

**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.

*Wednesday, June 4, 2008.*

Met at four minutes past one o'clock P.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

#### *Distinguished Guests.*

There being no objection, several guests were recognized as follows:—

The President introduced a group of students from Bourne Middle School, the Bourne Energy Savers. These students are being honored as the Massachusetts Middle School of the Year as awarded by the National Energy Education Development Project's Youth Awards Program, undertaken in cooperation with the Cape Light Compact. Among their many projects to create community awareness, the Energy Savers have established a recycling program at their school, have distributed LED light bulbs to members of their community and created a book for elementary school students titled "Clemie, the Cape Cod Clam". The students were accompanied by teachers Cynthia McCann and Laura Perry. Also recognized were Principal Ernest Frias and Peggy McEvoy, creator of the Energy Savers and Vice Principal of a Barnstable School. The Senate applauded their accomplishments and they withdrew from the Chamber.

The Chair (Ms. Menard) handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced Nancy Zollers from Newton, Massachusetts, Ms. Zollers is currently the Public Policy Director for the ARC of Massachusetts, whose mission is to enhance the lives of individuals with intellectual and developmental disabilities and their families. Nancy was accompanied by her daughter, Sarah Laski, who has just completed her freshman year at Clark University. Nancy and Sarah were welcomed by the Senate and applauded for being the winners of a charity auction.

The Chair (Ms. Menard) handed the gavel to Mr. Galluccio for the purpose of an introduction. Mr. Galluccio then introduced Edirson "Eddie" Paiva. Mr. Paiva was recognized for celebrating a successful twenty years as owner of the Brazilian Times Newspaper, the first Brazilian newspaper in Massachusetts. He was applauded for his hard work and dedication and withdrew from the Chamber.

The Chair (Ms. Menard) handed the gavel to Mr. Hedlund for the purpose of an introduction. Mr. Hedlund then introduced Ron Bersani who was being honored for his dedication and advocacy for the Massachusetts Commission for the Blind and the Talking Information Center, which is celebrating its 30th anniversary serving visually impaired citizens of the Commonwealth. The Senate applauded his accomplishments and he withdrew from the Chamber.

The Chair (Ms. Menard) handed the gavel to Mr. Baddour for the purpose of an introduction. Mr. Baddour, accompanied by Representative Costello, then introduced Bert Carey and Derek Raschke. Bert had suffered sudden cardiac arrest while in a small store in Newburyport. Fortunately, Derek, an eighteen year old senior in high school, had just completed a CPR course as a graduation requirement at Newburyport High School. Within twenty seconds of Bert's collapse, Derek began performing CPR

and was able to keep blood and oxygen moving through his heart until the EMT's arrived. The Senate applauded Derek's heroic efforts for the major part that he played in saving Bert's life.

#### *Reports.*

The following reports were severally read and placed on file:—

A report of the Massachusetts Commission on Gay, Lesbian, Bisexual and Transgender Youth (pursuant to Section 67(c)(2) of Chapter 3 of the General Laws) submitting its 2008 Annual Report representing the work of the Commission in fiscal year 2008 (received Monday, June 2, 2008);

A report of the Commission on the Status of Women (under the provisions of Section 66 of Chapter 3 of the General Laws) submitting its annual report for fiscal year 2008 (received Tuesday, June 3, 2008); and

A report of the Executive Office of Public Safety (pursuant to Chapter 170 of the Acts of 2004) submitting its report "A summary of Electronic Weapons Use in Massachusetts" (received Tuesday, June 3, 2008).

