

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, May 10, 2007.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

Petition.

Ms. Resor presented a petition (accompanied by bill, Senate, No. 2233) of Pamela P. Resor and James B. Eldridge (by vote of the town of Harvard) for legislation relative to property tax exemptions for registered affordable accessory apartments in the town of Harvard used as affordable housing [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Revenue.**
Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A Bill authorizing the town of Wellesley to convey a certain parcel of land (printed in House, No. 3748,— being a message from His Excellency the Governor),— **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

A Bill authorizing the town of Wellesley to convey a certain parcel of land (House, No. 3954,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Notice was received from the House announcing the following appointment:

That Representative Ross of Wrentham has been appointed by the Minority Leader to the Special Commission (established pursuant to Chapter 305 of the Acts of 2006) established relative to long-term care options for disabled adults.

Recess.

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess; and at twenty-one minutes past one o'clock P.M., the Senate reassembled, Mr. Rosenberg in the Chair.

The Chair (Mr. Rosenberg), members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Brewer for the purpose of an introduction. Mr. Brewer introduced Michelle Gallien who was accompanied to the Chamber by her mother Doreen. Michelle is a dedicated Special Olympic athlete from the town of Athol. She recently earned a gold medal as well as a silver medal last July at the Special Olympic National Games. Later this summer Michelle will travel to Nashville to train with Team USA in anticipation of competing in the World Games in China in October.

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Joyce for the purpose of an introduction. Mr. Joyce introduced Representative Stephanie Sharp, a state representative from Kansas who was visiting Massachusetts for a biotech conference. Representative Sharp signed the book and withdrew from the Chamber.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—
Resolutions (filed by Mr. Augustus) “commending Robert M. Sullivan for his life in public education”;
Resolutions (filed by Mr. Baddour) “on the two-hundredth birthday of John Greenleaf Whittier”;
Resolutions (filed by Ms. Fargo) “on the retirement of Dr. Richard Moser”;
Resolutions (filed by Ms. Menard) “observing May 16, 2007 as Unsung Heroines Day in Massachusetts”; and
Resolutions (filed by Ms. Resor) “honoring the Massachusetts Disabled Persons Protection Commission for their 20 years of outstanding service.”

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

May 9, 2007.

Mr. William Welch, Clerk
Massachusetts State Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

On Tuesday, May 1, 2007 I was absent from the Senate Chambers during formal session to attend to a matter of significant importance related to an informational hearing of the Joint Committee on Mental Health and Substance Abuse. During my absence from the chamber, I missed a roll call vote relative to Senate Bill 2222 Resolutions Forecasting the Amount of Tax Revenue for Fiscal Year 2008.

Had I been present, I would have voted in the affirmative on S-2222.

I would respectfully request that this letter be published in the Senate Journal as part of the official record for Tuesday, May 1, 2007. Thank you in advance for your assistance in this matter.

Sincerely,
DIANNE WILKERSON,
Senator,
Second Suffolk District.

On motion of Mr. Joyce, the above communication was ordered printed in the Journal of the Senate.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Authorizing the town of Lunenburg to exchange certain land (Senate, No. 1145);
Authorizing the town of Middleborough to deposit certain tax payments received into its land acquisition fund (Senate, No. 1187);
Authorizing the town of Middleborough to convey town-owned conservation land in exchange for other land to be used as conservation and recreation land (Senate, No. 1188);
Creating the city of Taunton’s economic development fund (Senate, No. 1192);
Relative to Chapter VII of the general by-laws of the town of Essex (Senate, No. 1201);
Authorizing the town of North Reading to convey and acquire land (House, No. 1954); and
Authorizing the town of North Reading to convey and acquire land (House, No. 1955);
Were severally read a second time and ordered to a third reading.

The Senate Bill relative to the Charlton water and sewer commission's water supply (Senate, No. 1153),— was read a second time and ordered to a third reading. There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was 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 further regulating water supply connections in the town of Charlton".

Sent to the House for concurrence.

The Senate Bill relative to the Charlton water and sewer commission (Senate, No. 1152),— **was read a second time.**

Pending the question on ordering the bill to a third reading, Mr. Brewer moved to amend the bill in section 1, by adding the following sentence:—"In exercising its discretion under this section, the Commission shall consider matters involving the capacities and capabilities of the town's wastewater treatment plant, sewerage and other infrastructure and equipment, and the desirability of prioritizing connections for commercial and residential properties within the original planned service area, as well as those with on-site septic systems that are in failure or at risk of failing."

