

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, October 20, 2005.

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

Communication.

A communication was received from the Honorable Robert E. Travaglini, President of the Senate, announcing the following appointments and changes in the standing and joint committees, effective today:

Senator Patricia D. Jehlen has been appointed to serve on the following committees:

Chairman — Public Service Committee
Vice-Chairman — Municipalities Committee
Vice-Chairman — State Administration Committee
Member — Elder Affairs Committee
Member — Labor and Workforce Development Committee

Also effective today, Senator Stephen J. Buoniconti has been appointed to serve as Chairman of the Ethics and Rules Committee.

In addition, Senator Stephen J. Buoniconti is resigning his position as Chairman of the Public Service Committee, Senator Robert S. Creedon, Jr. is resigning his position on the Elder Service Committee and Senator Robert A. Antonioni is resigning his position on the Labor and Workforce Development Committee.

Reports.

The following reports were severally read and sent to the House for its information:

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 M.C.I. Norfolk (received Wednesday, October 19, 2005); and

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 Northeastern Correctional Center (received Wednesday, October 19, 2005).

Petition.

Mr. Knapik presented a petition (accompanied by bill, Senate, No. 2243) of Michael R. Knapik and Daniel F. Keenan (by vote of the town) for legislation to authorize the town of Russell to borrow money for the upgrade and extension of the town's community cable television system [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Municipalities and Regional Government. Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4444) of Christopher J. Donelan (by vote of the town) that the town of Greenfield be authorized to issue additional licenses for the sale of alcoholic beverages; and

Petition (accompanied by bill, House, No. 4445) of Susan Williams Gifford (by vote of the town) that the town of Wareham be authorized to grant additional licenses for the sale of alcoholic beverages to be drunk on the premises;

Severally to the committee on Consumer Protection and Professional Licensure.

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Erving (House, No. 1433,— on House, Nos. 1419 and 1433),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Bills

Authorizing the town of Fairhaven to issue a common victualer beer and wine license to Jevon K. Malcom, owner, and Lisa M. Malcom, manager, of Jevon Enterprises, 116 Sconticut Neck Road in the town of Fairhaven (House, No. 4425,— on House, No. 4293) [Local approval received on House, No. 4293];

Authorizing the town of Middleborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4426,— on House, No. 4316) [Local approval received on House, No. 4316]; and

Authorizing the town of Fairhaven to issue a common victualer beer and wine license to Chris Boonprasert, manager, Sivalai Thai Cuisine, at 130 Sconticut Neck Road in the town of Fairhaven (House, No. 4427,— on House, No. 4350) [Local approval received on House, No. 4350];

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

Recess.

There being no objection, at three minutes past one o'clock P.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at twelve 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.

Distinguished Guests.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Ms. Chandler for the purpose of an introduction. Ms. Chandler introduced, seating in the Senate Gallery, Girl Scout Troop 75. The troop is made up of girls from Worcester, Shrewsbury and Milbury. They are chaperoned by Fay Stewart, Lorraine Mancini and Cindy Bunnewith. Mr. Augustus was handed the gavel to also welcome the troop to the Senate Chamber.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Joyce for the purpose of an introduction. Mr. Joyce introduced Peter Hamilton a selectman from the town of East Bridgewater. Mr. Hamilton was a guest of Senators Joyce and Creedon.

Resolutions.

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

Resolutions (filed by Mr. Brewer) “honoring Major Brad Nindl”;

Resolutions (filed by Ms. Chandler and Mr. Augustus) “on the occasion of the fortieth anniversary of the Worcester Community Action Council”;

Resolutions (filed by Mr. Joyce) “honoring the Milton Council on Aging for its 25 years of service”; and

Resolutions (filed by Ms. Wilkerson) “honoring Beulah Fagan Providence.”

