

**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.

*Tuesday, September 20, 2005.*

Met at seven minutes past one o'clock P.M. (Ms. Menard in the Chair).

#### *Communication.*

A communication from the Honorable Robert E. Travaglini, President of the Senate, announcing the following appointments to the Joint Special Commission established (pursuant to Section 37 of Chapter 45 of the Acts of 2006) relative to the production of cable television coverage of legislative sessions, committee hearings and other legislative and administrative procedures: Senators Stanley C. Rosenberg and Michael W. Morrissey, effective Tuesday, September 20, 2005,— **was placed on file.**

#### *Report.*

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Berkshire County House of Correction and Jail (received Friday, September 16, 2005),— **was read and sent to the House for its information.**

#### *Reports of a Committee.*

By Mr. Barrios, for the committee on Public Safety and Homeland Security, on petition, a Bill to provide payments to municipalities for emergency disaster relief (Senate, No. 1342);

By the same Senator, for the same committee, on Senate, Nos. 1356 and 1387, a Bill relative to ensuring child passenger safety (Senate, No. 1356);

By the same Senator, for the same committee, on petition, a Bill exempting low emission vehicles from maintenance and emissions inspections (Senate, No. 1380); and

By the same Senator, for the same committee, on petition, a Bill to prevent crime at highway rest areas (Senate, No. 1391); **Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

#### *Recess.*

There being no objection, at eight minutes past one o'clock P.M., the Chair (Ms. Menard) declared a recess subject to the call of the Chair; and, at twenty-three minutes past one o'clock P.M., the Senate reassembled, the President in the Chair.

The following prayer was offered by Father Bernard McLaughlin of St. Gerard's Parish in Canton:

Oh Lord, we ask you for so many things. We ask you to give us help, we ask you to give us happiness. But particularly today, we ask you to pray for those who are far less fortunate than are we; people who are poor, people who are needy. Those whom you bless, let us have the courage to help; and we ask all of this in God's name. Amen.

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

*Recess.*

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

*Resolutions.*

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

Resolutions (filed by Mr. Travaglini) “honoring Thomas F. Hurley of Boston College on his many accomplishments.”

*Communication.*

The Clerk read the following communication:

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

*September 19, 2005.*

Mr. William Welch, *Clerk*  
Massachusetts State Senate  
State House, Room 335  
Boston, MA 02133

Dear Mr. Welch:

On Thursday, September 15, 2005, I was away from the Senate Chamber due to an Education Committee hearing I was chairing, and therefore unable to be present for a roll call vote (Senate Roll Call #2) on the following item:

The missed roll call referred to overriding the Governor's veto of Senate Bill 2073, which provides for timely access to emergency contraception. Had I been present, I would have voted in the affirmative.

I would appreciate your assistance with the printing of this communication in the Senate journal. Thank you in advance for your help with this request.

Very truly yours,  
ROBERT A. ANTONIONI,  
*State Senator,*  
Worcester and Middlesex.

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

*Motion to Take Out of the Orders of the Day — Objection.*

The President requested that the following matter be taken out of the Orders of the Day and considered forthwith:

The Senate Bill enacting responsible welfare reform (Senate, No. 2193),— **but objection was made thereto by Mr. Lees.**

PAPERS FROM THE HOUSE.

*Engrossed Bills.*

The following engrossed bills (all of which originated in the House), 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 President and laid before the Governor for his approbation, to wit:

Relative to living organ donation (see House, No. 476);

Establishing a sick leave bank for Earle Bercier, an employee of the Department of Correction (see House, No. 4056);

Establishing a traffic commission in the city of Woburn (see House, No. 4063);

Establishing a sick leave bank for Kathleen A. Sammataro, an employee of the Trial Court (see House, No. 4310); and

Establishing a sick leave bank for Sandra Spiros, an employee of the Trial Court (see House, No. 4325).