The amendment was **adopted.**

The bill, as amended, was then ordered to a third reading. The rules were suspended, on motion of Mr. Brewer, and the bill was 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 further regulating sewer connections in the town of Charlton".

Sent to the House for concurrence.

The Senate Bill further regulating the placement of certain children (Senate, No. 75),— **was read a third time and, after remarks, was passed to be engrossed.**

Sent to the House for concurrence.

The Senate Bill establishing the public libraries fund (Senate, No. 2232),— **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 eleven minutes before two o'clock P.M., on motion of Mr. Augustus, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 16**] :

YEAS.

Antonioni, Robert A.	Knapik, Michael R.
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.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
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	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —

NAYS — 0.

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

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill relative to the sale of land by the Massachusetts Water Resources Authority (see Senate, No. 2179, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 9 to 0. The bill was signed by the Acting President (Mr. Rosenberg) and sent to the House for enactment.**

A report of the committee on Consumer Protection and Professional Licensure, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 229) of Christopher G. Fallon for legislation to establish a car buyer bill of rights, and recommending that the same be referred to the committee on Telecommunications, Utilities and Energy,— **was considered.**

On motion of Mr. Morrissey, the Senate NON-concurred in the discharge of the said committee. Sent to the House for its action.

Order Adopted.

Mr. Panagiotakos offered the following order:

Ordered, that notwithstanding Senate Rule 7, Rule 27A, or any other rule to the contrary:

- (1) The general appropriation bill as reported by the Committee on Ways and Means shall be placed in the Orders of the Day for Wednesday, May 23, 2007, for its second reading.
- (2) All amendments to the bill shall be filed electronically in the office of the Clerk of the Senate by 12:00 P.M. on Friday, May 18, 2007. 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.
- (3) 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.
- (4) All other provisions of Rule 27A and of other rules shall continue to apply.

Under Senate Rule 20, referred to the committee on Ethics and Rules.

Subsequently, Ms. Menard, for the said committee, reported that the order ought to be adopted.

The rules were suspended, on motion of Ms. Menard, and the order was considered forthwith; and it was adopted.

PAPER FROM THE HOUSE.

A Bill relative to the protection of personal information (House, No. 4018,— on Senate, No. 208),— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Barrios, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Morrissey moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2235; and by striking out the title and inserting in place thereof the following title:— “An Act relative to security freezes and notification of data breaches.”

The amendment was **adopted.**

The bill, as amended, was then ordered to a third reading and read a third time.

Pending the question on passing the bill to be engrossed, Messrs. Tisei, Tarr, Barrios, Knapik, Hedlund, Brown and Montigny moved that the bill be amended by adding the following 3 additional sections:—

“SECTION 3. The third paragraph of subdivision (b) of section 56 of chapter 93 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:— You have a right to dispute inaccurate information by contacting the consumer reporting agency directly, either in writing or by telephone. The consumer reporting agency shall provide, upon request and without unreasonable delay, a live representative of the consumer reporting agency to assist in dispute resolution.

SECTION 4. Section 58 of said chapter 93, as so appearing, is hereby amended, by striking out, in line 17, the word ‘writing’ and inserting in place thereof the following words:— writing, but shall provide consumers with the option of speaking with a live representative at any time during the dispute resolution process.

SECTION 5. Said section 58 of said chapter 93, as so appearing, is hereby further amended by adding the following clause:—

(j) At any time during the dispute process described in this section, the consumer shall have the right to request to speak to a live representative from the consumer reporting agency in an attempt to resolve the dispute. The consumer reporting agency shall maintain a toll-free telephone number available to consumers for such a purpose and shall notify consumers of its availability.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eighteen minutes before three o’clock P.M., as follows, to wit (*yeas 37 — nays 1*) [**Yeas and Nays No. 17**]:

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.
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.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin Brackett	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —
Knapik, Michael R.	37.

NAYS.

Berry, Frederick E. —
1.

The yeas and nays having been completed a quarter before three o’clock P.M., the amendment was adopted.

Messrs. Barrios and Montigny moved that the bill be amended, in section 4, in paragraph 12 and paragraph 13, of the proposed section 62 of chapter 93 of the General Laws, by striking out the figure “10” and inserting in place thereof in each instance the following figure:— “5”.