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill relative to the Charter of the town of Harwich (House, No. 4198),— **was read a second time and ordered to a third reading.**

The Senate Bill authorizing the Division of Capital Asset Management to lease a certain parcel of land in the city of Boston (Senate, No. 2181) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The House Bill authorizing the conveyance of a certain parcel of Commonwealth land to the city of Revere for public purposes (House, No. 4308),— **was read a third time and 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.

The Senate Bill relative to rates of pilotage (Senate, No. 2204),— was read a second time.
Pending the question on ordering the bill to a third reading, Mr. Morrissey moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

The House Bill authorizing the town of Spencer to lease certain property (House, No. 3230),— was read a third time.

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

“SECTION 2. This act shall take effect upon its passage.”.

This amendment was adopted.

The bill was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

The Senate Bill expediting receipt of certain federal funds (Senate, No. 2128),— **was read a third time and, after remarks, was passed to be engrossed.**
Sent to the House for concurrence.

The Senate Bill relative to harbormaster training and curriculum certification (Senate, No. 2178, amended) (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. Tolman moved that the bill be amended in section 1, in subsection (a) of proposed section 19A of chapter 102 of the General Laws, in the first sentence, by striking out the figure “10” and inserting in place thereof the following figure:— “11”; and by inserting after the words “colonel of the state police” the following words:— “; 1 shall be the harbormaster of the city of Boston”.

This amendment was adopted.

The bill, as further amended, was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill establishing a minimum energy-efficiency standard for certain products (House, No. 4299, amended),— was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Berry, Ms. Menard and Messrs. Pacheco, Lees and Knapik 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 2249.

After remarks, the amendment was adopted.

After further remarks, the question on ordering the bill to a third reading was determined by a call of the yeas and nays, at nine minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 161**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.

Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
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.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Jehlen, Patricia D.	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.

ABSENT OR NOT VOTING.

Barrios, Jarrett T. — **1.**

The yeas and nays having been completed at a quarter past two o'clock P.M., the bill was ordered to a third reading. The rules were suspended, on motion of Mr. Havern, and the bill was read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act establishing minimum energy-efficiency standards for certain products". Sent to the House for concurrence in the amendment.

The Senate Bill relative to smart growth zoning and housing production (Senate, No. 2237),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at twenty-four minutes past two o'clock P.M., on motion of Ms. Chandler, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 162**]:

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.
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.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.

Joyce, Brian A. Tucker, Susan C.
Knapik, Michael R. Walsh, Marian
Lees, Brian P. Wilkerson, Dianne —
 39.
McGee, Thomas M.

NAYS — 0.

**The yeas and nays having been completed at twenty-eight minutes past two o'clock P.M., the bill was passed to be engrossed.
Sent to the House for concurrence.**

The House Bill relative to the tax laws of the Commonwealth (House, No. 4169),— was read a third time.

Pending the question on passing the bill to be engrossed, Messrs. Lees, Tarr, Tisei, Hedlund, Knapik, Brown and Montigny, Ms. Walsh, Ms. Creem, Ms. Tucker and Mr. Creedon moved that the bill be amended by striking out section 57 and inserting in place thereof the following sections:

“SECTION _____. Section 413 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION _____. Section 414 of chapter 149 of the acts of 2004 is hereby amended by striking out the words “January 1, 2002” and inserting in place thereof the following words:— January 1, 2003”.
The amendment was *rejected*.

Messrs. Lees, Hedlund, Knapik and Brown moved that the bill be amended by inserting, after section ____, the following new sections:—

“SECTION _____. Section 13 of chapter 186 of the Acts of 2002 is hereby repealed.

SECTION _____. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subparagraph (13) in its entirety and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1), clause (A) of subparagraph (1A), and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clause; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION _____. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (b) in its entirety and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5 per cent for taxable years beginning on or after January 1, 2007.

SECTION _____. Section ____ shall take effect on January 1, 2007.”
The amendment was *rejected*.