#### *Petitions.*

Petitions were presented and referred as follows:—

By Mr. Brewer, a petition (accompanied by bill, Senate, No. 2731) of Stephen M. Brewer, Anne M. Gobi and Todd M. Smola (by vote of the town of Ware) for legislation relative to the Department of Public Works of the town of Ware;

By the same Senator, a petition (accompanied by bill, Senate, No. 2732) of Stephen M. Brewer, Anne M. Gobi and Todd M. Smola (by vote of the town of Ware) for legislation to establish a revolving fund in the town of Ware; and

By Mr. Hedlund, a petition (accompanied by bill, Senate, No. 2734) of Robert L. Hedlund (by vote of the town) for legislation to authorize the town of Weymouth to transfer certain water supply land [Local approval received];

**Severally, under Senate Rule 20, to the committee on Municipalities and Regional Government.**

**Severally sent to the House for concurrence.**

Mr. Joyce presented a petition (subject to Joint Rule 12) of Brian A. Joyce, Anthony D. Galluccio, Bruce J. Ayers, Joseph R. Driscoll and other members of the General Court for legislation to establish a sick leave bank for Gloria Phillips, an employee of the Department of Public Health,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

#### *Reports of Committees.*

By Mr. Creedon, for the committee on the Judiciary, on Senate, Nos. 243, 783, 793, 795, 802, 811, 813, 814, 815, 816, 817, 821, 833, 836, 841, 842, 847, 855, 856, 863, 868, 870, 875, 891, 898, 902, 915, 939, 945, 948, 974, 980, 985, 992, 993, 994, 1018, 1034, 1035, 1043, 1044, 1849, 2193, 2194, 2195 and 2380, an Order relative to authorizing the joint committee on the Judiciary to make an investigation and study of certain current Senate documents relative to issues concerning criminal procedures and penalties, CORI, torts, sex offenders, real estate, probate, the courts of the Commonwealth and other related legal matters (Senate, No. 2727);

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition (accompanied by bill, Senate, No. 1982), an Order relative to authorizing the joint committee on Telecommunications, Utilities and Energy to make an investigation and study of a certain current Senate document relative to wireless telephone issues (Senate, No. 2723) (Senator Tarr dissenting); **Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.**

By Mr. Buoniconti, for the committee on Financial Services, on the recommitted petition (accompanied by bill, Senate, No. 622), a Bill relative to equitable coverage for annuity policies (Senate, No. 2729) (Representative Spellane of Worcester dissenting);

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on the recommitted petition, a Bill relative to the qualification of inspectors of wire and assistant inspectors of wire employed by a city or town (Senate, No. 237); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 204), a Bill relative to the licensing of telecommunications professionals (Senate, No. 2728);

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

#### *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 the Environment, Natural Resources and Agriculture to make an investigation and study of a certain current Senate document relative to outdoor wood fired boilers

(Senate, No. 2719),— **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.**

A message from His Excellency the Governor recommending legislation relative to providing the terms of certain bonds to be issued by the Commonwealth to finance production and preservation of housing for low and moderate income residents and certain other bonds and notes to be issued by the Commonwealth (House, No. 4813),— **was referred, in concurrence, to the committee on Bonding, Capital Expenditures and State Assets.**

A report of the committee on Health Care Financing, asking to be discharged from further consideration of the House Bill relative to medical examinations (House, No. 1048), and recommending that the same be discharged to the House committee on Ways and Means,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, insomuch as relates to the discharge of the joint committee.**

A report of the committee on Public Safety and Homeland Security, asking to be discharged from further consideration of the House Bill regulating liquefied natural gas tanker import terminals (House, No. 2383), and recommending that the same be referred to the committee on Telecommunications, Utilities and Energy,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, insomuch as relates to the reference to the joint committee.**

The House Bill relative to the further economic development of the Commonwealth (House, No. 4383, amended),— **came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2590; and striking out the title and inserting in place thereof the following title:— “An Act relative to the further economic development of the Commonwealth.” with a further amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4814.**

**Senate Rule 36 was suspended, on motion of Ms. Menard, and the House further amendment was considered forthwith and adopted in concurrence (as corrected BTR).**

#### *Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:— Resolutions (filed by Mr. Hedlund) “honoring Ron Bersani for his dedication and advocacy for the Massachusetts Commission for the Blind on the thirtieth anniversary of the Talking Information Center”;

Resolutions (filed by Mr. Joyce) “congratulating Acting Chief of Police Christopher Ciampa on his retirement from the Stoughton Police Department”; and

Resolutions (filed by Mr. Morrissey) “celebrating the opening of the town of Abington Senior Center.”

