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## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

*Thursday, April 3, 2008.*

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

#### *Distinguished Guests.*

There being no objection, during the consideration of the Orders of the Day, several guests were introduced as follows:  
The Chair (Ms. Murray) handed the gavel to Mr. Galluccio for the purpose of an introduction. Mr. Galluccio then introduced the North Cambridge Catholic Panthers who were accompanied by Coach Daniel Salazar and Assistant Coach Anthony Bianculli. The Senate applauded the team for winning the Division 4 State Championship and they withdrew from the Chamber.

The Chair (Ms. Murray) handed the gavel to Mr. Antonioni for the purpose of an introduction. Mr. Antonioni then introduced Julie Totten, from Newton, Massachusetts. Ms. Totten is the founder and Executive Director of Families for Depression Awareness. The Senate applauded her achievements and she withdrew from the Chamber.

#### *Communication.*

A communication from the Department of Public Health relative to a plan of correction submitted pursuant to inspection of MCI Framingham (received Wednesday, April 2, 2008),— **was placed on file.**

#### *Petitions.*

Petitions were presented and referred, as follows:

By Mr. Downing, a petition (subject to Joint Rule 12) of Benjamin B. Downing for legislation to create green collar jobs training; and

By Mr. Petrucci, a petition (subject to Joint Rule 12) of Anthony Petrucci for legislation to establish a sick leave bank for David S. Vitale, an employee of the Administrative Office of the Trial Court;

**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

#### *Reports of Committees.*

By Ms. Fargo, for the committee on Public Health, on Senate, Nos. 658 and 678 and House, No. 2159, a Bill relative to public health regionalization in the Commonwealth (Senate, No. 2568);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill providing for HIV testing for at risk police officers (Senate, No. 1391); and

By the same Senator, for the same committee, on petition, a Bill relative to the exposure of public safety officials to the aids virus and infectious hepatitis (Senate, No. 1402);

**Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.**

*Committee Discharged.*

Mr. Downing, for the committee on Senate Ethics and Rules, reported, asking to be discharged from further consideration of the Senate Bill relative to dementia special care units in long-term care facilities (Senate, No. 425),— **and recommending that the same be referred to the Senate committee on Ways and Means.**

**Under Senate Rule 36, the report was considered forthwith and accepted.**

**PAPERS FROM THE HOUSE.**

A Bill financing improvements to the Commonwealth's transportation system (House, No. 4637,— on House, No. 4609, in part),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill relative to the licensing of school bus drivers (House, No. 4396,— on House, No. 3436),— **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

*Bills*

Authorizing the appointment of retired police officers as special police officers in the town of Natick (House, No. 4401,— on petition) [Local approval received]; and

Authorizing the town of Chatham to issue two additional licenses for all alcoholic beverages to be drunk on the premises (House, No. 4522,— on House, No. 3943) [Local approval received on House, No. 3943];

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

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg), 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.

*Resolutions.*

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

Resolutions (filed by Mr. O'Leary) "joining with the town of Brewster as it celebrates May, 2008, as 'Older Americans Month'."

*Orders of the Day.*

The Orders of the Day were considered, as follows:

*Bills*

Relative to certain roads on Nantucket Island (House, No. 4056);

Regarding municipal retiree health insurance in the town of Lanesborough (House, No. 4060);

Authorizing the town of Amesbury to grant 2 additional alcoholic beverage licenses (House, No. 4426); and

Authorizing the town of Longmeadow to continue the employment of Police Chief Robert Dania (House, No. 4437);

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

The engrossed Bill further regulating employee compensation (see Senate, No. 1059) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was laid before the Senate,— the question being on passing the bill to be re-enacted.

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

The pending amendment, previously moved by Messrs. Tisei, Tarr, Knapik, Hedlund and Brown, inserting in line 4 after the words "aggrieved by a" the word:— "willful"; and by inserting in line 14 after the words "aggrieved by a" the word "willful"; and by inserting in line 24 after the words "aggrieved by a" the word:— "willful"; and by inserting in line 34 after the words "aggrieved by a" the word:— "willful"; and by inserting in line 45 after the words "aggrieved by a" the word:— "willful",— was considered.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seventeen minutes past three o'clock P.M., on motion of Mr. Knapik, as follows, to wit (*yeas 5 — nays 34*) [**Yeas and Nays No. 195**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — <b>5.</b>
Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	McGee, Thomas M.

Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	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.	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.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — <b>34.</b>

*The yeas and nays having been completed at twenty-one minutes past three o’clock P.M., the amendment was rejected.*  
After further remarks, the question on passing the bill to be re-enacted was determined by a call of the yeas and nays, at twenty-seven minutes past three o’clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 34 – nays 5) [**Yeas and Nays No. 196**]:

<b>YEAS.</b>	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	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.	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.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.

Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — <b>34.</b>
<b>NAYS.</b>	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — <b>5.</b>
Knapik, Michael R.	

**The yeas and nays having been completed at a half past three o'clock P.M., the bill was passed to be re-enacted and it was signed by the President and again laid before the Governor for his approbation.**

The Senate Bill further regulating teacher certification (Senate, No. 271, changed),— was considered; the question being on passing it to be engrossed.

The pending amendment previously moved by Mr. Antonioni, striking out the last sentence and inserting in place thereof the following sentence:— “A performance appeal, if determined by the commissioner to meet or exceed the performance level equivalent of the qualifying score, shall be the equivalent of a passing score on relevant tests for certification pursuant to this section.”,— **was considered.**

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

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 87B of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 60B of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 87G of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 47 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 3 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 81E of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and

the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 83 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 37 of chapter 221 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by insert-ing after the words “make rules with reference to examinations for admission” the following:— “including rules for an appeals process, which shall be available to such persons who have taken the examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 75 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 24 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 120 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following new section:—

“SECTION 2. Section 56 of chapter 112, as so appearing, is hereby amended by inserting at the end thereof the following:—

“There shall be an appeals process for such persons who have taken the written examination in question at least three times and the candidate has on at least one attempt attained a score within two standard of error of passing as determined by the board and has satisfied the payment of a reasonable fee to process such appeal as determined by the board.”

*After remarks, the amendment was rejected.*

Mr. Tisei moved that the bill be amended by inserting at the end thereof the following:— “The commissioner shall file a report once a year that details the number of persons whose appeal is granted and the number of persons whose appeal is rejected, as well as a short description of the reasons for granting and rejecting each appeal sought pursuant to this section; such report shall be filed with the chairs of the joint committee on education not later than November 1 of each year.”

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

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and the nays at thirteen minutes past four o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas* 34 — *nays* 5) [**Yeas and Nays No. 197**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.

Baddour, Steven A.	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.	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.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — <b>34.</b>
<b>NAYS.</b>	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — <b>5.</b>
Knapik, Michael R.	

**The yeas and nays having been completed at twenty-two minutes past four o’clock P.M., the bill (Senate, No, 271, changed and amended) was passed to be engrossed.  
Sent to the House for concurrence.**

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

*Report of a Committee.*

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill financing improvements to the Commonwealth’s transportation system (House, No. 4637),— ought to pass, with an amendment adding at the end thereof the text of Senate document numbered 2613.

There being no objection, the rules were suspended, on motion of Mr. Baddour, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

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

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at two minutes before five o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 39 — nays 0*) [**Yeas and Nays No. 198**]:

<b>YEAS.</b>	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.

Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — <b>39.</b>
Marzilli, Jim	
<b>NAYS — 0.</b>	

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

#### **PAPER FROM THE HOUSE.**

##### *Engrossed Bill.*

An engrossed Bill relative to child passenger safety (see Senate, No. 2018) (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.  
After remarks, the question on passing the bill to be enacted was determined by a call of the yeas and nays, at five minutes past five o’clock P.M., on motion of Mr. Baddour, as follows, to wit (*yeas 39 — nays 0*) [**Yeas and Nays No, 199**]:

<b>YEAS.</b>	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela

Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — <b>39.</b>
Marzilli, Jim	
<b>NAYS — 0.</b>	

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

*Orders of the Day.*

The Senate Bill relative to the prohibition of fishing gear containing lead (Senate, No. 2575),— was considered; the question being on passing it to be engrossed.

There being no objection, the pending amendment, previously moved by Messrs. Brewer and Timilty, was withdrawn.

Messrs. Tarr, Antonioni, Brewer, Knapik, Hedlund and Brown moved that the bill be amended striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2618.

