

**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, January 14, 2009.*

Met according to adjournment at a half past two o'clock P.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, the Chair (Mr. Brewer) handed the gavel to Ms. Chandler for the purpose of an introduction. Ms. Chandler then introduced, in the rear of the Chamber, the Worcester State College Baseball Team. The team is the 2008 Massachusetts State College Athletic Conference Champions. The team was accompanied by their coach, Dr. Dirk Baker. They were the guests of Senators Chandler and Michael O. Moore.

#### *Communication.*

A communication from the Honorable Michael O. Moore under the provisions of Chapter 268A of the General Laws,— was placed on file.

#### *Recess.*

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

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

#### *Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—  
Resolutions (filed by Mr. Hedlund) “recognizing the First Parish Unitarian Universalist Church of Scituate on the celebration of its three hundred and seventy-fifth anniversary”;  
Resolutions (filed by Mr. Pacheco) “congratulating Stephen M. Baptiste for his distinguished service to his community”;  
Resolutions (filed by Mr. Pacheco) “congratulating Samuel Heavey on becoming an Eagle Scout”;  
Resolutions (filed by Mr. Pacheco) “congratulating Christopher B. Slater on the occasion of his retirement from the Bridgewater-Raynham Regional School System”; and  
Resolutions (filed by Mr. Rosenberg) “congratulating the Martin Luther King Jr. Breakfast Committee of Amherst on its twenty-fifth anniversary.”  
Communication.

The Clerk read the following communication:

Commonwealth of Massachusetts  
THE GENERAL COURT  
State House, Boston 02133-1053

January 12, 2009.

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

Dear Mr. Clerk,

I regret to inform you that I will be unable to attend the Full Formal Session of the Massachusetts Senate on Wednesday, January 14, 2009 due to the death of my grandfather; as his funeral mass will be held on this day.

*Respectfully,*  
JENNIFER L. FLANAGAN,  
*State Senator,*  
*Worcester and Middlesex District.*

On motion of Mr. Richard T. Moore, the above communication was ordered printed in the Journal of the Senate.

**PAPER FROM THE HOUSE.**  
***House Order.***

The following House Order (approved by the House committee on Rules) was considered forthwith and adopted, in concurrence, to wit:

*Ordered*, that, notwithstanding the provisions of Joint Rule 12, petitions, and all other subjects of legislation, shall be deposited with the Clerk of either branch prior to five o'clock in the afternoon on Friday, January 16, 2009.

*Order Adopted.*

The President in the Chair, Mr. O'Leary offered the following order, to wit:

*Ordered*, That a convention of the two branches be held at a quarter before seven o'clock P.M., on Thursday, January 15, 2009, for the purpose of receiving such communication as the Governor, Deval L. Patrick, may be pleased to make to them relating to the concerns of the Commonwealth.

**Sent to the House for concurrence.**

At ten minutes past four o'clock P.M., Mr. Tisei doubted the presence of a quorum. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

**Subsequently, at eleven minutes past four o'clock P.M., a quorum was declared present.**

**PAPER FROM THE HOUSE.**

Mr. Rosenberg in the Chair, a Bill relative to expanding the Governor's authority to address deficiencies in revenue (House, No. 98, amended, — on House, No. 96),— **was read.**

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

Pending the question on ordering the bill to a third reading, Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting in section 3 after the words "current fiscal year" the words:— " , provided that cuts in the accounts shall be of an equal percentage and proportional among municipalities and regional school districts."; and by striking section 5.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at sixteen minutes past six o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 8 — nays 30*) [**Yeas and Nays No. 2**]:

YEAS.

Brown, Scott P. O'Leary, Robert A.  
Hedlund, Robert Tarr, Bruce E.  
Knapik, Michael R. Timilty, James E.  
Moore, Richard T. Tisei, Richard R.— 8.

NAYS.

Baddour, Steven A. Joyce, Brian A.

Berry, Frederick E. Kennedy, Thomas P.  
Brewer, Stephen M. McGee, Thomas M.  
Buoniconti, Stephen J. Menard, Joan M.  
Candaras, Gale D. Montigny, Mark C.  
Chandler, Harriette L. Moore, Michael O.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Creem, Cynthia Stone Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petruccelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Fargo, Susan C. Spilka, Karen E.  
Galluccio, Anthony D. Tolman, Steven A.  
Hart, John A., Jr. Tucker, Susan C.  
Jehlen, Patricia D. Walsh, Marian — 30.

ABSENT OR NOT VOTING.  
Flanagan, Jennifer L. — 1.

The yeas and nays having been completed at nineteen minutes past six o'clock P.M., the amendment was *rejected*.  
Mr. Tarr moved that the bill be amended in section 5, by striking the words:—“(3) the percentage of the municipality’s or regional school district’s budget that comes from the state;”  
*After remarks, the amendment was rejected.*

Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new section:—  
“SECTION 7. Section 9C of chapter 29 of the general laws, as appearing in 2006 official edition, is hereby amended by striking the words ‘within 15 days after such notification, reduce allotments under section 9B, and submit in writing a report stating the reason for and effect of such reductions’ and insert in place thereof the following: — within 15 days after such notification shall submit a plan detailing proposed reductions under section 9B, and those reductions shall not take effect until 7 days subsequent to the filing of such plan.”  
After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-six minutes past six o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 10 — nays 28*) [**Yeas and Nays No. 3**]:

YEAS.  
Brown, Scott P. O’Leary, Robert A.  
Hedlund, Robert L. Tarr, Bruce E.  
Knapik, Michael R. Timilty, James E.  
Moore, Michael O. Tisei, Richard R.  
Moore, Richard T. Tucker, Susan C.— 10.

