

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 14, 2009.

Met at eleven minutes past two o'clock P.M.

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

Report.

A report of the Special Commission on Municipal Relief (pursuant to Section 97 of Chapter 173 of the Acts of 2008, as revived and continued by Chapter 1 of the Resolves of 2009) submitting its findings and recommendations on the feasibility of innovative local revenue-generating measures in an effort to provide revenue relief to municipalities (Senate, No. 2051),— **was read and sent to the House for its information.**

Petitions.

Petitions were presented and referred as follows:

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 2049) of James B. Eldridge, Jennifer Benson and Robert S. Hargraves (by vote of the towns of Ayer, Harvard and Shirley) for legislation to authorize the Devens Enterprise Commission to grant a license for the sale of all alcoholic beverages to be drunk on the premises [Local approval received];
Under Senate Rule 20, to the committee on Consumer Protection and Professional Licensure.

By Mr. Berry, a petition (subject to Joint Rule 12) of Frederick E. Berry for legislation to constitute a state university system;
By Mr. Montigny, a petition (subject to Joint Rule 12) of Mark C. Montigny and Antonio F.D. Cabral for legislation to establish a sick leave bank for Adrianna Barreto, an employee of the Department of Children and Families;
Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Committee Bill improving the laws relating to ethics and lobbying (House, No. 3856, printed as amended),— **was read a second time, the main question being on ordering the bill to a third reading, with the recommended Ethics and Rules new text (Senate, No. 2050) pending.**

Remarks of Senator Sonia Chang-Diaz.

During consideration of the question on ordering the bill to a third reading, Senator Sonia Chang-Diaz offered the following remarks:

Thank you, Madame President, and through you to the members.

I rise in support of this bill. It is an important bill that serves the people of this Commonwealth in their desire to have trust in their elected leaders. I know there are a few amendments and thoughtful suggestions for how we can improve the bill even further. Some of them will be incorporated and some of them won't. But fundamentally, at its core, this is a powerful bill and I'll be proud to vote for it.

I ran for this office because I experienced, during my time here as an aide, that the people who work in this building are good people, who are here for the right reasons, and who believe deeply in the idea of public service.

After 2 campaigns and 4 months here now as an elected member, I still believe that to be profoundly true.

On the campaign trail, I said that no voter should have to choose between representation on issues they care about and high standards for ethics and accountability. Today, I believe the Senate reinforces that commitment to the voters of Massachusetts.

I'm particularly proud because the Senate has the political courage to tackle the issue of campaign finance as a part of ethics reform.

Of all the proposals that have been made this year on ethics reform, none are so important for preserving the integrity of our system as campaign finance measures. In all honesty, I believe it's not worth much to talk about ethics reform in politics without talking about campaign finance reform. So I thank my Senate colleagues for taking this up.

As someone with a particular stake in the events that led to our current focus on ethics reform, I think it's important to say that none of the things that are alleged to have transpired with Senator Wilkerson happened because of holes in our ethics laws. Sometimes people choose to break the rules. No legislature can stop that. No one can legislate morality.

The fact is we already have rules in place that prohibit the bribery, gratuities, and/or conflicts of interest that are alleged. And we have penalties in place for when those rules are broken.

Could we make those penalties harsher? Sure. And I'm happy to vote for the increased fines and penalties in this bill. But I don't actually believe that fines and steeper penalties are what's missing in our system. Nor do I believe they're the best enforcers.

The best enforcement tools we have are transparency, the good sense and moral compass of the everyday voter, and limitations on the all-too-powerful influence of money in our electoral system. This bill takes up those tools where none of the other proposals have.

This bill empowers the voters to make fully informed decisions by removing the prohibition on OCPF that currently prohibits them from referring evidence of serious violations on to the AG until after an election was over. This is a provision that — had it existed 10 years ago, 3 years ago, or 1 year ago, might have made a difference for the voters of the 2nd Suffolk District in those elections.

This bill also bans lobbyists from making campaign contributions. A bold, extremely aggressive step that forces lobbying efforts to stand purely on the strength of their policy merits and their grassroots organizing.

Finally, this bill demands that organizations that pour money into backing a candidate have the courage of their convictions in the public square, and put their name on the electioneering communications they fund. Again, this allows voters to make thoughtful, critical, fully informed judgments about the forces at play and issues at stake in their elections.

Again, transparency, full information for voters, and the weakening of money's influence in politics. This bill recognizes the most powerful tools we have to protect and encourage integrity in our political system, and it picks them up and uses them.