**This amendment was adopted.**

**The bill (Senate, No. 2575, amended) was then passed to be engrossed.**

**Sent to the House for 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 House Bill further regulating health and other insurance for employees of the town of West Tisbury (House, No. 4102) (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.**

The House Bill relative to the affordable housing trust fund in the town of Provincetown (House, No. 4037),— **was read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to a certain reserve fund in the town of Oak Bluffs (House, No. 4041),— **was read a third time and passed to be engrossed, in concurrence.**

The Senate Bill relative to authorizing the city of Northampton to convert five currently issued seasonal all alcohol licenses to annual all alcohol licenses (Senate, No. 2594),— **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 authorizing the city of Northampton to convert 5 seasonal licenses for the sale of all alcoholic beverages to be drunk on the premises to annual".**

**Sent to the House for concurrence.**

*Reports of Committees.*

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 allowing town meetings to be held in June (House, No. 1943).

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



By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Dianne Wilkerson, Patricia D. Jehlen, Edward M. Augustus, Jr., Marc R. Pacheco and other members of the General Court for legislation to require judicial foreclosure.

**Senate Rule 36 was suspended, on motion of Mr. Knapik, 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. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Dianne Wilkerson, Patricia D. Jehlen, Edward M. Augustus, Jr., Marc R. Pacheco and other members of the General Court for legislation relative to a temporary moratorium on foreclosures.

**Senate Rule 36 was suspended, on motion of Mr. Knapik, 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. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Dianne Wilkerson, Patricia D. Jehlen, Edward M. Augustus, Jr., Marc R. Pacheco and other members of the General Court for legislation to require just cause for eviction and foreclosed properties.

**Senate Rule 36 was suspended, on motion of Mr. Knapik, 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. Severally sent to the House for concurrence.**

#### **PAPERS FROM THE HOUSE.**

##### *Engrossed Bills.*

The following engrossed bills (the first two 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:

Authorizing the Mashpee Water District to enter into a certain agreement with the town of Sandwich (see Senate, No. 2282, changed);

Authorizing the town of Dedham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see Senate, No. 2336, amended);

Further regulating parking for handicapped persons (see House, No. 3499, changed); and

Requiring continuing education of construction supervisors (see House, No. 4344).

An engrossed Bill providing for recall elections in the town of Wrentham (see Senate, No. 2290, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the President and again laid before the Governor for his approbation.

##### *Engrossed Resolve.*

An engrossed Resolve providing for an investigation and study by a special commission relative to the hidden wounds of war on Massachusetts service members (see House, No. 4526) (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 President and laid before the Governor for his approbation.

The House Bill providing for the investment in and expansion of the life sciences industry in the Commonwealth (House, No. 4554),— 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 of Senate document numbered 2556; and by striking out the emergency preamble and inserting in place thereof the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate capital improvement needy of the commonwealth, therefore it hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

**On motion of Mr. Hart, the Senate insisted in its amendment, and concurred in the appointment of a committee of conference on the disagreeing votes of the two branches; and Senators Hart, Brewer and Knapik were appointed to the committee on the part of the Senate.**

**The bill was returned to the House endorsed accordingly.**

The House Bill providing for a charter for the town of Groton (House, No. 4490),— came from the House with the endorsement that the House had concurred in the Senate amendment adding the following section:

“SECTION 4. This act shall take effect upon its passage.” with a further amendment in paragraph 3 of subsection (g) of Section 3-1, by striking out the third sentence and inserting in place thereof the following sentence: “If said officer does not resign his office within 5 days after delivery of such notice, the board of selectmen shall forthwith order an election to be held on a date fixed by the not less than 64 days not more than 90 days after the date that the election is called.”.

**The rules were suspended, on motion of Ms. Menard, and the House amendment was considered forthwith and adopted, in concurrence.**

***Engrossed Bill Returned with Recommendation of Amendment.***

A message from His Honor the Lieutenant-Governor, Acting Governor returning with recommendation of amendment the engrossed Bill authorizing the conveyance of certain parcels of land in the city of Boston (see House, No. 4185) [for message, see House, No. 4410],— came from the House with an amendment in the form approved by the committee on Bills in the Third Reading as follows:—

“SECTION 1. Notwithstanding sections 40E and 40J of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may lease, for a term not to exceed 30 years, certain parcels of state-owned land in the city of Boston to Expressway Motors, LLC. The lease shall be subject to such additional terms and conditions as the commissioner of capital asset management and maintenance, consultation with the commissioner of conservation and recreation, may prescribe, to ensure that environmental impacts associated with the use of the parcels are addressed and that the lease results in a net benefit to the park system.

