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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, April 4, 2007.

Met according to adjournment at one o'clock P.M. (Mr. Baddour in the Chair).

Petitions.

Mr. Creedon presented a petition (accompanied by bill, Senate, No. 2175) of Robert S. Creedon, Jr., Geraldine Creedon, Christine E. Canavan and Thomas P. Kennedy (with the approval of the mayor and city council) for legislation relative to property owned by the Boys and Girls Club of Brockton, Inc. **[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.**

Petitions were presented and referred, as follows:

By Mr. Brewer, a petition (subject to Joint Rule 12) of Stephen M. Brewer for legislation to further regulate the purchase and sale of mercury-related products;

By the same Senator, a petition (subject to Joint Rule 12) of Stephen M. Brewer, Robert A. Antonioni and Harriette L. Chandler for legislation relative to death benefits to surviving spouses of firefighters and other emergency personnel;

By Ms. Jehlen, a petition (subject to Joint Rule 12) of Patricia D. Jehlen for legislation to further regulate debt collection;

By Mr. Moore, a petition (subject to Joint Rule 12) of Richard T. Moore, Jennifer L. Flanagan, Denise Provost, Thomas P. Kennedy and other members of the General Court for legislation relative to credible service for service rendered as a school nurse; and

By Mr. Panagiotakos, a petition (subject to Joint Rule 12) of Steven C. Panagiotakos, Pamela P. Resor, James B. Eldridge and Robert S. Hargraves for legislation relative to the protection of our natural bodies of water;
Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Communications.

The following communications were severally received and placed on file:

A communication from the Honorable Therese Murray, President of the Senate, announcing certain changes to Senate and Joint Standing Committees that have been ratified by the Majority Party Caucus:

Senator Steven C. Panagiotakos has been appointed the Chair of the Committee on Ways and Means.

Senator Steven A. Tolman has been appointed Vice Chairman of the Committee on Ways and Means.

Senator Steven M. Brewer has been appointed Assistant Vice Chairman of the Committee on Ways and Means.

In addition:

Senator Tolman has resigned his position as Chairman of the Committees on Rules of the two branches, acting concurrently, on the part of the Senate, and Ethics and Rules and has been replaced by Senator Joan M. Menard.

Senator Murray was appointed Vice Chairman of the Committees on Rules of the two branches, acting concurrently, on the part of the Senate, and Ethics and Rules, to fill a vacancy. Senator Berry was appointed to the third position of said committees and Senator Panagiotakos was appointed to the fourth position of said committees.

Senator Brewer resigned his position as Chairman of the Committee on Bills in the Third Reading and was replaced by Senator Edward M. Augustus, Jr.

Senator Panagiotakos resigned his position on the committees on Housing and Revenue and as Vice Chairman and as a member of the committee on Higher Education.

Senator Tolman resigned his position as Vice Chairman and as a member of the committee on Public Service and was replaced, in each instance, by Senator Augustus.

A communication was received from the Honorable Therese Murray, President of the Senate, announcing her appointments to the Special Commission established (pursuant to Chapter 2 of the Resolves of 2006) relative to ending homelessness in the Commonwealth.

The membership is as follows: Senators Susan C. Tucker, Dianne Wilkerson, Edward M. Augustus, Jr., Brian A. Joyce and Michael R. Knapik.

Reports of Committees.

By Mr. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, on petition, a Bill authorizing the Division of Capital Asset Management and Maintenance to transfer and exchange land with the Nye Family of America Assoc. Inc. held for conservation/recreation purposes (Senate, No. 52, changed in section 2 by inserting after the word "DCR" in line 13, the words "The Value of the parcels conveyed shall be determined by an independent appraiser. This conveyance shall be subject to review by the Inspector General.");

By the same Senator, for the same committee, on petition (accompanied by bill, Senate; No. 19), a Bill relative to the sale of land by the Massachusetts Water Resources Authority (Senate, No. 2179);