*Bill Returned with Recommendation of Amendment.*

A message from Her Honor the Lieutenant-Governor, Acting Governor returning with recommendation of amendment the engrossed Bill relative to federal reimbursement services for children with Autism (see House, No. 4177) [for message, see House, No. 4330] which was filed in the office of the Clerk of the House on Monday, August 8, 2004,— came from the House with endorsement that the House *refused* to amend the bill.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

**The Acting Governor's amendment was then *rejected*.**

**The bill was returned to the House to be again enacted.**

*Orders of the Day.*

The Orders of the Day were considered, as follows:

**Bills**

Authorizing the appointment of special police officers in the city of Somerville (Senate, No. 2047);

Authorizing the town of Winchendon to use a portion of a certain parcel of public park land for library purposes (Senate, No. 2151);

Establishing an affordable housing trust fund in the town of Duxbury (House, No. 3155);

Authorizing the town of Spencer to lease certain property (House, No. 3230);

Relative to the board of assessors of the town of Provincetown (House, No. 4096);

Authorizing the town of Dedham to transfer land for senior center purposes (House, No. 4102);

Authorizing the town of Mashpee to grant a certain easement (House, No. 4111);

Relative to the board of health in the town of North Andover (House, No. 4115); and

Authorizing the town of North Andover to grant a certain utility easement (House, No. 4116);

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

The Senate Bill clarifying the designation of the Purple Heart Highway (Senate, No. 1930) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and, after remarks, was passed to be engrossed. Sent to the House for concurrence.**

The Senate Bill further regulating municipal transfers of appropriations (Senate, No. 2192),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Morrissey and Ms. Resor moved that the bill be amended, in subsection (d), by striking out the words “and with the written approval of the amount of the transfer by the municipal light department or by the school district” and inserting in place thereof the following words:— “and with the approval of the amount of the transfer by a vote of the municipal light department board or by vote of the school committee.”

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

**The bill (Senate, No. 2192, amended) was then passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill relative to issuing motor vehicle citations on state and community college campuses (Senate, No. 2132),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Brewer moved that the bill be amended by inserting after the enacting clause the following section:—

“SECTION 1. Section 22 of chapter 90 of the General Laws is hereby amended by striking out, in lines 51, 64, 65 and 68, the words ‘or country’, each time they appear, and inserting in place thereof the following words:— , country or jurisdiction.”; and by striking out the title and inserting in place thereof the following title:— “An Act amending certain laws governing motor vehicle violations.”.

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

Ms. Wilkerson moved to amend the bill by adding the following 5 sections:—

“SECTION 4. Section 2 of chapter 228 of the acts of 2000 is hereby amended by striking out the words ‘officers in’ and inserting in place thereof the following words:— officers, including all police officers as defined under section 1 of chapter 90C of the General Laws, in.

SECTION 5. The first sentence of section 3 of said chapter 228 is hereby amended by inserting after the word ‘officers’ the following words:— , including all police officers as defined under said section 1 of said chapter 90C.

SECTION 6. The first sentence of section 6 of said chapter 228 is hereby amended by striking out the words ‘officers on’ and inserting in place thereof the following words:— officers, and all other police officers, as defined under said section 1 of said chapter 90, on.

SECTION 7. Section 10 of said chapter 228 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— The executive office of public safety shall, in consultation with the attorney general, if such data suggest that a state police barracks or a municipal, college, university or other educational institution or hospital police department appears to have engaged in racial or gender profiling, require such barracks or department to collect information on all traffic stops for a period of 1 year, including those not resulting in a warning, citation or arrest.

SECTION 8. The last sentence of said section 10 of said chapter 228 is hereby amended by striking out the words ‘or the municipality’ and inserting in place thereof the following words:— , the municipality, college, university or other educational institution or hospital.”

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

**The bill (Senate, No. 2132, amended) was then passed to be engrossed.  
Sent to the House for concurrence.**

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows, to wit:

*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 House Bill authorizing the retirement of Robert Welby of the Boston Police Department (House, No. 4121),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act granting pension benefits to Robert Welby of the Boston Police Department”.**

*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 Thomas M. McGee, Anthony J. Verga, Richard R. Tisei, Douglas W. Petersen and other members of the General Court for legislation relative to the Essex Regional Retirement System.

**Senate Rule 36 was suspended, on motion of Mr. Tarr, 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.**

**PAPER FROM THE HOUSE.**

The House Order relative to amending Joint Rules 1, 11B, 12 and 26 (House, No. 4286),— was referred, under Senate Rule 26, to the committee on Ethics and Rules.

Subsequently, Ms. Menard, for the committee on Ethics and Rules, reported, that the order ought to be adopted.