I was proud to become a member of this body in November when I was elected, I was proud to truly become a member in January when I was sworn in, and I'm proud to be a member of this body today in voting for this bill.

On motion of Mr. Rosenberg, the above remarks were ordered printed in the Journal of the Senate.

After further remarks, Messrs Tisei, Tarr, Knapik, Hedlund, Brown and Montigny moved to amend the proposed new text by striking in lines 1646 and 1647 the word "before the governmental body", and inserting in place thereof the following:— "any governmental body"; and in line 1648 by striking the words "within 1 year" and inserting in place thereof the following: — "within two years".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at six minutes before three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 6 — nays 33*) [**Yeas and Nays No. 34**]:

YEAS.	
<i>Brown, Scott P.</i>	<i>Montigny, Mark C.</i>
<i>Hedlund, Robert L.</i>	<i>Tarr, Bruce E.</i>
<i>Knapik, Michael R.</i>	<i>Tisei, Richard R. — 6.</i>
NAYS.	
<i>Baddour, Steven A.</i>	<i>Galluccio, Anthony D.</i>
<i>Berry, Frederick E.</i>	<i>Hart, John A., Jr.</i>
<i>Brewer, Stephen M.</i>	<i>Jehlen, Patricia D.</i>
<i>Buoniconti, Stephen J.</i>	<i>Joyce, Brian A.</i>
<i>Candaras, Gale D.</i>	<i>Kennedy, Thomas P.</i>
<i>Chandler, Harriette L.</i>	<i>McGee, Thomas M.</i>
<i>Chang-Diaz, Sonia</i>	<i>Menard, Joan M.</i>
<i>Creem, Cynthia Stone</i>	<i>Moore, Michael O.</i>
<i>Donnelly, Kenneth J.</i>	<i>Moore, Richard T.</i>
<i>Downing, Benjamin B.</i>	<i>Morrissey, Michael W.</i>
<i>Eldridge, James B.</i>	<i>O’Leary, Robert A.</i>
<i>Fargo, Susan C.</i>	<i>Pacheco, Marc R.</i>
<i>Flanagan, Jennifer L.</i>	<i>Panagiotakos, Steven C.</i>
<i>Petrucelli, Anthony</i>	<i>Tolman, Steven A.</i>
<i>Rosenberg, Stanley C.</i>	<i>Tucker, Susan C.</i>
<i>Spilka, Karen E.</i>	<i>Walsh, Marian — 33.</i>
<i>Timilty, James E.</i>	

The yeas and nays having been completed at one minute before three o’clock P.M., the amendment was *rejected*.

Mr. Tisei moved to amend the proposed new text by inserting at the end thereof the following section: —

“SECTION XX. Section 4 of chapter 268A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence: No member of the executive council may make an appearance in a representative capacity, for compensation, before a court of the Commonwealth.”

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

Mr. Tisei moved to amend the proposed new text by inserting at the end thereof the following section:—

“SECTION XX. Section 4 of chapter 268A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:—

(c) No state employee shall, otherwise than in the proper discharge of his official duties, act as agent or attorney for anyone other than the commonwealth or a state agency for prosecuting any claim against the commonwealth or a state agency, or as agent or attorney for anyone in connection with any particular matter in which the commonwealth or a state agency is a party or has a direct and substantial interest.

Whoever violates any provision of this section shall be punished by a fine of not more than \$3,000 or by imprisonment for not more than 2 years, or both.

A member of the general court shall not be subject to paragraphs (a) or (c). However, no member of the general court shall personally appear for any compensation other than his legislative salary before any state agency, unless:

(1) the appearance is before a court of the Commonwealth; or

(2) the appearance is in a quasi-judicial proceeding.

For the purposes of this paragraph, a proceeding shall be considered quasi-judicial if both sides are entitled to representation by counsel and such counsel is neither the attorney general nor the counsel for the state agency conducting the proceeding. A proceeding shall not be considered quasi-judicial if the appearance is before a state agency which is an adjudicatory body or is made in connection with a particular matter before a state agency.”

After remarks, the amendment was *rejected*.

