

**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, April 1, 2010.*

Met at seven minutes past eleven o'clock A.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Richard T. Moore for the purpose of an introduction. Mr. Richard Moore then introduced, in the rear of the Chamber, Mikheil Kechaqmadze from Tbilisi, Republic of Georgia who will be working in the Senator's office for the month of April through the National Conference of State Legislature's Legislative Fellows Program. Mikheil is a Program Manager at the International Society for Fair Elections and Democracy. In this capacity, he develops project proposals and program reports, administers and coordinates the organizations programs, and represents the organization at various events. Previously, Mikheil was the Researcher of the Advisory Board of the Speaker of the Parliament of Georgia at the National Democratic Institute for International Affairs and the Parliament of Georgia. Mikheil holds a Masters degree in Political Science from the Central European University. The Senate welcomed him with applause and he withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the President introduced, seated in the gallery, 15 girl scouts from the Junior Girl Scout Troop #744 from Beverly. They were led by their Troop Leaders Rebecca Swanick and Sherrie Otterbein. This was their first trip to the State House to learn about democracy and government. The Senate welcomed them with applause and they withdrew from the gallery. There were guests of Senator Berry.

There being no objection, during consideration of the Orders of the Day, the Chair (Mr. Rosenberg) introduced the Irish Wheelchair Association, seated in the gallery, who are visiting Boston to celebrate their 50th anniversary of incorporation. They were led by CEO Kathleen Gavin McLoughlin from County Mayo, Ireland. She addressed the Senate from the rostrum and presented the Senate President with a pin. The Senate applauded their accomplishments and they withdrew from the gallery. They were guests of Senator Kennedy.

#### *Petitions.*

Petitions were severally presented and referred, as follows:

By Mr. Brewer, a petition (subject to Joint Rule 12) of Stephen M. Brewer and Geraldo Alicea for legislation relative to performance guarantees for subdivision roadway winter plowing;

By the same Senator, a petition (subject to Joint Rule 12) of Stephen M. Brewer and Christopher J. Donelan, for legislation to authorize the Department of Fish and Game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol;

By the same Senator, a petition (subject to Joint Rule 12) of Stephen M. Brewer and Anne Gobi, for legislation relative to the survivor benefits of Michael J. Simeone;

By Mr. Tarr, a petition (subject to Joint Rule 12) of Bruce E. Tarr for legislation to establish a sick leave bank for Sharon Baert,

an employee of the Department of Developmental Services; and  
By Mr. Tisei, a petition (subject to Joint Rule 12) of Richard R. Tisei, Steven C. Panagiotakos and John A. Hart, Jr., for legislation relative to restaurant rejuvenation;  
**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently**

*Reports of Committees.*

By Ms. Spilka, for the committee on Economic Development and Emerging Technologies, on petition (accompanied by bill, Senate, No. 200), a Bill to clarify and enhance privacy protections for electronic health records (Senate, No. 2351);  
By Ms. Fargo, for the committee on Public Health, on Senate Nos. 833 and 897, a Bill establishing an organ donation registration fund (Senate, No. 2338);  
By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 797), a Bill relative to surgical technology (Senate, No. 2340);  
By the same Senator, for the same committee, on Senate, No. 847 and House, No. 2080, a Bill relative to certified professional midwives and enhancing the practice of nurse-midwives (Senate, No. 2341); and  
By the same Senator, for the same committee, on Senate, Nos. 821, 831, 883 and 886 and House, No. 2101, a Bill promoting routine HIV screening in the Commonwealth (Senate, No. 2342);  
**Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.**

By Ms. Tucker, for the committee on Housing, on Senate, Nos. 621, 637 and 1379, a Bill to stabilize neighborhoods (Senate, No. 2355);  
By Mr. McGee, for the committee on Public Service, on petition, a Bill establishing a collective bargaining unit (Senate, No. 1190); and  
By the same Senator, for the same committee, on petition, a Bill establishing a sick leave bank for John Phelan, an employee of the Massachusetts Department of Transportation (Senate, No. 2350);  
**Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

By Ms. Fargo, for the committee on Public Health, on petition (accompanied by bill, Senate, No. 903), a Bill further regulating tanning facilities (Senate, No. 2339);  
**Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

