

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, January 29, 2008.

Met at a quarter past one o'clock P.M. (Mr. Rosenberg in the Chair).

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

Distinguished Guest.

There being no objection, the President handed the gavel to Mr. Antonioni for the purpose of an introduction. Mr. Antonioni then introduced Lisa Wong, the Mayor of Fitchburg, Massachusetts. Mayor Wong was recognized for being the first woman mayor in Massachusetts, and the Senate applauded her accomplishments. Lisa Wong briefly addressed the Senate, signed the guest book and withdrew from the Chamber.

Report.

A report of the Public Employee Retirement Administration Commission (under the provisions of Section 21(3)(f) of Chapter 32 of the General Laws) submitting its report on cost of living adjustments for retirees and beneficiaries (received Monday, January 28, 2008),— was placed on file.

Message from the Governor.

A message from His Excellency the Governor (under the provisions of Article LXXXIX of the Amendments to the Constitution) for legislation relative to the financial condition of the city of Salem (Senate, No. 2480) (received in the office of the Clerk of the Senate on Monday, January 28, 2008 at five o'clock P.M.),— **was referred to the committee on Ways and Means.**

Reports of a Committee.

By Mr. Moore, for the committee on Health Care Financing, that the Senate bills
Relative to prior authorizations of prescription medications (Senate, No. 2477) (also based on Senate, No. 428) [Estimated cost — more than \$100,000]; and

To improve, promote and protect the oral health of the Commonwealth (Senate, No. 2478) (also based on Senate, No. 1217) [Estimated cost — \$520,000];

Severally ought to pass.

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

Mr. Moore, for the committee on Health Care Financing, that the Senate Bill relative to a board of registration in midwifery (Senate, No. 1251) (also based on House No. 2142),— ought to pass [Estimated cost — less than \$100,000];

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE.

The revised annual report (accompanied by report, House, No. 4502) of the Public Employee Retirement Administration Commission (under Sections 21, 102 and 103 of Chapter 32 of the General Laws) relative to the percentum change in the average cost-of-living as shown by the United States consumer price index for the year 2007 compared with such index for the year 2006,— **was referred, in concurrence, to the committee on Public Service.**

A Bill transferring the city of Marlborough to the Metrowest Regional Transit Authority (House, No. 4289,— on petition).
Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

A Bill authorizing the city of Methuen to lease a portion of that building known as the Quinn Building to Methuen Municipal Employees Federal Credit Union (House, No. 4325,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Motion to Reconsider.

There being no objection, on motion of Mr. Tisei, the Senate reconsidered the vote by which it had at a previous session adopted the following order:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the House Bill relative to child abuse and neglect (House, No. 4333, amended) as reported by the committee on Ways and Means with a new text (Senate, No. 2472), shall be placed in the Orders of the Day for consideration of its second reading on Tuesday, January 29, 2008.

All amendments to the bill shall be filed electronically in the office of the Clerk of the Senate by 10:00 a.m. on Tuesday, January 29, 2008. All such amendments shall be second-reading amendments, but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Pending the recurring question on adoption of the order, Mr. Panagiotakos presented an amendment that the order be amended by striking out the phrase “10:00 a.m.” and inserting in place thereof the following phrase “1:30 p.m.”

The amendment was adopted.

The recurring question on adoption of the order, as amended was then considered; and the order was again adopted.

Recess.

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

Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, on the message of His Excellency the Governor, reported, a Bill relative to the financial condition of the city of Salem (printed in Senate, No. 2480),— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, 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.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—
Resolutions (filed by Messrs. Tisei, Tarr, Knapik, Hedlund, Brown and Brewer) “commending the Ronald Reagan Legacy Project on its celebration of February 6, 2008, as Ronald Reagan Day”;

Resolutions (filed by Ms. Walsh) “congratulating C. Chapin Cutler III on the occasion of his Court of Honor”;

Resolutions (filed by Ms. Walsh) “congratulating Matthew R. Jagelski upon his elevation to the rank of Eagle Scout”;

and Resolutions (filed by Ms. Walsh) “congratulating Adam F. Shaheen upon his elevation to the rank of Eagle Scout.”

Recess.

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

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill authorizing Brendan Gormley to take the civil service examination for firefighter in the town of Arlington (House, No. 4142),— **was read a second time and ordered to a third reading.**

The Senate Bill establishing a sick leave bank for Kathryn McGaffey, an employee of the Department of Social Services (Senate, No. 2447),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The House Bill relative to child abuse and neglect (House, No. 4333, printed as amended),— **was read a second time.**
Pending the question on ordering the bill to a third reading, Mr. Tisei 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 Senate Bill to promote breastfeeding (Senate, No. 2438),— **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 three minutes past two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 169**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	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
Marzilli, Jim	Wilkerson, Dianne — 38
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E. — 1.	

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

The Senate Bill relative to the oversight of inspections (Senate, No. 2473),— was read a third time and, after remarks, was passed to be engrossed. Sent to the House for concurrence.