Mr. Brown moved to amend the proposed new text by inserting after section 31, the following section:—

“SECTION 31A. Section 18C of said chapter 55, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Every individual and committee required to file electronically under subsection (b), in addition to the periods provided in said subsection, shall file each contribution within 1 week of receiving said contribution, the contents of which shall be the same as that required for a candidate or political committee under section 18 of this chapter. The filings required under section 19 of chapter 55 for candidates listed in subsection (b) of this section shall be filed electronically. Filers specified in subsection (b) shall continue to file all paper-generated reports at the dates required in section 18 as a form of backup until such time as the director determines that the electronic filing system meets all pertinent filing and disclosure requirements the date of which shall not exceed December 31, 2010.

Violation of any provision of this section or section 18C shall be punished by imprisonment for not more than one year or by a fine of not more than ten thousand dollars.”

After debate, the amendment was *rejected*.

Paper from the House.

There being no objection, during consideration of the Orders of the Day, a Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4114,— on House, No. 4109, in part),— was read.

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

Orders of the Day.

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

The House Committee Bill improving the laws relating to ethics and lobbying (House, No. 3856, printed as amended),— **was further considered, the main question being on ordering the bill to a third reading, with the recommended Ethics and Rules new text (Senate, No. 2050) pending.**

Mr. Brown moved to amend the proposed new text in section 30, by inserting at the end thereof the following:—

“(f) The aggregate amount of any independent expenditure for the purpose of promoting the election or defeat of any one candidate shall not exceed the amount of:

(1) \$10,000 for any candidate seeking the office of governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, or auditor;

(2) \$5,000 for any candidate seeking the office of councilor, state senator, or state representative.”

After remarks, the amendment was *rejected*.

Mr. Brown moved to amend the proposed new text in section 4, by inserting, after the word “hours” in line 413, the following:—

“Section 47A. On or before July 15, complete from January 1 through June 30; and January 15, complete from July 1 to December 31 of the preceding year any public instrumentality that receives state appropriations and pays membership dues or fees to an organization required to file pursuant to section 47 shall disclose the amounts of said dues or fees paid during the reporting period.

The state secretary shall prescribe and make available the appropriate statement forms which after being completed and filed with the secretary shall be organized alphabetically, according to the name of the public entity and such files shall be open and accessible for public inspection during normal business hours.”

After debate, the amendment was *rejected*.

Messrs. Brown and Montigny moved to amend the proposed new text in section 4, by inserting, after the word “hours” in line 413, the following:—

“Section 47A. No public instrumentality of the Commonwealth that receives state appropriations shall use said state appropriations for payment of membership dues or fees to any organization employing legislative or executive lobbyists to influence said state appropriations and is required to file pursuant to section 47. This section shall not preclude any public instrumentality from using any separate funds other than state appropriations for payment of said dues or fees.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved to amend the proposed new text by inserting at the end thereof the following:—

“SECTION XX. There shall be a special commission to study civic engagement and active engagement in the legislative process and electoral system. The commission shall consider, but not be limited to:

- (1) the ability to attract candidates for legislative and constitutional offices, including residency requirements and length of membership in political parties;
- (2) the impact of campaign finance law on civic engagement, including campaign finance limits and public financing of candidates;
- (3) the attributes of the current legislative session calendar and a comparative analysis of other states’ legislative calendar; and
- (4) the laws, rules and regulations of voting and elections requirements and a comparative analysis of other states’ voting and election requirements.

The special commission shall consist of the secretary of the commonwealth, or his designee; the director of the office of campaign and political finance, or his designee, or his designee; 2 persons to be appointed by the president of the senate; 1 person to be appointed by the minority leader of the senate; 2 persons to be appointed by the speaker of the house of representatives; 1 person to be appointed by the minority leader of the house of representatives; and 2 persons to be appointed by the attorney general. The special commission shall report to the general court the results of its investigation a study, together with recommendations and drafts of legislation necessary to carry out any recommendations, if any, by filing a report with the clerks of the senate and the house of representatives on or before January 1, 2010.”

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

Mr. Tisei moved to amend the proposed new text by inserting at the end thereof the following:—

“SECTION XX. Section 7 of chapter 4 of the general laws, as appearing in the 2006 official edition, is hereby amended by inserting in line 130 by inserting after the word ‘agency’, the words:— constitutional office, judicial offices relating to budget and management, legislative office or legislative committee.”

After debate, the amendment was *rejected*.