After remarks, the question on adoption of the order was determined by a call of the yeas and nays, at eight minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 144]:**

**YEAS.**

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

**38.**

**NAYS — 0.**

**The yeas and nays having been completed at three minutes before three o'clock P.M., the order was adopted, in concurrence.**

*Orders of the Day.*

The Orders of the Day were further considered, as follows:

The Senate Bill relative to the recycling of ink cartridges (Senate, No. 534),— **was read a second time and, after remarks, was ordered to a third reading.**

There being no objection, during consideration of the Orders of Day, the following matters were considered, to wit:

**PAPER FROM THE HOUSE.**

A Bill making appropriations for the fiscal year 2005 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4370, amended,— on House, No. 3844, in part),— was read.

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

Pending the question on ordering the bill to a third reading, Mr. Montigny moved that the bill be amended by inserting after section 18 the following section:—

“SECTION 18A. Notwithstanding any general or special law to the contrary, the division of medical assistance shall pay for nursing services when such services are provided by a member's immediate relative, as defined in 130 CMR 414.409, if all of the following conditions are met: (1) the member qualifies for nursing services under MassHealth; (2) the member can provide documentation that he made good faith efforts to obtain nursing services, but was unable to obtain full coverage of approved services due to a lack of qualified nurses; (3) the services are provided by a registered nurse; and (4) the division would otherwise pay for the nursing services but for the prohibition in said 130 CMR 414.409.”

The amendment was **adopted.**

After remarks, the bill, as amended, was then ordered to a third reading and read a third time.

After further remarks, the question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at a quarter past three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 145**]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
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 —
McGee, Thomas M.	<b>37.</b>

**NAYS — 0.**

**ANSWERED “PRESENT”.**

O’Leary, Robert A. — **1.**

**The yeas and nays having been completed at nineteen minutes past three o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.  
Sent to the House for concurrence in the amendment.**

*Recess.*

At twenty-one minutes past three o'clock P.M., at the request of Mr. Lees, for the purpose of a minority caucus, the President declared a recess; and, at seventeen 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 further considered, as follows:

The Senate Bill enacting responsible welfare reform (Senate, No. 2193),— was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Spilka moved that the bill be amended 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 enact responsible welfare reform within the time required by federal law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

Pending the question on adoption of the amendment, at a quarter before four o'clock P.M., Mr. Lees doubted the presence of a quorum; and, a count of the Senate determined that a quorum was not present.

Subsequently, at thirteen minutes before four o'clock P.M., the President declared that a quorum was present.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-one minutes before five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 146**]:

**YEAS.**

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

**32.**

**NAYS.**

	Lees, Brian P.
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — <b>6.</b>
Knapik, Michael R.	

The yeas and nays having been completed at seventeen minutes before five o'clock P.M., the amendment was **adopted**.

Messrs. Lees, Hedlund, Knapik and Brown moved to amend the bill, in section 1, by striking out section 6 of proposed chapter 118B and inserting in place thereof the following section:—

“Section 6. Recipients meeting the following eligibility criteria shall be exempt from sections 7, 9 and 11 until their eligibility status has been determined by the department to have changed and they no longer conform to the criteria that define the following exempt categories of assistance:

- (a) parents who receive supplemental security income and have children in their care;
- (b) recipients who are disabled, as defined by regulations of the department, in that they have a physical or mental defect, illness or impairment which substantially reduces or eliminates their ability to support themselves and their children and which has been determined by the initial assessment required by section 9 to prevent them from meeting the work requirements established by section 11; provided that in families with two parents, both parents must be disabled and that, to the extent permitted by federal law, the word ‘disabled’ shall not include recipients who are alcohol- or drug-dependent or whose disability is based in whole or in part on previous dependency.
- (c) recipients who must care for a disabled child, spouse or other immediate relative, whose responsibilities have been determined by the initial assessment required by section 9 to prevent them from meeting the work requirements established by section 11;
- (d) recipients in their third trimester of pregnancy; provided, however, that a recipient in the third trimester of pregnancy who, within 30 days of application or after applying, voluntarily quits a paying job for reasons unrelated to the health or safety of the recipient or her unborn child or without other good cause reasons, shall not be eligible for the exemption based on pregnancy;

(e) recipients with a child of record under the age of 1 year or any child other than the child of record who is under the age of 3 months;

(f) recipients under the age of 20 years attending high school full time, subject to subsection(c) of section 1; or

(g) recipients who receive cash assistance for a child in their care to whom they have no legal obligation, but who do not receive cash assistance for themselves.”