After remarks, the question on adoption of the amendment, was determined by a call of the yeas and nays, at seven minutes past three o’clock P.M., as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 18**]:

YEAS.

Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.

Jr.

Baddour, Steven A.	Menard, Joan M.
Barrios, Jarrett T.	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.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin Brackett	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —

38.

NAYS — 0.

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

Mr. Barrios moved to further amend the bill, in section 4, in the sixth paragraph of section 62A by inserting after the words "comply with the request" the following words:— "as quickly as commercially possible, but under no circumstances".

After remarks, the amendment was adopted.

Mr. Montigny moved that the bill be amended in section 4, in the thirteenth paragraph, by adding the following sentence:— "Each consumer reporting agency shall allow consumers 1 security freeze and 1 lift of the security freeze per year, free of charge."

After remarks, the question on adoption of the amendment, was determined by a call of the yeas and nays, at sixteen minutes past three o'clock P.M., as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 19**]:

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.	Pacheco, Marc R.
Buoniconti, Stephen J.	Panagiotakos, Steven C.

Candaras, Gale D.	Resor, Pamela
Chandler, Harriette L.	Rosenberg, Stanley C.
Creedon, Robert S., Jr.	Spilka, Karen E.
Creem, Cynthia Stone	Tarr, Bruce E.
Downing, Benjamin	Timilty, James E.
Brackett	
Fargo, Susan C.	Tisei, Richard R.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —
	37.

Knapik, Michael R.

NAYS — 0.

ABSENT OR NOT VOTING.

Hart, John A., Jr. — **1.**

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

Messrs. Barrios and Montigny moved that the bill be amended in the seventh paragraph of section 4, by striking out the words “expedited manner.” and inserting in place thereof the following words:— “expedited manner, provided, however, that the director of consumer affairs and business regulation may adopt regulations requiring alternate notice procedures for requesting or removing a security freeze.”

After remarks, the amendment was **adopted**

Ms. Jehlen moved that the bill be amended in section 11, in the proposed section 93H of chapter 93 of the General Laws, by inserting after the eleventh paragraph the following paragraph:—

“A victim who reasonably believes that his personal identifying information has been unlawfully used in violation of section 37E of chapter 266 may request and shall receive an incident report, and an investigative report, if any, from the law enforcement agency located in the municipality wherein the victim resides or located in the municipality where the victim’s personal identifying information has been unlawfully used. Such law enforcement agency shall provide the victim with such incident report and an investigative report, if any, relative to the suspected identity theft. Such law enforcement agency may also refer the matter to the law enforcement agency where the suspected offense was committed for investigation. Nothing in this section shall interfere with the discretion of a local police department to allocate resources for investigation of offenses. A complaint for violating said section 37E of said chapter 93 shall not be counted as an open case for the purpose compiling open case statistics.”

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

The question on passing the bill to be engrossed, in concurrence, with the amendments was determined by a call of the yeas and nays at twenty-three minutes past three o'clock P.M., on motion of Mr. Brown, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 20**]:

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.	Pacheco, Marc R.

Buoniconti, Stephen J.	Panagiotakos, Steven C.
Candaras, Gale D.	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.
Havern, Robert A.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —
	3.
Knapik, Michael R.	

NAYS — 0.

ABSENT OR NOT VOTING.

Hart, John A., Jr. — **1.**

The yeas and nays having been completed at twenty-six minutes past three o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments. [For text of Senate amendments, see Senate, No. 2236, being the text of Senate, No. 2235, printed as amended].

Sent to the House for concurrence in the amendments.

Order Adopted.

The President in the Chair, on motion of Ms. Spilka,—

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 Marjorie C. Joyce.

The Senator from Hampshire and Franklin, Mr. Rosenberg, presented a request that when the Senate adjourns today, it do so in memory of Marjorie C. Joyce of Milton.

Mrs. Joyce was the granddaughter of Jeremiah F. Donovan, who served in the House of Representatives between 1897 and 1903. Marjorie was the devoted wife of Gerard J. Joyce, the loving mother of eight children including Senator Brian A. Joyce, and the proud grandmother of sixteen grandchildren.

Accordingly, as a mark of respect to the memory of Marjorie C. Joyce of Milton at twenty-eight minutes past three o'clock P.M., on motion of Ms. Jehlen, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.