By Ms. Spilka, for the committee on Children, Families and Persons with Disabilities, on Senate, No. 111 and House, No. 92, a Bill to continue the safe placement of newborn infants (Senate, No. 2177);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 89), a Bill to establish the interstate compact for juveniles (Senate, No. 2178);

By Mr. Downing, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Timothy Morrissey, an employee of the Templeton Developmental Center (Senate, No. 1456);

By the same Senator, for the same committee, on petition, a Bill establishing a sick leave bank for Todd J. Martinson, an employee of the Monson Developmental Center (Senate, No. 1457);

By the same Senator, for the same committee, on petition, a Bill establishing a sick leave bank for Jacqueline C. Russo, an employee of the Department of Housing and Community Development (Senate, No. 1614); and

By Mr. Joyce, for the committee on Tourism, Arts and Cultural Development, on Senate, No. 2003 and House, No. 3919, a Bill relative to public library construction (Senate, No. 2176);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPER FROM THE HOUSE.

Notice was received from the House announcing the following appointment:

That Representatives Rushing of Boston, Honan of Brighton, Khan of Newton and Puppolo of Wilbraham have been appointed by the Speaker to the Special Commission established (pursuant to Chapter 2 of the Resolves of 2006) for the purpose of devising a state-wide strategy to end homelessness in the Commonwealth.

Recess.

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Baddour) declared a recess subject to the call of the Chair; and, at seven minutes before two o'clock P.M., the Senate reassembled, Mr. Rosenberg in the Chair.

The Senator from Middlesex and Essex, Mr. Tisei, then led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Resolutions.

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

Resolutions (filed by Messrs. Brewer and Rosenberg) “in recognition of the 50th anniversary of the Mahar Fish 'N Game Club”;

Resolutions (filed by Mr. Brown, Ms. Candaras, Messrs. Tarr, Timilty and Rosenberg) “commending Taiwan on its contributions to promote world health”; and

Resolutions (filed by Mr. Havern) “commending Kevin B. McKelvey.”

Reports of Committees.

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Cynthia S. Creem, Alice H. Peisch and Scott P. Brown for legislation relative to certain easements held by the Commonwealth of Massachusetts and the Massachusetts Water Resources Authority in the town of Wellesley.

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

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Cynthia S. Creem for legislation relative to voter registration.

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

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert S. Creedon, Jr. for legislation to clarify the review of actions of the Chief Justice for Administration and Management.

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

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert S. Creedon, Jr. for legislation to improve juror service.

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

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Benjamin B. Downing, Brian A. Joyce, James E. Timilty, Denise Provost and other members of the General Court for legislation to provide for an investigation and study by a special commission relative to the recruitment and retention of college graduates and skilled workers for the Commonwealth's workforce.

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

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Benjamin B. Downing, Jay R. Kaufman, Richard R. Tisei, Bradley H. Jones, Jr. and other members of the General Court for legislation to further regulate the appointment of police officers.

Senate Rule 36 was suspended, on motion of Mr. Tolman, 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.

By Mr. Tolman, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert S. Creedon, Jr. for legislation relative to the community preservation trust fund.

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

Severally sent to the House for concurrence.

At four minutes before two o'clock P.M., Mr. Tisei doubted the presence of a quorum; and, a count of the Senate determined that a quorum was not present. Subsequently, at two minutes before two o'clock P.M., the President declared that a quorum was present; and the Senate proceeded with the business at hand.

Distinguished Guests.

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Baddour for the purpose of an introduction. Mr. Baddour then introduced Luther McIlwain of Methuen, a World War II veteran and one of the first African American Airman in the Tuskegee Airmen in the United States Army and a recent recipient of the Medal of Honor from the President of the United States, as follows:

Thank you very much Mr. President and through you to the members, if I could have every one's attention for a moment, I have the distinct honor of introducing a family friend of our families in Methuen, a gentleman from Methuen who is a true American hero.