Mr. Havern in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at three minutes before five o'clock P.M., on motion of Mr. Knapik, as follows, to wit (yeas 7 — nays 31) [**Yeas and Nays No. 147**]:

#### **YEAS.**

Baddour, Steven A.      Hedlund, Robert L.  
Brown, Scott P.          Knapik, Michael R.  
Buoniconti, Stephen J.   Lees, Brian P. — 7.  
Hart, John A., Jr.

#### **NAYS.**

Antonioni, Robert A.    Murray, Therese  
Augustus, Edward M.,    Nuciforo, Andrea F., Jr.  
Jr.  
Barrios, Jarrett T.        O'Leary, Robert A.  
Berry, Frederick E.       Pacheco, Marc R.  
Brewer, Stephen M.       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.  
Havern, Robert A.        Timilty, James E.  
Joyce, Brian A.           Tisei, Richard R.  
McGee, Thomas M.        Tolman, Steven A.  
Menard, Joan M.          Tucker, Susan C.  
Montigny, Mark C.        Walsh, Marian  
Wilkerson, Dianne —  
Moore, Richard T.        **31.**

Morrissey, Michael W.

The President in the Chair, the yeas and nays having been completed at one minute past five o'clock P.M., the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill, in section 1, by striking out subsections (a), (b) and (c) of section 7 of proposed chapter 118B and inserting in place thereof the following 3 subsections:—

“(a) A family in which the recipient does not qualify for the exempt categories of assistance established by section 6 shall receive assistance for not more than a maximum and cumulative 24 months during a continuous 60 month period, unless an extension is granted by the commissioner, and for not more than a maximum 60 month period during the course of the recipient's lifetime, according to regulations which shall be promulgated by the department consistent with the provisions of federal law regarding the lifetime limit on receipt of benefits. Said continuous period of 60 months shall commence from the date a recipient first becomes eligible for assistance as a parent or on July 1, 1995, whichever is later. Said cumulative lifetime limit of 60 months shall commence from the date a recipient first becomes eligible for assistance as a parent or on July 1, 2006, whichever is later.

(b) In the event a recipient's eligibility status changes to an exempt category of assistance while receiving benefits, the calculation of the maximum assistance period of 24 months within said 60 month period, and the calculation of the lifetime 60 month limit, shall be suspended and not resume until such time as the recipient is no longer eligible for said exempt status, at which time the calculation shall resume.



(c) The calculation of said 24 month period of eligibility for assistance, and the calculation of the 60 month lifetime limit, shall be suspended when a recipient or a family unenrolls from said program. The calculation of said 24 month period and said 60 month lifetime limit, shall resume when said recipient or family is determined upon reapplication to be eligible for assistance. Reapplication for assistance within said continuous 60 month period shall not be considered a new case for purposes of calculating the periods of eligibility and ineligibility for assistance under this section. Determinations of a recipient's exempt category status pursuant to this section shall be subject to fair hearings; provided, however, that the time during which any appeal is pending shall be calculated toward the period of maximum assistance eligibility."

Mr. Havern in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past five o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 9 — nays 29) **[Yeas and Nays No. 148]**:

#### **YEAS.**

Antonioni, Robert A.	Knapik, Michael R.
Baddour, Steven A.	Lees, Brian P.
Brewer, Stephen M.	Tarr, Bruce E.
Brown, Scott P.	Tisei, Richard R.— <b>9.</b>
Hedlund, Robert L.	

#### **NAYS**

Augustus, Edward M., Jr.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	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.	Rosenberg, Stanley C.
Hart, John A., Jr.	Spilka, Karen E.
Havern, Robert A.	Timilty, James E.
Joyce, Brian A.	Tolman, Steven A.
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne — <b>29.</b>
Moore, Richard T.	

The yeas and nays having been completed at nineteen minutes past five o'clock P.M., the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, by inserting after the word "benefits," in section 8 of proposed chapter 118B, the following words:—"who has received assistance within the last 4 calendar months,".

