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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, May 15, 2008.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Jehlen for the purpose of an introduction. Ms. Jehlen then introduced the Winchester High School Wrestling Team. This past season the team went undefeated and won the team championship for their division. They were accompanied by Coach Larry Tremblay, who has led the Wrestling Team for twenty-eight years. He has just been selected as the Regional Coach of the Year for the third time, representing all of New England, New York and New Jersey. The Senate applauded their accomplishments and they withdrew from the Chamber.

Report.

A report of the Executive Office of Transportation (pursuant to line items 6000-0100 and 6010-0001 of the General Appropriation Act for Fiscal Year 2008) submitting various reports (received Thursday, May 15, 2008),— **was placed on file.**

Reports of a Committee.

By Mr. Moore, for the committee on Health Care Financing, on Senate, Nos. 96, 383, 701, 1125, 1130, 1221 and 1334, an Order relative to authorizing the joint committee on Health Care Financing to make an investigation and study of certain current Senate documents relative to health care financing (Senate, No. 2703); and

By the same Senator, for the same committee, on Senate, Nos. 679, 700, 1114, 1142, 1317, 1333, 1336, 1391 and 1402, an Order relative to authorizing the joint committee on Health Care Financing to make an investigation and study of certain current Senate documents relative to health care financing (Senate, No. 2704);

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

Committees Discharged.

Mr. Downing, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Bonding, Capital Expenditures and State Assets to make an investigation and study of certain current Senate documents relative to bonding, capital expenditures and state assets (Senate, No. 2700),— **and recommending that the same be referred to the Senate committee on Ethics and Rules. Under Senate Rule 36, the report was considered forthwith, and accepted.**

PAPERS FROM THE HOUSE.

Reports

Of the committee on Health Care Financing, asking to be discharged from further consideration

Of the House Bill removing the requirement to provide notice to the Department of Mental Health of a license granted to a

guardian to sell real estate (House, No. 312);
 Of the House Bill to insure consumer choice of nurse practitioner services (House, No. 921, changed);
 Of the House Bill relative to the Youth Alcohol Education Program to reduce underage drinking and promote healthy choices (House, No. 1884, changed);
 Of the House Bill establishing a special commission to determine the capital needs of community hospitals (House, No. 2066);
 Of the House Bill to provide for the development of minimum disinfecting, cleaning, and maintenance requirements for schools, day care centers, and public buildings by the Department of Public Health (House, No. 2094);
 Of the House Bill to create the Massachusetts Internet prescription consumer protection act (House, No. 2160);
 Of the House Hill relative to healthy schools and public buildings (House, No. 2181);
 Of the House Bill relative to reporting on health effects of particulate matter (House, No. 2227);
 Of the House Bill prohibiting the use of latex gloves and products by persons who handle food (House, No. 2238);
 Of the House Bill to ensure quality, affordability and access to primary and preventive health care, to eliminate health disparities, and to enhance economic growth throughout the Commonwealth (House, No. 2255);
 Of the House Bill relative to the Department of Social Services (House, No. 2259);
 Of the House Bill relative to protective custody (House, No. 2304);
 Of the House Bill to improve end of life care (House, No. 3800); and
 Of the House Bill relative to exposures to hazardous materials by certain members of the National Guard (House, No. 4694);
And recommending that the same severally be referred to the House committee on Ways and Means.
Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence, inasmuch as relates to the discharge of the joint committee.

Of the House Bill relative to student use of tobacco products (House, No. 2080),— **and recommending that the same be referred to the committee on Education.**
 Of the committee on Public Service, asking to be discharged from further consideration of the petition (House, No. 3803) of Jeffrey Davis Perry and others for legislation to require compliance with federal immigration laws for public benefits,— **and recommending that the same be referred to the committee on Veterans and Federal Affairs.**
Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.

There being no objection, at one minute past one o'clock, the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at twenty-two 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.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:
 Resolutions (filed by Messrs. Tarr, Augustus and Brewer and Ms. Resor) "recognizing National Safe Boating Week"; and
 Resolutions (filed by Ms. Wilkerson) "commending Reverend Martin D. McLee, J.D."

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Relative to the interest rate to be charged upon apportioned betterment assessments for the Weweantic sewer project in the town of Wareham (Senate, No. 2155);
 Relative to interest rates to be charged upon apportioned betterment assessments in the town of Wareham (Senate, No. 2158);
 Relative to educational expenditures in the town of Milton (Senate, No. 2486);
 Relative to the Recreation Revolving Fund in the town of Rutland (Senate, No. 2519); and
 Establishing the Nantucket Community Housing Bank (Senate, No. 2544);
Were severally read a second time and ordered to a third reading.