At the beginning of World War II, Mr. President, Luther McIlwain was ridiculed by military recruiters for his desire to join the armed forces as an aviator. Some military leaders said that African Americans lack the ability to be pilots. But Luther and his colleagues proved the skeptics wrong. After passing the entrance exam, he became a Second Lieutenant with the Alabama-based Tuskegee Airmen. The Tuskegee Airmen, as we're all aware, was a group of Black, World War II pilots, the best known for escorting ally bombers over Europe. Above and beyond the symbolic triumph that they tried to achieve by breaking the racial barrier, the Tuskegee Airmen never lost a bomber to enemy fighter planes. Last Tuesday, last Thursday, I apologize, Luther and 200 other Tuskegee Airmen received the Congressional Gold Medal, our Nations highest Civilian honor, at the U.S. Capital in Washington, D.C.

I spoke to Luther when he arrived back in Methuen and I asked him what was one of the proudest moments in his military career, and he told me that when he received the gold medal, the Congressional Gold Medal, he went back to his seat, and the President, after he had given out the awards, saluted the Tuskegee Airmen, and Luther told me at that moment, it had felt as if the sins of the past had sort of floated away and Luther and his fellow Tuskegee Airmen had finally received the respect and the dignity that they so well deserved for what they had done for this country.

So Madame President, Mr. President, please join me in honoring a true American Hero, Luther McIlwain and his sister.

Mr. McIlwain then briefly addressed the chamber, as follows:

My sister and I want to thank all of you. I am a citizen and have been a citizen in the state of Massachusetts since 1921, and a resident of the City of Methuen since 1928. I retired from working for the city as a Special Assistant to the Mayor in 1992. My sister and I were contemplating where was I going to retire to, and I don't think I ever talked it over with her, but I still live in the home. The house that I'm familiar with in my memory, in Methuen, is of kerosene lamp that I studied by, when I was made to study as a little boy in Methuen. I still live in the same house and I remember that this time of the year, there was no hard top streets, there were muddy roads. And I must say that we had a prize outhouse out back. I can remember also, the well there; where I, my father used to get me up at 4:00 in the morning to crack the ice on the well, and throw the bucket down there, and bring the water up. But I say all of that to say, I'm still living there. And when we were thinking about this retirement business, there was no question in my mind that that's where I would still be, as far as I was concerned.

I'm going to digress and say that getting to Washington was a community affair and thanks to the Mayor, the Sheriff of the County and one of your colleagues, one of your colleagues, Senator Baddour. Senator Baddour along with the Congressman's aide saw to it that my sister and I, we were comfortable the entire time. And I say that because I'm thankful and on behalf of my sister I thank you. Now you have this colleague of mine, who is a Senator from my district, and he was one of the contributors and I only have one complaint, we were well taken care of except one thing, and he still owes me. He didn't give me any pocket change.

Mr. McIlwain then signed the guest book and along with his sister, withdrew from the Chamber.

On motion of Mr. Brewer, the above remarks were ordered printed in the Journal of the Senate

There being no objection, the President handed the gavel to Mr. Tolman for the purpose of an introduction. Mr. Tolman introduced members of the Division 3 champion Watertown High School boy's basketball team. The team was joined by their coach Steve Harrington, their Athletic Director Elaine Paradis, and former State Senator Warren Tolman, whose son was a member of the team.

There being no objection, the President handed the gavel to Mr. Creedon for the purpose of an introduction. Mr. Creedon introduced members of the Hanover High School Vox Chorus along with their director Allison Grier. The chorus, guests of Mr. Creedon, Mr. Hedlund and Representative Nyman, then sang "Mr. Sandman" to the members, guests and staff in the Chamber.

Resolutions.

The President in the Chair, Resolutions (filed by Mr. Panagiotakos) “providing for a declaration of the intent of the Senate relative to the amount and distribution of local aid to the Commonwealth’s cities, towns and regional school districts for Fiscal Year 2008” (Senate, No. 2180),— were considered, the question being on adoption of the resolutions.