By Mr. Kennedy, for the committee on Election Laws, on petition (accompanied by bill, Senate, No. 2284), a Bill authorizing a certain question relative to a charter revision in the town of Palmer to be placed on the state election ballot (Senate, No. 2352) [Local approval received on Senate, No. 2284];  
**Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

*Committee Discharged.*

Mr. Montigny, for the Senate committee on Bonding, Capital Expenditures and State Assets, reported, asking to be discharged from further consideration of the Senate Bill releasing certain land in Brimfield from the operation of an agricultural preservation restriction (Senate, No. 2221),— **and recommending that the same be referred to the Senate committee on Ways and Means.**  
**Under Senate Rule 36, the report was considered forthwith and accepted.**

**PAPERS FROM THE HOUSE.**

A message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to certain nomination papers filed in the town of Millville (House, No. 4583),-- **was referred, in concurrence, to the committee on Election Laws.**

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4586) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) that the town of Harwich be authorized to issue three additional liquor licenses for the sale of alcoholic beverages to be drunk on the premises;  
To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 4585) of David P. Linsky (by vote of the town) relative to the transfer of certain conservation land in the town of Sherborn; and

Petition (accompanied by bill, House, No. 4587) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) that the town of Harwich be authorized to establish a special fund to assist persons with financial hardships;

**Severally to the committee on Municipalities and Regional Government.**

*Bills*

Establishing a sick leave bank for Meraly Rivera, an employee of the Department of Children and Families (House, No. 4570, amended,-- on petition); and

Establishing a sick leave bank for Judith R. Abraham, an employee of the Department of Developmental Services (House, No.

4574, amended,-- on petition);

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

*Bills*

Relative to liquor legal liability insurance (House, No. 947, amended,-- on petition);

Relative to assault and battery on health care providers (House, No. 1696, changed,-- on petition);

Validating certain town meetings and town elections on the town of Wilbraham (printed in House, No. 4564,-- being a message from His Excellency the Governor); and

Authorizing the town of Millis to conduct its annual town election on May 11, 2010 (printed in House, No. 4578,-- being a message from His Excellency the Governor);

**Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

There being no objection, at eight minutes past eleven o'clock A.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at ten minutes past twelve o'clock noon, the Senate reassembled, the President in the Chair.

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

*Resolutions.*

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

Resolutions (filed by Ms. Murray) "commending the Falmouth Public Library and Falmouth Hospital for their service to cancer survivors";

Resolutions (filed by Mr. Pacheco) "congratulating Ethel Geneva Bartel Bindon on her one hundred and second birthday";

Resolutions (filed by Mr. Pacheco) "congratulating Rose Cambra Frizzado on her one hundred and first birthday"; and

Resolutions (filed by Ms. Walsh) "congratulating Pdraig O'Brien on the occasion of his elevation to the rank of Eagle Scout."

**PAPERS FROM THE HOUSE**

*Emergency Preambles Adopted*

An engrossed Bill establishing a sick leave bank for John Riordan, an employee of the Trial Court (see Senate, No. 2227, 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 3 to 0. The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Sean O'Brien, an employee of the Department of Transitional Assistance (see Senate, No. 2288), 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 2 to 0. The bill was signed by the President and sent to the House for enactment.**

*Engrossed Bill—Land Taking for Conservation Etc.*

An engrossed Bill relative to the use of a parcel of land in the city of Woburn for recreational purposes (see House, No. 4449) (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, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII 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 thirteen minutes past twelve o'clock noon, as follows, to wit (*yeas 36 - nays 0*) **[Yeas and Nays No. 207]:**

INSERT ROLL CALL [207]

The yeas and nays having been completed at twenty-one minutes past twelve o'clock noon, 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 President and laid before the Governor for his approbation.

*Engrossed Resolve.*

An engrossed Resolve providing for an investigation and study by a special commission on the reuse of Westborough State Hospital (see Senate, No. 2219, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed and signed by the President and laid before the Governor for his approbation.