The Senate Bill for a healthy Massachusetts safer alternatives to toxic chemicals (Senate, No. 2406, amended),— was considered; the main question being on ordering the bill to a third reading.

Pending the question on ordering the bill to a third reading, there being no objection, the President took the following amendment out of order.

Mr. Panagiotakos moved that the bill be amended by substituting a new draft with the same title (Senate, No. 2479).

After debate and pending the question on adoption of the amendment, Messrs. Tolman, Tarr and Brown moved that the pending new draft (Senate, No. 2479) be amended, in section 2, by striking out item 2020-0200 and inserting in place thereof the following item:—

“2020-0200 The secretary of energy and environmental affairs shall expend for the purposes of carrying out this act, an amount not to exceed \$11,500,000 from fees collected pursuant to this act; provided, that the first 30.5 per cent of the revenue collected, but not more than \$3,500,000 per year, shall be expended for the Toxics Use Reduction Institute at the University of Massachusetts at Lowell, a portion of which shall be expended for the University of Massachusetts at Worcester and for the University of Massachusetts at Amherst, apportioned commensurate to each university’s involvement in assessment reports and toxics research; provided further, that the next 13 per cent of the revenue collected, but not more than \$1,500,000 per year, shall be expended for retraining employees who lose their jobs due to the implementation of this act through the rapid response set aside program; provided further, that the next 13 per cent of the revenue collected, but not more than \$1,500,000 per year, shall be expended for business transitions assistance programs and innovative business leaders programs established under this act; provided further, that the final 43.5 per cent of revenue collected, but not more than \$5,000,000 per year, may be expended by the secretary to carry out this act; and provided further, that the department of environmental protection shall annually file a report with the house and senate committees on ways and means detailing the expenditures under this item in the preceding fiscal year 11,500,000”.

After remarks, the amendment was adopted.

Mr. Downing moved that the pending new draft be amended in section 10, in line 269, is hereby amended in clause (c) of subsection 26 by adding the following words after “feasibly available”: “at the same or lesser cost”.
The amendment was *rejected*.

Messrs. Tarr, Tisei, Hedlund, Knapik and Brown moved that the pending new draft be amended by inserting in section 25(B) of section 10, after the words “uses in products”, the following phrase:—

“The goal of the Chemical Action Plan shall be to coordinate state agency activities and to require users of priority toxic substance uses to act as expeditiously as possible to ensure substitution of the priority toxic substance with a safer alternative, while acting to minimize job loss and mitigate any other potential unintended negative impacts.”

The question on adoption of the amendment was determined by a call of the yeas and nays at twelve minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 170**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven

	C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	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
Marzilli, Jim	Wilkerson, Dianne — 38
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E. — 1.	

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

Messrs. Tarr, Tisei, Hedlund, Knapik and Brown moved that the pending new draft be amended in section 11, by striking it in its entirety and replacing it with the following section:—

“Section 11. (a) Notwithstanding any general or special law to the contrary, an employer separating one or more individuals from employment as a result of the implementation of this act shall notify the department of workforce development at the time of the separation. The local workforce investment board shall work with the rapid response team set aside program within the department of workforce development to determine an individual’s eligibility for retraining benefits under the set aside program. The rapid response team shall establish criteria to determine eligibility. Any individual deemed eligible under this provision may receive up to one year of training based assistance.

(b) The Executive Office of Energy and Environmental Affairs shall, in consultation with the Executive Office of Housing and Economic Development, work with the institute and the office to oversee a Business Transitions Assistance Program (BTAP) facilitating business transitions to safer alternatives to toxic chemicals in the Commonwealth. In developing the program, the EOEEA shall determine where business assistance and financial investment can be most effectively used to protect public health by focusing on application and promotion of safer alternatives.

The office of technical assistance shall provide technical assistance to businesses for developing and implementing safer alternatives consistent with section seven of this chapter. The Business Transition Assistance Program shall be principally operated through private consortia, public-private partnerships, and state universities.

The Business Transitions Assistance Program shall include:

1. programs to evaluate technologies, encourage university researchers to pursue projects, link researchers with industry partners, and attract funding and additional support through federal and private grant and financial assistance resources;
2. direct grants and loans to businesses for costs required to implement safer alternatives;
3. technical support focused on individual companies or user sectors;
4. technical assistance in assessing safer alternatives and assistance with forming consortiums to assess and develop safer alternatives;
5. research and development of safer alternatives, including demonstration projects;
6. market development programs to create demand for safer alternatives;
7. conferences, seminars, and workshops focused on joint problem solving and evaluation of technology development opportunities for particular user sectors;

8. publications focused on particular user sectors.

The Business Transition Assistance Program shall be developed with assistance from and collaboration with the department of labor and industries, department of economic development, the office of technical assistance of the executive office of environmental affairs, department of labor and workforce development, and other agencies.

The amendment was *rejected*.