Messrs. Lees, Tarr, Hedlund, Knapik, Brown and Montigny moved that the bill be amended by inserting, after section ____, the following new sections:—

“SECTION _____. Section 13 of chapter 186 of the Acts of 2002 is hereby repealed.

SECTION _____. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subparagraph (13) in its entirety and inserting in place thereof the following subparagraph:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in clause (A) of subparagraph (1), clause (A) of subparagraph (1A), and clause (A) of subparagraph (2) of paragraph (b) of Part B for such taxable year are the maximum allowable amounts set forth in said clause; and provided further, that notwithstanding said section 170 of the Code, no deduction

shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION _____. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.2 per cent for tax years beginning on or after January 1, 2006.

SECTION _____. Section 4 of chapter 62 of the General Laws, inserted by section ____, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.1 per cent for tax years beginning on or after January 1, 2007.

SECTION _____. Section 4 of chapter 62 of the General Laws, inserted by section ____, is hereby amended by striking out paragraph (b) and inserting in place thereof the following:—

(b) Part B taxable income shall be taxed at the rate of 5.0 per cent for tax years beginning on or after January 1, 2008.”

And by inserting after section ____ the following sections:—

“SECTION _____. Section ____ shall take effect on January 1, 2006 and shall expire on December 31, 2006.

SECTION _____. Section ____ shall take effect on January 1, 2007 and shall expire on December 31, 2007.

SECTION _____. Section ____ shall take effect on January 1, 2008 and shall expire on December 31, 2008.”

The amendment was *rejected*.

After remarks, the bill was 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.

The Senate Bill establishing benefits for veterans and their dependents (Senate, No. 2171) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and, after debate, was passed to be engrossed.**
Sent to the House for concurrence.

The Senate Bill to reduce gang violence (Senate, No. 2242) (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. Baddour moved that the bill be amended by inserting after section 7 the following section:—

“SECTION 7A. Section 28 of chapter 276 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

An officer authorized to serve criminal process may arrest, without a warrant, a person whom the officer knows has committed a violation of any term of his probation in public view. The terms of probation for an individual shall be readily accessible to the officer through the board of probation screen in the criminal justice management system.”

This amendment was adopted.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at one minute before three o'clock P.M., on motion of Mr. Barrios, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 163**]:

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.
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.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne —

39.

McGee, Thomas M.

NAYS — 0.

The yeas and nays having been completed at two minutes past three o’clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill authorizing the water commissioners of the Swansea Water District to appoint a clerk and a treasurer (see House, No. 3557, amended) (which originated in the House), **having been certified by the Senate clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the President and again laid before the Governor for his approbation.**

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

Granting certain retirement and health insurance benefits to Dale S. Prentiss (see Senate, No. 2175);

Prohibiting certain dumping in the city of Worcester (see House, No. 1748, amended);

Increasing the borrowing authority of the Ring’s Island Water District of Salisbury (see House, No. 3600);

Providing for two associate planning board members in the town of Hanover (see House, No. 4294, amended); and

Authorizing the appointment of retired police officers in the town of Weymouth to serve as special officers (see House, No. 4344, amended).

An engrossed Bill establishing the interstate compact for adult offender supervision (see House, No. 4192, 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 three o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 164**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M.,	Montigny, Mark C.

Jr.

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.
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.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne —

39.

McGee, Thomas M.

NAYS — 0.

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 yeas and nays having been completed at seven minutes past three o'clock P.M., the bill was passed to be enacted and it was signed by the Acting President and laid before the Governor for his approbation.

Engrossed Bills — Land Takings for Conservation, Etc.

An engrossed Bill authorizing the Department of Highways to acquire and transfer certain parcels of land in the town of Bourne (see Senate, No. 2078) (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 eight minutes past three o'clock P.M., as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 165**]:

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.
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.	Tarr, Bruce E.

Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne —
	39.
McGee, Thomas M.	

NAYS — 0.