*Orders of the Day.*

The Orders of the Day were considered, as follows:

*Bills*

Relative to a betterment assessment in the town of Sturbridge (Senate, No. 2043);  
Exempting the town of Wilmington from liability (Senate, No. 2142);  
Authorizing the town of Carver to assess excise taxes on private water suppliers (Senate, No. 2143);  
Relative to property taxes in the town of Carver (Senate, No. 2144);  
Relative to payment of property taxes in the town of Carver (Senate, No. 2145);  
Authorizing the easements over certain land in the town of Andover (Senate, No. 2154);  
Authorizing property tax exemption for certain small sheds and outbuildings in the town of Carver (Senate, No. 2255);  
Relative to special police officers in the town of Greenfield (House, No. 636);  
Exempting the Harbor and Shellfish Advisory Board of the town of Nantucket from certain conflict of interest laws (House, No. 1126);  
Authorizing the appointment of retired police officers as special officers in the town of Norwood (House, No. 1917);  
Exempting non-public safety employees from civil service (House, No. 4198); and  
Establishing a municipal building fund and a municipal building committee in the town of West Boylston (House, No. 4390)  
Were severally read a second time and ordered to a third reading.

The Senate Bill amending the town of Winchendon's town charter (Senate, No. 2333),-- **was read second time and 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 amending the charter of the town of Winchendon".**  
**Sent to the House for concurrence.**

The Senate Bill authorizing the town of Chelmsford to convey certain conservation land and easements (Senate, No. 2287),-- **was read a second time and was amended on motion of Ms. Fargo, in section 1, by inserting after the figure "2009", in line 6, the following words: - " , revised September 30, 2009".**

**The bill (Senate, No. 2287, amended) was then ordered to a third reading.**

**Subsequently, the rules were suspended, on motion of Ms. Fargo 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 authorizing the town of Chelmsford to convey certain conservation land and grant certain easements".**

**Sent to the House for concurrence.**

There being no objection, during consideration of the Orders of the Day, the following matter was considered, as follows, to wit:

*Report of a Committee.*

Mr. Berry for the committee on Ethics and Rules, to whom was referred the House Bill prohibiting devocalization of dogs and cats (House, No. 344), reported, **that the following matter be placed in the Orders of the Day for the next session with a recommended amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2359.**

**There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time and was amended, as recommended by the committee on Ethics and Rules.**

**After remarks, the bill was ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.**

**Sent to the House for concurrence in the amendment.**

*Orders of the Day.*

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

The Senate Bill promoting economic development throughout the Commonwealth (Senate, No. 2331),-- **was read a second time.**

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft entitled "An Act relative to economic development reorganization" (Senate, No. 2345),-- **was considered.**

After debate and pending the question on adoption of the amendment, Mr. Tisei moved that all pending amendments be printed in the calendar; and this motion did not prevail.

At twenty-four minutes before two o'clock P.M., at the request of Mr. Tisei, for the purpose of a minority caucus, the President declared a recess; and, at ten minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

*Orders of the Day.*

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

The Senate Bill promoting economic development throughout the Commonwealth (Senate, No. 2331),-- **was further considered, the main question being on ordering the bill to a third reading, with the proposed new draft (Senate, No. 2345) pending.**

Ms. Candaras and Mr. Brewer moved that the proposed new draft be amended by striking section 64 in its entirety. After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-two minutes past two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 1 – nays 35*) [**Yeas and Nays No. 208**]:

Insert Roll Call 208

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

Messrs. Buoniconti and Knapik moved that the proposed new draft be amended by inserting at the end thereof the following new section:-

“SECTION XX Notwithstanding any general or special law to the contrary the Undersecretary of the Department of Housing and Community Development shall make a report detailing recommended regulations to prohibit the practice of housing homeless residents in hotels or motels throughout the commonwealth. These recommended guidelines shall include temporary housing alternatives which provide cost savings to the commonwealth as well as a timeline to eliminate such practice within 1 year. All residents currently being sheltered in hotel or motel accommodations shall be required to have access to food refrigeration as well as kitchen facilities including an oven on the premises; and provided further that no municipality shall house a percentage of homeless individuals in hotels or motels which exceeds twice that communities' percentage of total state population. The report shall be submitted to the clerk of the Senate and clerk of the House of Representatives, along with the House and Senate Committees on Ways and Means no later than 30 days following the passage of this act.

Section 2: Notwithstanding any general or special law to the contrary the Department of Housing and Community Development shall be directed to promulgate regulations which require any individual or family seeking an emergency assistance shelter placement to produce documentation which verifies the commonwealth of Massachusetts as their place of legal residence.

