westwood be authorized to grant innkeepers' licenses,— **was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.**

A Bill relative to the Sherwood Greens Road Improvement and Maintenance District in the town of Becket (House, No. 4811,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

There being no objection, at five minutes past one o'clock P.M., the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at eleven minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.  
The President, members, guests and employees then recited the pledge of allegiance to the flag.

The Senator from Worcester, Hampden, Hampshire and Franklin, Mr. Brewer offered the following prayer:

God, Eternal Father, we enter upon this new day ready, with Thy help, to accept the challenge of our responsibility as Senators of our people. We come to Thee with humble spirits, contrite hearts, to ask an increase in the ardor of our efforts as parcel of and peacemakers. With us we bring the things that we can never seem to escape, our sins and shortcomings, our failures and frustrations, our problems and perplexities. These are the few things that no one ever asks to share. With all our weaknesses we ask Thee for the grace to do Thy will, and to work for the guidance and unconquerable hope, and a love that endures forever. Amen.

#### *Distinguished Guests.*

There being no objection, the Chair President handed the gavel to Ms. Spilka for the purpose of an introduction. Ms. Spilka then introduced, seated in the Senate rear of the Chamber, the Framingham High School Girls' Lacrosse Team. The team is the Division I State Champions. The team was accompanied by their coach, Stacey Freda, who coached the team to an impressive record of 25-0 this season.

#### **PAPERS FROM THE HOUSE.**

##### *Emergency Preamble Adopted.*

An engrossed Bill establishing a sick leave bank for Michael McLaughlin, an employee of the Trial Court (see House, No. 4578), 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 7 to 0.

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

A Bill relative to a certain retired employee of the Commonwealth (House, No. 5063,— on House, Nos. 4852 and 4853),— was read.

There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time.  
Pending the question on ordering the bill to a third reading, Mr. Morrissey moved that the bill be amended in section 2, by striking out the words "buyback interest" and inserting in place thereof the following words:— "interest that would have accrued if he had been making contributions during that period"; and in section 3, by adding the following sentence:— "J. Michael Ruane, his family or other individuals or entities may make contributions to the commonwealth within 1 year after the effective date of this act, for the purpose of payment of the pension obligation calculated in section 2 and to reduce the lien established in this section."

**The amendment was adopted.**

**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.**

#### *Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—  
Resolutions (filed by Messrs. Joyce and Morrissey) "congratulating Donald and Patricia King on the occasion of their fiftieth wedding anniversary";  
Resolutions (filed by Messrs. Moore and Augustus) "honoring Revolutionary War Patriot Asa Waters, the First";

Resolutions (filed by Mr. Pacheco) “congratulating Robert W. Studley on his many years of service to the city of Taunton”; and Resolutions (filed by Messrs. Panagiotakos, Augustus and Baddour, Ms. Chandler, Ms. Fargo, Ms. Murray, Messrs. O’Leary and Rosenberg and Ms. Wilkerson) “memorializing the Congress of the United States to pass Senate Joint Resolution 15 apologizing to all Native American peoples on behalf of the United States.”

*Communication.*

The Clerk read the following communication:

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

*June 21, 2006.*

William F. Welch  
Massachusetts State Senate Clerk  
State House  
Boston, MA 02133

Dear Mr. Welch:

On Thursday, June 15, 2006 I was absent from the chamber on a pressing constituent matter and missed two (2) roll call votes. Had I been present, I would have voted in the affirmative on S 2302 and H 5057.

I thank you for your attention to this matter.

*Sincerely,*  
DIANNE WILKERSON,  
*State Senator,*  
*Second Suffolk District.*

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

*Recess.*

There being no objection, at two minutes past two o’clock P.M., at the request of Mr. Lees, for the purpose of a minority caucus, the President declared a recess; and, at sixteen minutes before three 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:

**Bills**

Relative to ensuring the safety of children (Senate, No. 298);  
Relative to the statewide head injury program (Senate, No. 1297);  
Relative to the Charlton Water and Sewer Commission (Senate, No. 2445, changed);  
Relative to the Charlton Water and Sewer Commission’s water supply (Senate, No. 2446);  
Eliminating the property holdings cap for the Boston Public Library (Senate, No. 2484);  
Relative to the Wayland wastewater management district commission (House, No. 4631); and  
Relative to special needs students (House, No. 4710);

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

The House Bill providing for the licensing of genetic counselors (House, No. 4326),— **was read a third time and passed to be engrossed, in concurrence.**

The Senate Bill relative to health related boards of registration (Senate, No. 1267),— **was read a second time.**  
Pending the question on ordering it to a third reading, after remarks, on motion of Mr. Tisei, the bill was referred to the Joint Committee on Consumer Protection and Professional Licensure.  
**Sent to the House for concurrence.**

The Senate Bill relative to medical peer review committees (Senate, No. 2418),— was read a second time.  
Pending the question on ordering the bill to a third reading, Mr. Lees moved that the bill be amended by inserting at the end

thereof the following new section:—

“SECTION \_\_\_\_ Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 205 the following section:

Section 205A. Sections 204 and 205 shall apply to any individual or group that forms a committee to perform the duties of a medical peer review committee, notwithstanding the fact that the formation of the committee is not required by law or regulation or that the individual or group is not affiliated with a public hospital or licensed hospital or nursing home or health maintenance organization. Information gathered by a medical peer review committee under the provisions of this section shall not be confidential if the individual or group formed the committee for the sole purpose of keeping information confidential.”.