After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, by striking out the first 4 sentences of subsection (a) of section 9 of proposed chapter 118B, and inserting in place thereof the following 5 sentences:—"Upon receipt of an application for benefits, the department shall make an initial one month assessment of the applicant's work skills, including, for every applicant who is disabled under the regulations adopted by the department pursuant to subsection (b) of section 6, or caring for a disabled family member, an assessment of whether said applicant is capable of meeting the direct work requirement of section 11 of this chapter, is incapable of work, or is capable of work for less than the required number of hours. Subject to appropriation, the department shall develop for each recipient who is subject to the work requirement pursuant to section 11, or who has been determined by the initial assessment to be a disabled person capable of work for less than the required number of hours, an employment development plan designed to enable said recipient to attain economic self-sufficiency. Notwithstanding any general or special law to the contrary, including the provisions of section 6, any disabled person capable of work for less than

the required number of hours shall be required to work the number of hours determined by the initial assessment or any subsequent assessment. Such recipients shall be subject to the provisions of section 9 and section 11 applicable to non exempt recipients, but shall not be subject to section 7. Said plans shall be prepared by the case manager with involvement of the recipient. The plan shall be developed after an assessment of the recipient's current employability, including barriers to employment and education, training and supportive services needs, and after development of a strategy to enable such parent to attain economic self-sufficiency."

After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Hedlund, Knapik and Brown moved to amend the bill in section 1, by striking out subsections (d) and (e) of section 9 of proposed chapter 118B, and inserting in place thereof the following 2 subsections:—

"(d)(1) With respect to recipients who are exempt pursuant to the provisions of Section 6 the department or an agency as specified in paragraph (2) is authorized to develop, with the involvement of the recipient and after an assessment of the recipient's skills, work experience, employability, and barriers to employment, a family well-being plan to assist the members of the family in accessing services to improve the well-being of the family and to assist the recipient in taking steps to address barriers to employment, including lack of education or job skills, and in preparing for employment. To the extent the family desires, such plans shall set forth how the case manager will assist the family in performing any other activities required or recommended for members of the family by the department of transitional assistance or other entities, including but not limited to medical providers, schools, public housing authorities, emergency shelter or housing search providers, the courts, employers and the department of social services. In no event shall the plan or the process of its development interfere with the family's performance of, or make it more difficult for a family to perform, such other activities. With respect to exempt recipients who receive benefits from the federally funded program, such plan shall be used to satisfy any universal or full engagement or family self-sufficiency plan requirement, so-called, imposed by federal law.

(2) With respect to recipients determined by the initial assessment required by section 9 to be a disabled person unable to meet the work requirement of section 11 and who are thus exempt under section 6, the department shall link the recipient to another state agency with experience in serving the needs of persons with such disabilities whose employees, subject to appropriation and with the involvement of the department and the recipient, may develop any family well-being plan, provide case management, and conduct any reassessment. In the case of recipients determined to be exempt by reason of mental health diagnoses, outreach to the recipients and creation of any such plans for them will be done by human services coordinators of the department of mental health; in the case of recipients determined exempt by reason of mental retardation or low cognitive function, outreach to and creation of any such plans for them will be done by human services coordinators of the department of mental retardation; and in the case of recipients determined exempt by reason of other disabilities, outreach to and creation of such plans for them shall be done by qualified employees of the department of public health or the Massachusetts rehabilitation commission. In order to cover the costs of the assessments, plan development, case management, and costs of services related to these plans, the department of transitional assistance may transfer to these other agencies funds appropriated for the employment services program.

(e) Recipients who do not comply with the terms of their employment development or family well-being plan, without good cause, may be required to participate in a reassessment, through which the plan may be modified, and recipients who are subject to but not satisfying the work requirement without good cause may lose assistance pursuant to section 11."

After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, in subsection (6) of section 9 of chapter 118B after the words "The plan shall include," by striking out the word "the" and inserting in place thereof the following words:— "any department-approved".

After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, in subsection (g) of section 9 of proposed chapter 118B, striking out the last sentence.

The amendment was **adopted**.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, in section 11 of proposed chapter 118B, by striking out subsections (b), (c), (d) and (e) and inserting in place thereof the following 4 subsections:—

(b) Absent good cause pursuant to subsection (f), adult recipients subject to said work program requirement shall be required to engage in direct work activities, pursuant to subsection (c), for up to the number of hours per week required by federal law, and shall be required to engage in additional qualified activities, pursuant to subsection (d), for up to the number of hours per week required by federal law. Prior to referring an applicant or recipient to any direct or qualified work activity under this subsection, the department shall comply with the requirements of Section 9 related to development of an employment development plan.

(c) The direct work activity requirement may be met by engaging, for up to the number of hours per week required by federal law, in any of the following activities: by working in a job for which compensation is paid; by a parent or head of household who

is in emergency shelter and complying with housing search requirements; by working full time in the full employment program established by section 13; by participating in community service pursuant to section 12; by participating in education and training programs that meet the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or any successor act, including activities required or necessary for the successful completion of any such education or training program; by participating in any other activities countable as a direct work activity under federal law; or by participating in a combination of any of these activities.