Pending the question on adoption of the resolutions, Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved to amend the resolutions by adding at the end thereof the following:— “and it shall be resolved that not less than forty per cent of all revenues received by the commonwealth in fiscal year 2009, in excess of those revenues received in fiscal year 2008, shall be distributed to cities and towns as local aid through programs including but not limited to Chapter 70 educational funding, lottery aid and additional assistance .”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at ten minutes before three o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 5 – nays 32*) [**Yeas and Nays No. 11**]:

YEAS.

Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	

NAYS.

Antonioni, Robert A.	Joyce, Brian A.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin Brackett	Timilty, James E.
Fargo, Susan C.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Havern, Robert A.	Walsh, Marian
Jehlen, Patricia D.	Wilkerson, Dianne — 32.

ABSENT OR NOT VOTING.

Pacheco, Marc R. — **1.**

The yeas and nays having been completed at five minutes before three o’clock P.M., the amendment was rejected.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved to amend the resolutions by adding at the end thereof the following:— “and it shall be resolved that no material alternations to chapter 70 shall be made without a public hearing being held no less than

forty-eight hours prior to the consideration of any matter containing such changes by the Senate.”
The amendment was *rejected*.

Messrs. Tarr, Knapik, Hedlund and Brown moved to amend the resolutions by adding the following new paragraph at the end thereof:

“The Committees on Ways and Means of the House and Senate shall develop a plan to address the inequities arising from the failure to restore municipalities and school districts to their levels of Chapter 70 and additional assistance funding prior to the reductions which occurred in Fiscal Year 2003 pursuant to Section 9C of Chapter 29 of the General Laws, provided that such plan may utilize a time frame of more than one year, and shall prioritize municipalities and school districts which experienced a reduction of twenty percent or more.”

After remarks, the amendment was *rejected*.

The question on adoption of the resolutions was determined by a call of the yeas and nays, at one minute before three o’clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (*yeas 35 — nays 1*) [**Yeas and Nays No. 12**]:

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O’Leary, Robert A.
Brown, Scott P.	Panagiotakos, Steven C.
Buoniconti, Stephen J.	Resor, Pamela
Chandler, Harriette L.	Rosenberg, Stanley C.
Creedon, Robert S., Jr.	Spilka, Karen E.
Creem, Cynthia Stone	Tarr, Bruce E.
Downing, Benjamin Brackett	Timilty, James E.
Fargo, Susan C.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Havern, Robert A.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —
Knapik, Michael R.	35.

NAYS.

Hedlund, Robert L. —
1.

ABSENT OR NOT VOTING.

Candaras, Gale D. Pacheco, Marc R. — **2.**

The yeas and nays having been completed at three minutes past three o’clock P.M., the resolutions were adopted.

Report of a Committee.

Mr. Rosenberg in the Chair, by Mr. Timilty, for the committee on Municipalities and Regional Government, on petition, a Bill relative to the charter of the town of Bourne (Senate, No. 1177) **[Local approval received].**

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

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill relative to the conveyance of a certain parcel of land in the town of Grafton (see House, No. 3745, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, after remarks, was passed to be enacted and was signed by the Acting President (Mr. Rosenberg) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. O'Leary,—

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.

Adjournment in Memory of Richard Morris.

The Senator from Essex and Middlesex, Ms. Tucker, presented a request that when the Senate adjourns today, it do so in memory of Richard Morris.

Mr. Morris was a longtime resident of Tewksbury, and served on the Board of Selectmen for six years, including two as chairman. As a young man, he served in the U.S. Navy as a torpedo-man and after returning home, became a firefighter in Arlington.

He dedicated much of his later years to the Tewksbury Hospital, where he visited often with his wife and helped care for the patients there. He was also a member of the Friends of the Tewksbury Library, the Municipal Building Committee, the Recreation Committee, the Board of Appeals and the Veterans Memorial Committee, among others.

He was the husband of the late Marian Morris, and the father of three daughters, Linda Dalton, Louise Morris Mahoney and Kathleen McClellan. The town of Tewksbury will remember him as a great and generous man with a big and loving heart.

Accordingly, as a mark of respect to the memory of Richard Morris, at twenty-six minutes past three o'clock P.M., on motion of Mr. Tisei, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.