NAYS.  
Baddour, Steven A. Jehlen, Patricia D.  
Berry, Frederick E. Joyce, Brian A.  
Brewer, Stephen M. Kennedy, Thomas P.  
Buoniconti, Stephen J. McGee, Thomas M.  
Candaras, Gale D. Menard, Joan M.  
Chandler, Harriette L. Montigny, Mark C.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Creem, Cynthia Stone Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petruccelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Fargo, Susan C. Spilka, Karen E.  
Galluccio, Anthony D. Tolman, Steven A.  
Hart, John A., Jr. Walsh, Marian — 28.

ABSENT OR NOT VOTING.  
Flanagan, Jennifer L.— 1.

The yeas and nays having been completed at twenty-nine minutes past six o'clock P.M., the amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 5, by inserting after the words“(3) the percentage of the municipality’s or regional school district’s budget that comes from the state;” the following: — “the impact upon communities and regional school district significantly affected by prior 9C reductions that occurred in fiscal year 2003”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-six minutes before seven o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 7 — nays 31*) [**Yeas and Nays No. 4**]:

YEAS.

Brown, Scott P. Knapik, Michael R.  
Eldridge, James B. Tarr, Bruce E.  
Hedlund, Robert L. Tisei, Richard R. — 7.  
Jehlen, Patricia D.

NAYS.

Baddour, Steven A.. Menard, Joan M.  
Berry, Frederick E.. Montigny, Mark C.  
Brewer, Stephen M. Moore, Michael O.  
Buoniconti, Stephen J. Moore, Richard T.  
Candaras, Gale D. Morrissey, Michael W.  
Chandler, Harriette L. O'Leary, Robert A.  
Chang-Diaz, Sonia Pacheco, Marc R.  
Creem, Cynthia Stone Panagiotakos, Steven C.  
Donnelly, Kenneth J. Petruccelli, Anthony  
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.  
Joyce, Brian A. Tucker, Susan C.  
Kennedy, Thomas P. Walsh, Marian — 31.  
McGee, Thomas M.

ABSENT OR NOT VOTING.

Flanagan, Jennifer L.— 1.

The yeas and nays having been completed at twenty-three minutes before seven o'clock P.M., the amendment was *rejected*.

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

“SECTION 6. Notwithstanding the provisions of this act to the contrary, any reduction in payments to a municipality, school district or regional school district under this act shall be submitted to the legislature for consideration. Absent legislative action within 5 days, said reductions shall go into effect.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at eighteen minutes before seven o'clock P.M., on motion of Mr. Brown, as follows, to wit (*yeas 8 — nays 30*) [**Yeas and Nays No. 5**]:

YEAS.

Brown, Scott P. O'Leary, Robert A.  
Hedlund, Robert Tarr, Bruce E.  
Knapik, Michael R. Timilty, James E.  
Moore, Richard T. Tisei, Richard R.— 8.

NAYS.

Baddour, Steven A. Joyce, Brian A.  
Berry, Frederick E. Kennedy, Thomas P.  
Brewer, Stephen M. McGee, Thomas M.  
Buoniconti, Stephen J. Menard, Joan M.  
Candaras, Gale D. Montigny, Mark C.  
Chandler, Harriette L. Moore, Michael O.  
Chang-Diaz, Sonia Morrissey, Michael W.  
Creem, Cynthia Stone Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petruccelli, Anthony  
Eldridge, James B. Rosenberg, Stanley C.  
Fargo, Susan C. Spilka, Karen E.  
Galluccio, Anthony D. Tolman, Steven A.  
Hart, John A., Jr. Tucker, Susan C.  
Jehlen, Patricia D. Walsh, Marian — 30.

ABSENT OR NOT VOTING.

Flanagan, Jennifer L. — 1.

The yeas and nays having been completed at sixteen minutes before seven o'clock P.M., the amendment was *rejected*.

**The bill 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 five minutes before seven o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 32 — nays 6*) [**Yeas and Nays No. 6**]:

YEAS.

Baddour, Steven A. Kennedy, Thomas P.  
Berry, Frederick E. McGee, Thomas M.  
Brewer, Stephen M. Menard, Joan M.  
Buoniconti, Stephen J. Montigny, Mark C.  
Candaras, Gale D. Moore, Michael O.  
Chandler, Harriette L. Morrissey, Michael W.  
Chang-Diaz, Sonia O'Leary, Robert A.  
Creem, Cynthia Stone Pacheco, Marc R.  
Donnelly, Kenneth J. Panagiotakos, Steven C.  
Downing, Benjamin B. Petrucelli, Anthony  
Eldridge, James 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 — 32.

NAYS.

Brown, Scott P. Moore, Richard T.  
Hedlund, Robert L. Tarr, Bruce E.  
Knapik, Michael R. Tisei, Richard R. — 6.

ABSENT OR NOT VOTING.

Flanagan, Jennifer L. — 1.

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

*Suspension of Senate Rule 38A.*

**Mr. Hart moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.**

*Recess.*

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

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

*Emergency Preamble Adopted; Engrossed Bill Enacted.*

An engrossed Bill expanding the Governor's authority to address deficiencies in revenue (see House, No. 98, 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 LVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 2 to 0.**

**The bill was signed by the Acting President (Mr. Rosenberg) and sent to the House for enactment.**

**Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.**

**The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.**

*Order Adopted.*

On motion of Mr. Tisei,—

*Ordered,* That when the Senate adjourns today, it adjourn to meet again tomorrow at eleven o'clock A.M.

*Moment of Silence.*

At the request of the Chair (Mr. Roseberg), the members, guests and employees stood in a moment of silence and reflection to the memory of James Patrick Flanagan.