#### *Committee of Conference.*

The House Bill making appropriations for the fiscal year 2009 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4701),— **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 2714, printed as amended and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives DeLeo of Revere, St. Fleur of Boston and deMacedo of Plymouth had been appointed the committee on the part of the House.**

**On motion of Mr. Brewer, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Panagiotakos, Brewer and Knapik were appointed on the part of the Senate. The bill was returned to the House endorsed accordingly.**

#### *Orders of the Day.*

The Orders of the Day were considered, as follows:—

Establishing a project mitigation contribution (“linkage”) program for open space and historic preservation in the city of Somerville (Senate, No. 2167);

Authorizing the establishment of a municipal open space and historic preservation trust fund in the city of Somerville (Senate, No. 2171);

Relating to the speed limits in the town of Williamsburg (Senate, No. 2265);

Authorizing the city of New Bedford School Committee and the University of Massachusetts-Dartmouth to enter into lease agreement for term not to exceed twenty five years (Senate, No. 2525);

Establishing the Caleb Chase trust fund revenue account in the town of Dennis (House, No. 3153);  
Relative to conservation restrictions on certain parcels of land under the control of the town of Edgartown (House, No. 4294);  
Exempting the position of chief of police in the city of Methuen from the civil service law (House, No. 4461); and  
Exempting the position of deputy chief of police in the town of Dartmouth from the civil service law (House, No. 4464);  
**Were severally read a second time and ordered to a third reading.**

The House Bill authorizing the town of Topsfield to issue a license for the sale of wine and malt beverages not to be drunk on the premises (House, No. 4428),— **was read a second time and ordered to a third reading.**

**There being no objection, the rules were suspended, on motion of Ms. Menard, and the bill was read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows:— “An Act authorizing the town of Topsfield to issue a license for the sale of wines and malt beverages not to be drunk on the premises”.**

The Senate Bill relative to a parcel of land in the city of Lowell (Senate, No. 2726),— **was read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

The House bills

Establishing a Sick Leave Bank for Kimberly Chuckran, an employee of the Department of Correction (House, No. 2513);  
Establishing a sick leave bank for Samuel Pill, an employee of the Trial Court (House, No. 4722); and  
Establishing a sick leave bank for Carol A. Wall, an employee of the Department of Mental Retardation (House, No. 4912);  
**Were severally read a third time and passed to be engrossed, in concurrence.**

The Senate Bill relative to the financing by the city of Westfield of its portion of public improvements associated with the Westfield Pavilion development (Senate, No. 2439),— **was read a second time and ordered to a third reading.**

The Senate Bill establishing the Martha’s Vineyard Housing Bank (Senate, No. 2546),— **was read a third time.**  
**Pending the question on passing the bill to be engrossed, 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 establishing the Nantucket Community Housing Bank (Senate, No. 2544),—**was read a third time.**  
**Pending the question on passing the bill to be engrossed, 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 relative to Gold Star license plates (Senate, No. 2352, amended),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Tisei moved that the bill be amended by adding the following section:—

“SECTION 3. Said section 2 of said chapter 90, as so appearing is hereby further amended by adding the following paragraph:—  
The registrar shall develop guidelines for and shall implement a license plate retention program for members of the United States military and Department of Defense employees who are deployed to, or present in, a theater of combat operations. Under the program, any Massachusetts resident who is serving in the United States military, the United States military reserves, the Massachusetts National Guard or is working as a civilian employee of the United States Department of Defense or 1 of its agencies and who is deployed to, or present in, a theater of combat operations, shall have the option of retaining 1 or more of his motor vehicle license plates at no charge, for the duration of his deployment. The registrar shall develop and make available an appropriate form or forms which may be used by a qualifying individual to cancel his automobile insurance and suspend his vehicle’s registration, taking effect prior to deployment and upon the sale or storage of his motor vehicle. Upon returning from his deployment, the vehicle’s owner shall furnish the registry with proof that his automobile insurance policy has been reinstated and the registry may then allow him to register and affix his plates to a new vehicle or to re-register the plates and re-affix them to an existing vehicle held in storage.”.