Ms. Jehlen moved that the proposed new text be amended in Section II, line 25, by inserting after the word “proceeding” the following: “ ‘Grassroots communication,’ any executive lobbying that is directed to the public and not to any government employee in his or her official capacity.”;

In said Section II, line 32, by inserting after the word “period” the following: “, provided that grassroots communication shall not be included in the 50 hours of executive lobbying required to qualify a person as an executive lobbyist.”;

In said Section II, line 40, by inserting after the word “specialist” the following: “, provided that grassroots communication shall not be included in the 15 hours of executive lobbying required to qualify a person as an executive specialist.” ;

In Section II, line 41, by inserting after the word “lobbying” the following: “other than grassroots communication.”;

In Section III, line 60, by inserting after the word “debate” the following: “ ‘Grassroots communication,’ any legislative lobbying that is directed to the public and not to any government employee in his or her official capacity.”;

In said Section III, line 68, by inserting after the word “period” the following: “, provided that grassroots communication shall not be included in the 50 hours of legislative lobbying required to qualify a person as a legislative lobbyist.”;

In said Section III, line 77, is hereby amended by inserting after the word “specialist” the following: “, provided that grassroots communication shall not be included in the 15 hours of legislative lobbying required to qualify a person as a legislative specialist.” ; and

In said Section III, in said line 77, is hereby amended by inserting after the word “lobbying” the following: “other than grassroots communication”.

After debate, the amendment was *rejected*.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4114), 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 17 to 0. The bill was signed by the President and sent to the House for enactment.**

Orders of the Day.

Orders of the Day were further considered, as follows:

The House Committee Bill improving the laws relating to ethics and lobbying (House, No. 3856, printed as amended),— **was further considered, the main question being on ordering the bill to a third reading, with the recommended Ethics and Rules new text (Senate, No. 2050) pending.**

Mr. Joyce moved to amend the proposed new text, in section 51, by striking out, in line 2759, the words “relating to the alleged violation” and inserting in place thereof the following words:— “giving rise to the alleged violation, or 1 year from the

termination of any period of suspension of civil enforcement and investigation pursuant to subsection (a), whichever shall later occur; provided further, that the limitations period for commencement of an enforcement action under this section shall be tolled for any period of suspension of civil enforcement and investigation which occurs pursuant to said subsection (a)". After remarks, the amendment was **adopted**.

Mr. Montigny moved to amend the proposed new text by striking out the words in lines 1644 and 1645 "or elected official, including a former member of the general court," and adding the following section:—

"(xx) an elected official, including a former member of the general court, the governor, lieutenant governor, secretary of state, state auditor, attorney general, treasurer, or appointed executive branch commissioners and cabinet level secretaries, who acts as legislative agent, as defined in section thirty-nine of chapter three, for anyone other than the commonwealth or a state agency before any governmental body with which he has been associated, within three years after he leaves that body, office, or position."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty minutes past four o'clock P.M., on motion of Mr. Montigny, as follows, to wit (*yeas 6 — nays 33*) [**Yeas and Nays No. 35**]:

YEAS.	
Brown, Scott P.	Montigny, Mark C.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 6.
NAYS.	
Baddour, Steven A.	Galluccio, Anthony D.
Berry, Frederick E.	Hart, John A., Jr.
Brewer, Stephen M.	Jehlen, Patricia D.
Buoniconti, Stephen J.	Joyce, Brian A.
Candaras, Gale D.	Kennedy, Thomas P.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Menard, Joan M.
Creem, Cynthia Stone	Moore, Michael O.
Donnelly, Kenneth J.	Moore, Richard T.
Downing, Benjamin B.	Morrissey, Michael W.
Eldridge, James B.	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Flanagan, Jennifer L.	Panagiotakos, Steven C.
Petrucelli, Anthony	Tolman, Steven A.
Rosenberg, Stanley C.	Tucker, Susan C.
Spilka, Karen E.	Walsh, Marian — 33.
Timilty, James E.	

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

Mr. Montigny, Ms. Creem and Ms. Tucker moved to amend the proposed new text by striking out in section 50 clauses (a) and (b), in lines 1497 to 1517, and inserting in place thereof the following 2 clauses:—

“(a) No person shall, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly give, offer, or promise anything of substantial value to any present or former state, county, or municipal employee or to any member of the judiciary, nor to any person selected to be such an employee or member of the judiciary for or because of the employee or member’s official position.