The Senate bills

To maintain transition age requirements for students with disabilities (Senate, No. 286);
 To improve augmentative and alternative communication opportunities for children with disabilities (Senate, No. 2692); and
 Relative to the teaching of American Sign Language (Senate, No. 2698);
Were severally read a third time and passed to be engrossed.
Severally sent to the House for concurrence.

The Senate Bill establishing the Martha's Vineyard Housing Bank (Senate, No. 2546),— **was considered; and it was ordered to a third reading.**

The Senate Bill providing for bicycle safety (Senate, No. 2573) (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, Ms. Resor moved that the bill be amended in section 1, by striking out,

in lines 4 and 5, the words “on or before January 2, 2008”; in said section 1, by striking out, in line 9, the words “, no later than January 1, 2008”; in section 6, by inserting after the word “bicycle”, in line 62, the following word:— “safety”; and by adding the following section:—

“SECTION 14. The course on bicycle safety to be developed by the municipal police training committee pursuant to section 116D of chapter 6 of the General Laws shall be established and implemented not later than January 1, 2009.”.

This amendment was adopted.

The bill (Senate, No. 2573, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill authorizing the commissioner of Capital Asset Management and Maintenance to grant easements to the city of Somerville and to convey certain land to FR Sturtevant Street, LLC (Senate, No. 2687),— **was read a third time.**

Mr. Augustus, for the committee on Bills in the Third Reading, reported, recommending that the bill be amended by substituting a new draft with the same title (Senate, No. 2705).

This amendment was adopted.

The bill (Senate, No. 2705) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to food allergy awareness in restaurants (Senate, No. 2701),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Tisei moved that the bill be amended in section 1, by inserting after the word “Network”, in line 13, the following words:— “; provided, however, that a restaurant may, in the alternative, provide handouts approved by the department that educate customers on food allergens and inform customers of the customer’s obligation to inform servers about any food allergies”.

After debate, the amendment was rejected.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at a quarter past two o’clock P.M., on motion of Ms. Creem, as follows, to wit (*yeas 36 — nays 3*) [**Yeas and Nays No. 213**]:

YEAS.	
Antonioni, Robert A.	Buoniconti, Stephen J.
Augustus, Edward M., Jr.	Candaras, Gale D.
Baddour, Steven A.	Chandler, Harriette L.C.
Berry, Frederick E.	Creedon, Robert S., Jr..
Brewer, Stephen M.	Creem, Cynthia Stone
Brown, Scott P.	Downing, Benjamin B.
Fargo, Susan C.	Pacheco, Marc R.
Galluccio, Anthony D.	Panagiotakos, Steven C.
Hart, John A., Jr.	Petrucelli, Anthony
Jehlen, Patricia D.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Marzilli, Jim	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.

Morrissey, Michael W.	Walsh, Marian
O’Leary, Robert A.	Wilkerson, Dianne — 36.
NAYS.	
Hedlund, Robert L.	Tisei, Richard R. — 3.
Knapik, Michael R.	

The yeas and nays having been completed at twenty minutes past two o’clock P.M., the bill was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill to establish collaborative drug therapy management (Senate, No. 420),— **was considered, the question being on passing the bill to be engrossed.**

Mr. Moore moved that the bill be amended by substituting a new draft with the same title (Senate, No. 2706).

This amendment was adopted.

The bill (Senate, No. 2706) was then passed to be engrossed.

Sent to the House for concurrence.

Report of a Committee of Conference.

Mr. O’Leary, for the committee of conference, to whom was referred the matters of difference between the branches with reference to the House amendment to the Senate Bill relative to oceans (Senate, No. 2346, amended) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4527, amended),— reported, a “Bill relative to oceans” (Senate, No. 2699).

There being no objection, the rules were suspended, on motion of Mr. O’Leary, and the report was considered forthwith.

After remarks, the question on acceptance of the report was determined by a call of the yeas and nays, at twenty-four minutes before three o’clock P.M., on motion of Mr. O’Leary, as follows, to wit (*yeas 39 — nays 0*) [**Yeas and Nays No. 214**]:

YEAS.	
Antonioni, Robert A.	Candaras, Gale D.
Augustus, Edward M., Jr.	Chandler, Harriette L.
Baddour, Steven A.	Creedon, Robert S., Jr.
Berry, Frederick E.	Creem, Cynthia Stone
Brewer, Stephen M.	Downing, Benjamin B.
Brown, Scott P.	Fargo, Susan C..
Buoniconiti, Stephen J.	Galluccio, Anthony D.
Hart, John A., Jr.	Panagiotakos, Steven C.
Hedlund, Robert L.	Petrucelli, Anthony
Jehlen, Patricia D.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Knapik, Michael R.	Spilka, Karen E.
Marzilli, Jim	Tarr, Bruce E.

McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
O'Leary, Robert A.	Wilkerson, Dianne — 39.
Pacheco, Marc R.	
NAYS — 0.	

The yeas and nays having been completed at twenty minutes before three o'clock P.M., the report was accepted.
Sent to the House for concurrence.

Report of a Committee.

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

The House Bill to promote the safety of victims of violence (House, No. 4348).

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

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows:—

The Senate Bill authorizing the city of Melrose to issue pension funding bonds or notes (Senate, No. 2602),— **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.

The House Bill establishing a waterways dredge and maintenance program receipts reserved capital improvements fund in the town of Dennis (House, No. 4108),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Shirley to establish an account for the Longley Acres Conservation Area (House, No. 4430),— **was read a second time.**

Ms. Resor moved that the bill be amended in section 1, by inserting after the word “sell”, in line 5, the following words:— “or lease”; and in section 4, in the first sentence, by striking out the words “; provided, however, that the contracts shall not be subject to chapter 30B of the General Laws”.

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing the town of Shirley to establish the Longley Acres Maintenance Fund”.

Sent to the House for concurrence in the amendment.

The House Bill further regulating municipal retiree health insurance in the town of Lanesborough (House, No. 4060) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed, in concurrence.**

Reports of a Committee.

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

The Senate Bill designating a certain portion of Sandy Beach in Winchester as the Senator Charles E. Shannon, Jr. Memorial Beach (Senate, No. 2475).

There being no objection, the rules were suspended, on motion of Ms. Jehlen, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act designating a certain portion of Sandy Beach in the town of Winchester as

the Senator Charles E. Shannon, Jr. Memorial Beach”.
Sent to the House for concurrence.

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

The Senate Bill to designate certain bridges in the town of Millville in honor of John Dean (Senate, No. 2565);

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act designating certain bridges in the town of Millville as the John Dean Bridges”.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Order.

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith and adopted in concurrence, as follows:—

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Health Care Financing shall be granted until Thursday, June 5, 2008, within which to report on House, No. 925.

Engrossed Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill further regulating the disclosure of certain financial information to division of medical assistance exempting certain bank fees (see House, No. 975) [for message, see House, No. 4550],— **came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment, striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4683.**

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 rules were suspended, on motion of Mr. Montigny.

The Governor’s amendment was then rejected.

The House amendment was considered; and it was adopted, in concurrence.

Sent to the House for re-enactment.

A Bill establishing a sick leave bank for Deborah McNamara, an employee of the Department of Conservation and Recreation (House, No. 4615,— on petition),— **was read.**

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

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Marya Panzica, an employee of the Department of Mental Retardation (see House, No. 4924), 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 13 to 0. The bill was signed by the President and sent to the House for enactment.**

Engrossed Bills.

The following engrossed bills (all 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:—

Further regulating the department of public works of the city of Somerville (see Senate, No. 2169, amended);

Relative to incurring indebtedness in the town of Ipswich (see Senate, No. 2445, changed); and

Relative to the certification of the inspector of buildings and building commissioner in the city of Brockton (see Senate, No. 2458).

A message from His Excellency the Governor relative to financing an accelerated structurally-deficient bridge improvement program (accompanied by bill, House, No. 4743),— **came from the House, with the endorsement that they had referred the message to the committee on Transportation.**

On motion of Senator Montigny, the Senate NON-concurred in the reference to the committee on Transportation and referred the petition to the committee on Bonding, Capital Expenditures and State Assets.

Sent to the House for its action.

Committee of Conference.

The House Bill improving tax fairness and business competitiveness (House, No. 4672),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2685), and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Binienda of Worcester, Scaccia of Readville and Jones of North Reading had been appointed the committee on the part of the House.

On motion of Ms. Menard, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Creem, Chandler and Tisei were appointed on the part of the Senate. The bill was returned to the House endorsed accordingly.

Order Adopted.

On motion of Mr. Tolman,—

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

Adjournment in Memory of William Connell, Jr.

The Senator from Plymouth and Norfolk, Mr. Hedlund, requested that when the Senate adjourns today, it adjourn in memory of former Representative William Connell, Jr.

Mr. Connell was a member of the Massachusetts House of Representatives for 24 years, representing the towns of Weymouth and Holbrook. Mr. Connell was also a one term selectman and three term assessor in the Town of Weymouth.

Prior to entering public service, Mr. Connell was a Lt. Commander in the United States Navy. Mr. Connell served as a minesweeper in World War II and as an Air Winger in the Korean War.

After retiring from public life, Mr. Connell would make weekly trips to cemeteries in Weymouth fixing and replacing American flags on gravestones of servicemen and women.

Accordingly, as a mark of respect to the memory of William Connell, Jr., at five minutes before three o'clock P.M., on motion of Mr. Hedlund, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.