The parcels are located on William T. Morrissey boulevard and shown as 11,219 square feet more or less and 1,925 square feet more or less on a plan of land dated July 25, 2005, and drawn by Allen & Major Associates, Inc. The lease shall contain a restriction that the parcels shall only be used for parking purposes and that the department of conservation and recreation may terminate the lease as to all or a portion of the parcels in the event the department determines that all or a portion of the land is needed for any public construction project associated with the improvement of Morrissey boulevard. The exact boundaries of the parcels to be leased shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, after completion of a survey. The consideration for the lease shall be the net present value of the full and fair market value of the lease of the parcels as determined by the commissioner of capital asset management and maintenance pursuant to 1 independent professional appraisal to be used in accordance with section 3.

SECTION 2. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve any appraisals required pursuant to section 1. An appraisal shall be prepared in accordance with usual and customary professional appraisal practices by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance. For the purposes of an appraisal, the full and fair market value of the area to be leased shall be calculated with regard to its full development potential as assembled with other lands owned or otherwise controlled by the Expressway Motors, LLC. The inspector general shall prepare a report of his review of the methodology utilized for the appraisal and shall file the report with the commissioner of capital asset management and maintenance, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets. The commissioner of capital asset management and maintenance shall, 30 days before the execution of a lease authorized by this act, or a subsequent amendment thereto, submit the proposed conveyance or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days after receipt of the proposed lease or amendment. The commissioner shall submit the proposed lease or amendment, and the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets at least 15 days before the execution of the lease or amendment.

SECTION 3. To ensure a no-net-loss of lands protected for conservation purposes, the lease of the parcel shall only occur if the lessee has mitigated the impact and conveyed, or caused to be conveyed, to the commonwealth land or an interest in land to be held by the department of conservation and recreation for said conservation purposes. The land or interest in land shall be of greater value than as determined in accordance with section 2 and shall be acceptable to the department, in its discretion.

SECTION 4. Notwithstanding any general or special law to the contrary, Expressway Motors, LLC, shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and preparation related to the lease authorized in this act as those costs may be determined by the commissioner of the division of capital asset management and maintenance and related to the conveyance required under section 3 as such costs may be determined by the commissioner of conservation and recreation.”

**The message, as amended 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 Ms. Fargo, and the Governor’s amendment was considered forthwith, and adopted, in concurrence (as corrected BTR).**

**Sent to the House for re-enactment.**

*Order Adopted.*

On motion of Mr. Creedon,—

*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.

*Moment of Silence.*

At the request of the President, the members, guests and employees stood in a moment of silence and reflection to the memory of Francis R. Powers.

***Adjournment in Memory of Francis R. “Frank” Powers.***

The Senator from Plymouth and Bristol, Mr. Creedon, the Senator from Plymouth and Barnstable, Ms. Murray, the Senator from Norfolk and Plymouth, Mr. Morrissey, the Senator from Bristol and Plymouth, Ms. Menard, the Senator from Plymouth and Bristol, Mr. Pacheco, the Senator from Bristol and Plymouth, Mr. Montigny, the Senator from Norfolk, Bristol and Plymouth, Mr. Joyce and the Senator from Plymouth and Norfolk, Mr. Hedlund, requested that when the Senate adjourns today, it adjourn in memory of Francis R. "Frank" Powers, Clerk of Courts of Plymouth County.

Francis R. "Frank" Powers passed away on Friday, March 28, 2008 at the age of 84. Mr. Powers was born in Dorchester to the late Edward and Delia (O'Hare) Powers.

One of five children, Mr. Powers attended Boston Latin School. Upon graduating in 1942, he worked for the FBI in Washington, D.C., then in Boston, before enlisting in the United States Army Air Corps. During World War II, he flew 32 combat missions and was awarded the Distinguished Flying Cross, among other medals. After the war, he graduated from Harvard in 1949 and from Suffolk Law School in 1951. Mr. Powers was elected Clerk of Superior Courts for Plymouth County in 1976 and served continuously since that time. He is survived by his wife Claire, his children, grandchildren and great grandchildren.

Accordingly, as a mark of respect to the memory of Francis R. "Frank" Powers, at twenty-six minutes past five o'clock P.M., on motion of Mr. Creedon, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.