(b) No present, or former state, county, or municipal employee or member of the judiciary, or person selected to be such an employee or member of the judiciary, otherwise than as provided by law for the proper discharge of official duty, shall directly or indirectly ask, demand, exact, solicit, seek, accept, receive, or agree to receive anything of substantial value for such employee or member of the judiciary for or because of the employee or member’s official position.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-nine minutes before five o’clock P.M., on motion of Mr. Montigny, as follows, to wit (*yeas 14 — nays 24*) [**Yeas and Nays No. 36**]:

YEAS.	
Brown, Scott P.	Montigny, Mark C.
Candaras, Gale D.	Moore, Richard T.
Creem, Cynthia Stone	Morrissey, Michael W.
Eldridge, James B.	O’Leary, Robert A.
Hedlund, Robert L.	Tarr, Bruce E.
Jehlen, Patricia D.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — 14.
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.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia.	Pacheco, Marc R.
Donnelly, Kenneth J.	Panagiotakos, Steven C.
Downing, Benjamin B.	Petrucelli, Anthony
Fargo, Susan C.	Rosenberg, Stanley C.
Flanagan, Jennifer L.	Spilka, Karen E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A. — 24.
ANSWERED “PRESENT”.	
Walsh, Marian — 1.	

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

Mr. Morrissey moved that the proposed new text be amended by striking out in section 51, in line 2594, the words “; provided, however, that the rules and regulations shall be” and inserting in place thereof the following words:— “, including but not”. After remarks, the amendment was *rejected*.

Mr. Morrissey moved that the proposed new text be amended by inserting in section 4, after the word “inclusion.” in line 139, the following clause:—

“(h) The state secretary shall adopt regulations under chapter 30A to carry out sections 39 to 50, inclusive.”

The amendment was *rejected*.

Ms. Spilka moved to amend the proposed new text in section 51, by inserting, in line 2688, after the words “an adjudicatory proceeding” the following words:— “provided, however, the commission may redact from such materials the name and address of the sworn complainant, and any other identifying information if any, or other person whose complaint led to the initiation of the preliminary inquiry”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at ten minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 39 — nays 0*) [**Yeas and Nays No. 37**]:

YEAS.	
Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Michael O.
Candaras, Gale D.	Moore, Richard T.
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.
Flanagan, Jennifer L.	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 — 39.
Kennedy, Thomas P.	
NAYS — 0.	

Mr. Rosenberg in the Chair, the yeas and nays having been completed at three minutes before five o'clock P.M., the amendment was **adopted**.

Mr. Brown moved to amend the proposed new text by striking out section 56 and inserting in place thereof the following section:—

“SECTION 56. Notwithstanding any general or special law to the contrary, any person who has previously received confirmation by the executive council, and who is, on the effective date of this act, still a member of the judiciary, shall within 6 months of the effective date of this act dissolve any political committee organized on behalf of said person and disperse any funds remaining in such committee's account in accordance with section 18 of chapter 55 of the general laws.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute before five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 39 – nays 0*) [**Yeas and Nays No. 38**]:

YEAS.	
Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconti, Stephen J.	Moore, Michael O.
Candaras, Gale D.	Moore, Richard T.
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.
Flanagan, Jennifer L.	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 — 39.
Kennedy, Thomas P.	
NAYS — 0.	

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

Messrs. Eldridge and Montigny moved that the proposed new text be amended by striking out in section 51, in lines 2624 to 2625, the words “, and the division of administrative law appeals,”;

In said section 51, by striking out in lines 2662 to 2665, the words “If the attorney general determines that the matter warrants criminal investigation, the attorney general shall notify the commission, which shall immediately suspend its civil investigation

until the criminal investigation of the matter has concluded.”;

In said section 51, by striking out in lines 2669 to 2672, the words “Nothing in the foregoing sentence or elsewhere in this chapter shall be construed to prohibit disclosure to the subject of the investigation unless a determination is made by the attorney general that criminal investigation is warranted.”;

In said section 51, by striking out in lines 2685 to 2688, the words “Promptly after the commission’s determination to seek an adjudicatory proceeding and before an order to show cause is filed, the general counsel shall provide to the subject of the investigation copies of all materials the commission considered in its decision to initiate a preliminary inquiry or authorize an adjudicatory proceeding.”;

In said section 51, by striking out in lines 2695 to 2700, the words “Any justice of the superior court may, upon application by the commission, in his discretion issue an order requiring the attendance of witnesses summoned as aforesaid and the giving of testimony or the production of books, papers and other records before the commission in furtherance of any investigation pursuant to the provisions of this chapter or said chapter 268A.” and inserting in place thereof the following sentence:- “Such summonses shall have the same force, and be obeyed in the same manner, and under the same penalties in case of default, as if issued by order of a justice of the superior court and may be quashed only upon motion of the summonsed party and by order of a justice of the superior court.”; and

In said section 51, by striking out clauses (f), (g), and (h) in lines 2707 to 2729, and inserting in place thereof the following clauses:-

“(f) Any member of the commission may administer oaths and any member of the commission may hear testimony or receive other evidence in any proceeding before the commission.