The yeas and nays having been completed at ten minutes past three 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 Capital Asset Management and Maintenance to convey certain land to the town of Hingham (see House, No. 1430, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at eleven minutes past three o'clock P.M., as follows, to wit (yeas 39 nays 0) [**Yeas and Nays No. 166**]:

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.
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.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne —
	39.
McGee, Thomas M.	

NAYS — 0.

The yeas and nays having been completed at thirteen minutes past three 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.

Message from the Governor — Disapproval and Reductions in Supplemental Appropriations Bill.

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2005 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4370), which on Wednesday, September 21, 2005, had been laid before the Governor for his approbation,— came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.

The message (House, No. 4405) was read; and the Senate proceeded to reconsider an item, which had been disapproved in accordance with the provisions of the Constitution.

Section 12 (Middlesex Fells) was considered as follows:

SECTION 12. Section 13 of chapter 58 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 13 and 14, the words “certain properties in the town of Stoneham,” and inserting in place thereof the following words:— the Middlesex Fells Reservation.

[The Governor disapproved this item.]

After remarks, the question on passing Section 12, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, at a quarter past three o’clock P.M., as follows, to wit (yeas 39 — nays 0) [**Yeas and Nays No. 167**]:

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.
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.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Lees, Brian P.	Wilkerson, Dianne —
McGee, Thomas M.	39.

NAYS — 0.

The yeas and nays having been completed at eighteen minutes past three o’clock P.M., Section 12 stands, in concurrence, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present having approved the same.

A petition (accompanied by bill, House, No. 4448) of David L. Flynn and Marc R. Pacheco for legislation to remove an agricultural preservation restriction from land known as Borden Colony in the town of Raynham,— **was referred, in concurrence, under suspension of Joint Rule 7B, to the committee on Bonding, Capital Expenditures and State Assets.**

Recess.

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

PAPER FROM THE HOUSE.

Committee of Conference Report.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill increasing penalties for drunk drivers in the Commonwealth (House, No. 4403) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2219), reported, recommending that the House recede from its NON-concurrence with the Senate in its amendment and concur therein with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4446; and that the Senate concur therein,— came from the House, and was read.

The President in the Chair,— the rules were suspended, on motion of Mr. Murray, and the report was considered forthwith and, after debate, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at fourteen minutes before four o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 — nays 7) [**Yeas and Nays No. 168**]:

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.
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.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
McGee, Thomas M.	Wilkerson, Dianne —

32.

NAYS

Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Knapik, Michael R.	Walsh, Marian —
Lees, Brian P.	7.

Mr. Havern in the Chair, the yeas and nays having been completed at ten minutes before four o'clock P.M., the report was accepted, in concurrence.

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, pursuant to Senate Rule 19, a Bill relative to certain records of prior drunk driving convictions (Senate, No. 2244),— was read.

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

Order Adopted.

Messrs. Creedon and Baddour offered an Order relative to requiring the opinions of the Honorable the Justices of the Supreme Judicial Court on an important question of law relative to Senate, No. 2244, “An Act relative to certain records of prior drunk driving convictions” (Senate, No. 2245).

After debate, the question on adoption of the order was determined by a call of the yeas and nays, at twenty-five minutes before five o’clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 32 — nays 6) [**Yeas and Nays No. 169**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
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.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —

32.

NAYS

Brown, Scott P.	Lees, Brian P.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.—

6.

ABSENT OR NOT VOTING.

Montigny, Mark C. —
1.

The yeas and nays having been completed at twenty minutes before five o’clock P.M., the order (Senate, No. 2245) was adopted.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill increasing penalties for drunk drivers in the Commonwealth (see House, No. 4403, 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 and sent to the House for enactment.

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.

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill increasing penalties for drunk drivers in the Commonwealth (see House, No. 4403, amended) (which originated in the House), **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.**

On motion of Mr. Brown, at twenty-four minutes before six o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.