Ms. Resor and Mr. Tolman moved that the pending new draft be amended, in section 14, in proposed section 25 of chapter 21I, by striking out subsection (a) and inserting in place thereof the following subsection:—

“(a) Based upon each completed safer alternatives assessment report, the council shall designate assessed substances as priority toxic substances and identify priority toxic substance uses of highest concern if the safer alternatives assessment report concludes that an assessed substance poses a significant risk of harm to human health or the environment and that safer alternatives can be feasibly substituted for specific uses of such substance.”; and, in line 236, by striking out the words “before adoption” and inserting in place thereof the following words:— “and, within 6 months, adopt a plan.”

The amendment was adopted.

Ms. Candaras moved that the pending new draft be amended, in section 14, by inserting after the word “public”, in line 182, the following words:— “, including all regions of the commonwealth,”.

The amendment was adopted.

Mr. Panagiotakos moved that the pending new draft 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 establish safer alternatives to toxic chemicals, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and safety.”; and, in section 7, in proposed section 28 of chapter 21I, by striking out subsection (c) and inserting in place thereof the following subsection:—

“(c) A product containing a priority toxic substance for which federal law governs notice in a manner that affects state authority to act with respect to that product shall be exempted from this section to the extent required to satisfy the limits imposed by the federal law with respect to state action regarding product.”

The amendment was adopted.

The pending new draft (Senate, No. 2479) was then adopted, as amended.

The bill (Senate, No. 2479, amended) was then ordered to a third reading, read a third time and, after remarks, was passed to be engrossed.

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill relative to the financial condition of the city of Salem (see Senate Bill, printed in Senate, No. 2480) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, after remarks, was passed to be enacted, two-thirds of the members present having voted in the affirmative, and it was signed by the President and laid before the Governor for his approbation.

The Senate Bill to generate renewable energy and efficiency now (Senate, No. 2468),— **came from the House passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof a duplicate of the text contained in House document numbered 4373.**

Senate Rule 36 was suspended, on motion of Mr. Morrissey, and the House amendment was considered forthwith and the Senate NON-concurred therein.

The same Senator asked for a committee of conference on the disagreeing votes of the two branches; and Senators Panagiotakos, Morrissey and Tarr were appointed to the committee on the part of the Senate.

The bill was returned to the House endorsed accordingly.

A petition (accompanied by bill, House, No. 4505) of Thomas J. Calter for legislation to establish a sick leave bank for Suzanne L. Soucie, an employee of the Trial Court of the Commonwealth,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on the Judiciary.**

Engrossed Bills.

The following engrossed bills (both 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:

Authorizing the appointment of special police officers in the city of Everett (see House, No. 3982); and

Relative to the disposition of abandoned vessels (see House, No. 4188, amended).

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the Dennis Water District to convey certain land (see House, No. 3741) (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 twenty-four minutes after three o'clock P.M., as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 171**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	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
Marzilli, Jim	Wilkerson, Dianne — 38
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E. — 1.	

The yeas and nays having been completed at twenty-nine minutes after 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 President and laid before the Governor for his approbation.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the transfer of the former Fisher Hill Reservoir in the town of Brookline (see House, No. 4343, 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 half past three o'clock P.M., as follows, to wit (*yeas 37 — nays 0*)
[Yeas and Nays No. 172]:

YEAS.	
Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	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
Marzilli, Jim	Wilkerson, Dianne — 37.
McGee, Thomas M.	
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Buoniconti, Stephen J. — 2.

The yeas and nays having been completed at twenty-seven minutes before four 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 President and laid before the Governor for his approbation.

Order Adopted.

On motion of Ms. Creem,—

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

Moment of Silence.

At the request of the Chair (Ms. Creem), the members, guests and employees stood in a moment of silence and reflection to the memory of Dr. Judah Folkham.

Adjournment in Memory of Dr. Judah Folkman.

The Senator from Middlesex and Norfolk, Ms. Creem, requested that when the Senate adjourns today, it adjourn in memory of Dr. Judah Folkman of Brookline, Massachusetts.

An innovative cancer research pioneer, Dr. Folkman, 74, died Monday, January 14, 2008. Founder and director of the Vascular Biology program at Children's Hospital Boston, Dr. Folkman discovered anti-angiogenesis therapy, demonstrating that disconnecting the flow of blood to tumors can slow, even reverse, the progression of cancer. A graduate of, and professor of, pediatric surgery at Harvard Medical School, Dr. Folkman was well-known for his compassionate attitude towards his patients, exemplifying his father's advice that Judah become "a rabbi-like doctor". He is survived by his wife, Paula, two daughters, and a granddaughter. Dr. Judah Folkman will be fondly remembered and missed by the medical community, family, and friends and by the many individuals whose lives he enriched.

Accordingly, as a mark of respect to the memory of Dr. Judah Folkman, at twenty-four minutes before four o'clock P.M., on motion of Mr. Downing, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.