(g) All testimony in a commission adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify, to submit evidence, and to be represented by counsel. All witnesses shall be entitled to be represented by counsel. Any person whose name is mentioned during an adjudicatory proceeding of the commission and who may be adversely affected thereby may appear personally before the commission on his own behalf, with or without an attorney, to give a statement in opposition to such adverse mention or file a written statement of such opposition for incorporation into the record of the proceeding. All adjudicatory proceedings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session.

(h) Within 30 days after the end of an adjudicatory proceeding pursuant to the provisions of this section, the commission shall meet in executive session for the purpose of reviewing the evidence before it. Within 30 days after completion of deliberations, the commission shall publish a written report of its findings and conclusions.”

Pending the question on adoption of the amendment, Mr. Donnelly offered a further amendment striking out the text of the pending amendment (Eldridge-Montigny) and inserting in place thereof the following:— in section 51, in proposed section 4 of chapter 268B, in subsection (a), by striking out the third and fifth sentences.

Remarks of Senator James B. Eldridge. Remarks of Senator James B. Eldridge.

Madame President, I rise in strong support of the bill before us today.

I’m honored to be a part of the State Senate, and I have the greatest respect for you, my colleagues. I know how hard all of you work for your districts, and for the Commonwealth as a whole, to improve the quality of life for every citizen. I know — to a person — the honesty and integrity with which you do your jobs every day.

It has been a difficult session thus far. Public confidence in state government is at a low, while the challenges facing us — including an extremely tough budget — are enormous.

Over the past few months, we’ve grappled with a variety of reforms designed to improve the way our government operates and, indeed, to repair our relationship with the public and restore the confidence that has been lost.

The bill we have before us today is the most important reform we’ve taken on thus far — a reform of the way our political system operates, from lobbying regulations to enhanced campaign finance restrictions and reporting requirements. This is the reform for which the public has been clamoring, and the reform we need before we can move on to the other pressing business of the Commonwealth.

We have a perception problem here on Beacon Hill, and too often we act in ways that — to the outside eye — seem less than transparent. Our campaign finance system sometimes appears set up to protect insiders and provide unfair advantages. Our lobbying system is full of loopholes, with few regulations requiring the transparency the public deserves when it comes to determining who is trying to influence policy in the Commonwealth, and how they are doing it. And our current ethics laws lack both teeth and specificity.

And the many scandals our state has seen over the last year have deeply harmed public perception of this body, and our government. As a result, support for the good work we all want to do is diminished.

The public demands reform, and they deserve it.

I'm proud to support some of the important reform measures included in this bill:

Eliminating lobbyist contributions — something that demonstrates we are truly putting reform before revenue! This is a provision I've pressed hard to have included in this bill, because I believe it's an important step in reforming the way we finance our campaign system, and in demonstrating to the public that our votes are won only with persuasive arguments and good grassroots organizing.

Increased public disclosure and reporting of lobbying activities and campaign donations, including applying our campaign finance regulations to municipal officials as well as state officials. These requirements go a long way to adding transparency to our system.

Increased penalties — well beyond a mere slap on the wrist — for those who break the law.

As many of you know, campaign finance reform and measures to restore transparency to government have long been passions of mine, dating back to before I was elected to office. I believe legislation like this speaks to the heart of what it is to be a Democrat — a belief in the importance of highly ethical, accountable, and transparent government, government that inspires public support of the work we do, and public confidence that government has a role to play in making our lives better.

Without transparency and accountability, the power lies in the hands of those with the inside knowledge and the connections necessary to get things done — or the money to buy both. Without transparency and accountability, the special interests consolidate power, while average citizens lose their ability to understand, to follow, and eventually to affect what their government is doing.

Improving the transparency and accountability of our government is all about restoring power to the average person, and ensuring that our government is acting in the best interest of the people, and only the people, at all times.

And in doing so, we are better able to make our case to the public, that the government is an effective vehicle for delivering the services we rely on, from safe and efficient public transit systems to education, health care and public safety.