**This amendment was adopted.**

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty minutes past one o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 240**]:

#### **YEAS.**

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

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 —

**38.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Marzilli, Jim — 1.

**The yeas and nays having been completed at twenty-three minutes past one o'clock P.M., the bill (Senate, No. 2352, amended) was passed to be engrossed.  
Sent to the House for concurrence.**

The Senate Bill relative to rates of pilotage (Senate, No. 515),— **was considered; the question being on ordering the bill to a third reading.**  
**On motion of Mr. McGee, the further consideration thereof was postponed until the next session.**

*Matter Taken Out of the Notice Section of the Calendar.*

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:—  
The Senate Bill relative to certain sewer connections in the town of Essex (Senate, No. 1201) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed.**  
**Sent to the House for concurrence.**

*Report of a Committee.*

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to the Massachusetts Municipal Wholesale Electric Company (Senate, No. 2647) ,— **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2733).**

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

**The bill (Senate, No. 2733) was then ordered to a third reading and read a third time.**

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays), at twenty-seven minutes before two o'clock P.M., on motion of Ms. Candaras, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 241**]:

**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.
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 —

**38.**

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Marzilli, Jim — 1.

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

**Sent to the House for concurrence.**

*Order Adopted.*

Mr. Morrissey offered the following order, to wit:—

*Ordered,* That notwithstanding the provisions of Joint Rule 10, the Committee on Consumer Protection and Professional Licensure be granted until Friday, June 30, 2008 within which to make its final report on current Senate document numbered 2667 relative to alcoholic beverage licenses in the town of Wenham.

**Under the rules, referred to the committees on Rules of the two branches, acting concurrently.**

**Subsequently, Mr. Downing for the said committees reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Mr. Brewer, and the order was considered forthwith and adopted.**

**Sent to the House for concurrence.**

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

A joint petition (accompanied by bill, House, No. 4815) of F. Jay Barrows and others for legislation to establish a sick leave bank for Matthew Dicicco, an employee of the Department of Correction,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

*Recess.*

There being no objection, at a quarter before two o’clock P.M, the President declared a recess subject to the call of the Chair; and, at a twenty-two minutes past three o’clock P.M., the Senate reassembled, the President in the Chair.

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

*Emergency Preamble Adopted.*

An engrossed Bill relative to the further economic development of the Commonwealth (see House, No. 4383, 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 7 to 0.**

**The bill was signed by the President and sent to the House for enactment.**

*Engrossed Bill — State Credit.*

Ms. Menard in the Chair, an engrossed Bill relative to the further economic development of the Commonwealth (see House, No. 4383, 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, it being a bill that provided for the gift, loan or pledge of the credit of the Commonwealth, in accordance with the provisions of Section I of Article LXII 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-three minutes before four o'clock P.M., as follows, to wit (*yeas 35 — nays 2*) [**Yeas and Nays No. 242**]:

**YEAS.**

Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	Pacheco, Marc R.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Candaras, Gale D.	Petrucelli, Anthony
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian — <b>35.</b>
Joyce, Brian A.	

**NAYS.**

Montigny, Mark C.	O'Leary, Robert A. — <b>2.</b>
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**ABSENT OR NOT VOTING.**

Marzilli, Jim	Wilkerson, Dianne — <b>2.</b>
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The yeas and nays having been completed at seventeen 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 Acting President (Ms. Menard) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

*Order Adopted.*

On motion of Mr. Timilty,—

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

On motion of Mr. Brewer, at a quarter before four o'clock P.M., the Senate adjourned to meet on the following day at eleven o'clock A.M.