**The amendment was adopted.**

**The bill (Senate, No. 2418, amended) was then ordered to a third reading.**

The Senate Bill requiring Medicaid reimbursement payments to health care providers for electronic consultations (Senate, No. 2565),— was read a second time.

After remarks, the question on ordering it to a third reading, was determined by a call of the yeas and nays, at three minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 294**]:

YEAS.	
Antonioni, Robert A.	Buoniconti, Stephen J.
Augustus, Edward M., Jr.	Chandler, Harriette L.
Baddour, Steven A.	Creedon, Robert S., Jr.
Berry, Frederick E.	Creem, Cynthia Stone
Brewer, Stephen M.	Fargo, Susan C.
Brown, Scott P.	Hart, John A., Jr.
Hedlund, Robert L.	Havern, Robert A.
Jehlen, Patricia D.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — <b>37.</b>
O'Leary, Robert A.	
NAYS — 0.	
ABSENT OR NOT VOTING.	
Barrios, Jarrett T.	Rosenberg, Stanley C. — <b>2.</b>

The yeas and nays having been completed at two minutes past three o'clock P.M., the bill was ordered to a third reading.

The Senate Bill establishing the Martha's Vineyard and Nantucket housing banks (Senate, No. 2555),— was considered. The pending motion, previously moved by Mr. O'Leary, to take the matter from the table,— was considered; and, after debate, was taken from the table by a vote of 11 to 5. Mr. Nuciforo in the Chair, after further debate, the question on passing it to be engrossed was determined by a call of the yeas and nays, at fourteen minutes before four o'clock P.M., on motion of Mr. O'Leary, as follows, to wit (yeas 23 — nays 14) [**Yeas and Nays No. 295**]:

<b>YEAS.</b>	
Antonioni, Robert A.	Montigny, Mark C.
Augustus, Edward M., Jr.	Murray, Therese
Berry, Frederick E.	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
Hart, John A., Jr.	Spilka, Karen E.
Havern, Robert A.	Tolman, Steven A.
Jehlen, Patricia D.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — <b>23.</b>
Menard, Joan M.	
<b>NAYS.</b>	
Baddour, Steven A.	Lees, Brian P.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — <b>14.</b>
<b>ABSENT OR NOT VOTING.</b>	
Barrios, Jarrett T.	Rosenberg, Stanley C. — <b>2.</b>

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

**PAPER FROM THE HOUSE.**  
*Emergency Preamble Adopted.*

An engrossed Bill relative to a certain retired employee of the Commonwealth (see House, No. 5063, 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 (Mr. Nuciforo) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and sent to the House for enactment.

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

The engrossed Bill relative to the licensure of massage therapists (see Senate, No. 2258, amended), which, on Thursday, June 8, 2006, had been again laid before His Excellency the Governor for his approbation,— was returned to the Senate Clerk by His Excellency the Governor on Thursday, June 15, 2006, at a quarter before six o'clock P.M., with his objections thereto in writing [for message, see Senate, No. 2587].

The message (Senate, No. 2587) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution.

The question on passing the bill, 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 six minutes before four o'clock P.M., as follows, to wit (yeas 29 — nays 8) [**Yeas and Nays No. 296**]:

<b>YEAS.</b>	
Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Buoniconti, Stephen J.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Walsh, Marian
Jehlen, Patricia D.	Wilkerson, Dianne — <b>29.</b>
McGee, Thomas M.	
<b>NAYS.</b>	
Brown, Scott P.	Moore, Richard T.
Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tucker, Susan C. — <b>8.</b>
<b>ABSENT OR NOT VOTING.</b>	
Barrios, Jarrett T.	Rosenberg, Stanley C. — <b>2.</b>

The yeas and nays having been completed at four 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. Sent to the House for its action.

# PAPERS FROM THE HOUSE.

## *Engrossed Bills.*

The following engrossed bills (the first three 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:

Relative to the authority of conservation, commissions to impose consultant fees (see Senate, No. 1167);

Relative to certain motor vehicle violations (see Senate, No. 2132, amended);

Relative to the financing and construction of a public parking garage and other improvements in the city of Worcester (see Senate, No. 2172, amended);

Allowing unsigned circulars and posters (see House, No. 126);

Regulating tax deferral agreements in the town of Princeton (see House, No. 4297);

Relative to the charter of the town of Westborough (see House, No. 4392);

Extending the term of agreement between the town of Shrewsbury and the town of Westborough for the Westborough Treatment Plant (see House, No. 4565);

Establishing a sick leave bank for Michael McLaughlin, an employee of the Trial Court (see House, No. 4578); and

Relative to a certain retired employee of the Commonwealth (see House, No. 5063, amended).