Passing this bill is an important step in demonstrating to the public that we are serious about reform, serious about transparency and accountability, and that we desire to hold ourselves to the highest standards of ethics and accountability. I'm proud to vote for it, and urge you to join me in doing so.

On motion of Mr. Joyce, the above remarks were ordered printed in the Journal of the Senate.

After remarks, the pending further amendment (Donnelly) was considered; and it was adopted.

The pending amendment (Eldridge-Montigny), as amended (Donnelly), was then considered; and it was adopted.

The President in the Chair, Mr. Berry moved to amend the proposed new text in section 6, in proposed section 21 of chapter 30A, in subsection (a), by adding the following clause:—

“10) to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.”

In section 21, by striking out, in line 966, the words “this chapter,”;

In section 23, by striking out, in lines 981 and 982, the words “, trust or other entity incorporated or registered” and inserting in place thereof the following words:— “or trust”;

By striking out section 25;

By inserting after section 29 the following section:—

“SECTION 29A. Said section 18 of said chapter 55, as so appearing, is hereby amended by inserting after the seventeenth paragraph the following paragraph:—

Any person nominated by the governor for a position that requires confirmation by the executive council shall, within 6 months of the date of confirmation, dissolve any political committee organized on behalf of such person and disperse all funds remaining in such committee's account in accordance with this section.”; and

In section 51, by striking out, in line 2725, the words “provide, in writing, an adequate reason” and inserting in place thereof the following words:— “state, in the order, its”.

The amendment was adopted.

The pending Ethics and Rules new text was then adopted, as amended.

The committee bill (House, No. 3856, printed as amended), as amended, was then ordered to a third reading and read a third time,

its title having been changed by the committee on Bills in the Third Reading as follows: “An Act to improve the laws relating to campaign finance, ethics and lobbying”.

After remarks, the question on passing the committee bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays at twenty-nine minutes past five o’clock P.M., on motion of Mr. Joyce, as follows, to wit (*yeas 40 — nays 0*) [**Yeas and Nays No. 39**]:

YEAS.	
Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Menard, Joan M.
Brown, Scott P.	Montigny, Mark C.
Buoniconiti, Stephen J.	Moore, Michael O.
Candaras, Gale D.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Chang-Diaz, Sonia	Murray, Therese
Creem, Cynthia Stone	O’Leary, Robert A.
Donnelly, Kenneth J.	Pacheco, Marc R.
Downing, Benjamin B.	Panagiotakos, Steven C.
Eldridge, James B.	Petrucelli, Anthony
Fargo, Susan C.	Rosenberg, Stanley C.
Flanagan, Jennifer L.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Kennedy, Thomas P.	Walsh, Marian — 40.
NAYS — 0.	

The yeas and nays having been completed at twenty-eight minutes before six o’clock P.M., the committee bill was passed to be engrossed, in concurrence, with the amendment [For the text of the Senate amendment, printed as amended, see Senate, No. 2052].

Sent to the House for concurrence in the amendment.

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4114) (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 signed by the President and laid before the Governor for his approbation.

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:—
Resolutions (filed by Mr. McGee) “in honor of the hundredth anniversary of Lynn Classical High School.”

Order Adopted.

On motion of Mr. O’Leary,—

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 Petty Officer Second Class Tyler John Trahan.

Adjournment in Memory of Petty Officer Second Class Tyler John Trahan.

The Senator from Bristol and Plymouth, Ms. Menard, and the Senator from Bristol and Plymouth, Mr. Montigny, requested that when the Senate adjourns today, it adjourn in memory of Petty Officer Second Class Tyler John Trahan of Freetown.

Officer Tyler John Trahan was killed while conducting combat operations in support of Operation Iraqi Freedom on April 30, 2009 – just two days short of his 23rd birthday. Petty Officer Trahan was the son of Jean-Pierre and Maureen Anne (O’Malley) Trahan of East Freetown and brother of Molly Jean Trahan of East Freetown. He was also the grandson of Claudette Mae (Allain) O’Malley of New Bedford and the late John J. O’Malley, Jr., Antoinette (Gaudette) Trahan and Roger Trahan. Tyler leaves many uncles, aunts, cousins and loving friends.

Accordingly, as a mark of respect to the memory of Petty Officer Second Class Tyler John Trahan, at twenty-six minutes before six o’clock P.M., on motion of Mr. Montigny, the Senate adjourned to meet again on Monday next at eleven o’clock A.M.