(d) Recipients subject to the work program requirement shall also be required, on or after October 1, 2006, to select and participate in additional qualified activities as defined in federal law, for up to the number of hours each week necessary for the family to count fully toward such federal work participation rate. Qualified activities shall include all activities countable as such under federal law, including any activities to remove barriers to employment or to promote family well-being.

(e) The commissioner may provide that recipients subject to the work requirement who, without good cause and after having been required to perform community service pursuant to subsection (h), do not satisfy said work requirement shall not receive assistance until they meet the requirement for two weeks. At the discretion of the commissioner, recipients who are subject to the work requirements imposed by this section and who consistently fail to meet said requirements shall be subject to sanction up to and including the termination of all assistance for their family; provided, that no such termination shall occur unless the department has worked with the F.O.R Families program at the department of public health, or such other entity as the commissioner may deem appropriate, to visit the family at their home to ascertain if good cause exists for the failure to meet statutory requirements, and to try to induce compliance. If no such visit or intervention is made, the department shall not impose a full family sanction.”

After remarks, the amendment was *rejected*.

Messrs. Lees, Tisei, Tarr, Hedlund, Knapik and Brown moved to amend the bill in section 1, in subsection (h) of section 11 of proposed chapter 118B, by striking out the words “for a family of the same size” and inserting in place thereof the following words:— “otherwise payable to the family”.

The amendment was **adopted**.

The question on passing the bill (Senate, No. 2193, amended) to be engrossed was determined by a call of the yeas and nays, at twenty-five minutes past five o’clock P.M., on motion of Ms. Spilka, as follows, to wit (yeas 31 — nays 7) [**Yeas and Nays No. 149**]:

#### **YEAS.**

Antonioni, Robert A.	Moore, Richard T.
Augustus, Edward M., Jr.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —
Montigny, Mark C.	<b>31.</b>

#### **NAYS.**

Baddour, Steven A.	Lees, Brian P.
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — <b>7.</b>

Knapik, Michael R.

**The yeas and nays having been completed at twenty-seven minutes past five o'clock P.M., the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

The House Bill providing incentives to the motion picture industry (House, No. 4252, amended),— was considered, the main question being on passing it to be engrossed.

The pending motion, previously moved by Mr. Timilty, to lay the matter on the table was considered; and it was *negatived*.

Ms. Creem and Mr. Timilty moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2189.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended in section 6 by inserting after the number “2006” the following words:— “and before January 1, 2011”.

**This amendment was *rejected*.**

**After remarks, the bill was then passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.**

**Sent to the House for concurrence in the amendment previously adopted by the Senate.**

*Order Adopted.*

On motion of Mr. Pacheco,—

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

#### PAPER FROM THE HOUSE.

The House Bill making appropriations for the fiscal year 2005 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4370, amended),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment inserting after section 18 the following section:

“SECTION 18A. Notwithstanding any general or special law to the contrary, the division of medical assistance shall pay for nursing services when such services are provided by a member’s immediate relative, as defined in 130 CMR 414.409, if all or the following conditions are met: (1) the member qualifies for nursing services under MassHealth; (2) the member can provide documentation that he made good faith efforts to obtain nursing services, but was unable to obtain full coverage of approved services due to a lack of qualified nurses; (3) the services are provided by a registered nurse; and (4) the division would otherwise pay for the nursing services but for the prohibition in said 130 CMR 414.409.”

**On motion of Mr. Baddour, the Senate receded from its amendment.**

*Recess.*

There being no objection, at twenty-eight minutes past five o'clock P.M., the Chair (Mr. Havern) declared a recess, subject to the call of the Chair; and at twenty-nine minutes before seven o'clock, 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).

#### PAPERS FROM THE HOUSE.

*Emergency Preamble Adopted; Engrossed Bill Enacted.*

An engrossed Bill making appropriations for the fiscal year 2005 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4370, 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).**

*Engrossed Bill.*

Mr. Tisei in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair, an engrossed Bill providing a charter for the city of Melrose (see Senate, No. 2174, amended) (which originated in the Senate), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Tisei).**

Mr. Havern in the Chair, on motion of Mr. Tisei, at twenty-four minutes before seven o'clock P.M., the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.