An engrossed Bill relative to HIV and Hepatitis C prevention (see House, No. 4176, 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.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at four minutes past four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 26 — nays 9) **[Yeas and Nays No. 297]**:

YEAS.	
Augustus, Edward M., Jr.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O'Leary, Robert A.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Spilka, Karen E.
Jehlen, Patricia D.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne — 26.
NAYS.	
Antonioni, Robert A.	Hedlund, Robert L.
Baddour, Steven A.	Lees, Brian P.
Brewer, Stephen M.	Panagiotakos, Steven C.

Brown, Scott P.	Timilty, James E. — <b>9.</b>
Buoniconiti, Stephen J.	
<b>PAIRED.</b>	
<b>YEAS. NAYS.</b>	
Stanley C. Rosenberg	Marc R. Pacheco ( <i>present</i> )
Jarrett T. Barrios	Robert S. Creedon, Jr. ( <i>present</i> )— <b>4.</b>

The yeas and nays having been completed at ten minutes past four o'clock P.M., the bill was passed to be enacted and it was signed by the Acting President (Mr. Nuciforo) and laid before the Governor for his approbation.

The Senate Bill relative to the loss of life due to fires caused by cigarettes (Senate, No. 2403, amended),— came from the House passed to be engrossed, in concurrence with amendments striking out section 1; in section 2, in line 18, by striking out the word "health" and inserting in place thereof the words "public safety", by striking out the paragraph contained in lines 153 to 157, inclusive, (inserted by amendment by the Senate) and inserting in place thereof the following paragraph:

"(c) For each cigarette listed in a certification a manufacturer shall pay to the commissioner a \$250 fee. The commissioner may, by regulation, adjust this fee to an amount sufficient only to provide for processing, testing, enforcement and oversight activities related to sections 2B to 2F, inclusive."; by striking out section 5 (inserted by amendment by the Senate) and inserting in place thereof the following section:

"SECTION 5. This act shall take effect on January 1, 2008.";

In section 2, in lines 17 and 18, by striking out the words " 'Commissioner', the commissioner of the department of public safety" (as previously amended by the House) and inserting in place thereof the words " 'Secretary', the secretary of the executive office of public safety", in lines 60 and 61, 93 and 94, 106, 107, in paragraph (f) (inserted by amended by the Senate), in lines 133 and 134, 169, 188, 191, 192, 193 and 194, 199, 202, 213, 248, 251, the first time it appears, and in line 275, by striking out the word "commissioner" and inserting in place thereof, in each instance, the word "secretary", in line 95 by striking out the word "commissioner" and inserting in place thereof the words "secretary, in consultation with the commissioner of the department of public health,"; and by inserting after section 3 (as printed) the following section:

"SECTION 2A. The Executive Office of Public Safety and the Department of Public Health shall enter into an interagency service agreement for the purpose of reimbursing the department for the cost to conduct or analyze the testing of any cigarette under sections 2B through 2E of chapter 64C."

The rules were suspended, on motion of Mr. Berry, and the House amendments were considered forthwith and adopted, in concurrence.

#### *Report of a Committee.*

The committee on Bonding, Capital Expenditures and State Assets, reported, ought NOT to pass (under Joint Rule 10) on the Senate petition (accompanied by bill, Senate, No. 2537) of Robert S. Creedon, Jr., Geraldine Creedon, Thomas P. Kennedy and Christine E. Canavan for legislation to authorize the Division of Capital Asset Management and Maintenance to convey certain permanent easements to Brockton Hospital.

The rules were suspended, on motion of Mr. Brewer, and, on motion of Mr. Berry, the petition was recommitted to the Joint Committee on Bonding, Capital Expenditures and State Assets.

#### **PAPERS FROM THE HOUSE.**

A petition (accompanied by bill, House, No. 5088) of Antonio F. D. Cabral and others for legislation to regulate the awarding of high school diplomas,— was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Education.

The Senate Bill requiring the inspecting and securing of unsafe or abandoned buildings (Senate, No. 1370),— came from the House with endorsement that the House had referred it to the committee on the Judiciary.

**The rules were suspended, on motion of Mr. Montigny and the matter was considered forthwith.**

**On motion of Mr. Berry, the Senate NON-concurred in the reference to the committee on the Judiciary.**

**Sent to the House for its action.**

#### *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 relative to lending limits (Senate, No. 2540),— **was read a second time and ordered to a third reading.**



*Order Adopted.*

On motion of Mr. Tisei,—

*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 Mr. Lees, at nineteen minutes past four o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.