Section 3: Notwithstanding any general or special law to the contrary a pregnant woman shall not be deemed automatically eligible for placement in a hotel or motel until such time as that woman gives birth. Nothing in this section shall be interpreted to limit the eligibility of a pregnant woman to be placed in a homeless shelter during pregnancy.

Section 4: Notwithstanding any general or special law to the contrary the Department of Housing and Community Development shall be directed to make an investigation and study of all available and unused shelter space throughout the commonwealth. If shelter space is discovered that meets safety and suitability criteria to be determined by the Department of Housing and Community Development and is currently unused, the Department of Housing and Community Development shall be required to issue a request for proposal until such time as sufficient shelter capacity exists so as to eliminate the need for emergency family placements in hotels and motels. Provided further that any individual or family seeking emergency shelter and deemed eligible shall be presented by the Department of Housing and Community Development with not more than 1 shelter option. If said individual or family declines the option presented to them they shall be deemed ineligible to receive emergency shelter for a period of 1 year. Provided further that the Department of Housing and Community Development shall be required to notify the department of health, police department, and school department of any municipality in which an emergency family placement is made. Provided further that the Department of Housing and Community Development shall have the authority, if no shelter space is available and as an alternative to a hotel or motel placement, to place a family seeking emergency assistance in a shelter which exists in the commonwealth that is beyond 20 miles from said family's last known place of legal residence. Provided further that the Department of Housing and Community Development shall be prohibited from placing a family with children under 3 years of age in any hotel or motel which does not make available a crib for such a child which meets applicable safety regulations to be determined by the Department of Children and Families. Provided further that prior to placing any child under the age of 3 years in a hotel or motel, the Department of Housing and Community Development must notify the Department of Children and Families. Within 24 hours of any such hotel or motel placement the Department of Children and Families shall make an inspection of the room and crib provided to ensure the safety of the child. If the hotel or motel in which any such child under the age of 3 years is placed fails to provide such child with a safe and adequate crib as determined by the Department of Children and Families, said hotel may be subject to a fine not to exceed \$10,000 per violation.

Section 5: Notwithstanding any general or special law to the contrary, the Department of Housing and Community Development shall be required to reimburse on a quarterly basis any community in which an emergency hotel or motel placement is made for all costs associated with busing any school age children from said hotel or motel placement out of district to attend school.

Section 6: Notwithstanding any general or special law to the contrary, the Department of Housing and Community Development

shall be granted all statutory authority necessary to promulgate regulations consistent with this act.”

**After remarks, Mr. Panagiotakos arose to a point of order which, being stated, was that the amendment was beyond the scope of the bill before the Senate.**

**The President stated that the bill under consideration did not contain the subject matter of the amendment as filed and therefore the amendment is beyond the limited scope of this piece of legislation**

**Therefore, the point of order was well taken; and the amendment was laid aside.**

Messrs. Tisei, Tarr and Knapik moved that the proposed new draft be amended by inserting at the end thereof the following: -

“SECTION X. Section 148B. (a) For the purpose of this chapter and chapter 151, an individual performing any service in the construction trades, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:—  
(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and

(2) the service is performed outside the usual course of the business of the employer; and,

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

(b) For the purpose of this chapter and chapter 151, an individual performing any service, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:—

(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and

(2) the service is performed outside the usual course of the business of the employer; or,

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 5 – nays 31*) [**Yeas and Nays No. 209**]:

Insert Roll Call 209

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

Mr. Rosenberg in the Chair, Messrs. Tisei, Tarr, Knapik and Hedlund moved that the proposed new draft be amended by inserting at the end thereof the following section: -

“SECTION 9. Said Section 52C of said Chapter 149 its so appearing, is hereby amended by striking lines 37 to 41 and inserting in place thereof the following: -

An employer shall notify an employee within 10 days of the employer placing in the employee's personnel record any information to the extent that the information is used or has been used or may be used to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or disciplinary action. Any employer receiving a written request from an employee shall provide the employee with an opportunity to review his personnel record within five business days of such request. The review shall take place at the place of employment and during normal business hours. An employee shall be given a copy of his personnel record within five business days of submission of a written request for such copy to his employer. An employer shall not be required to allow an employee to review his personnel record on more than two (2) separate occasions in any calendar year, provided however that the notification and review caused by the placing of any negative information in the personnel record shall not be considered on of the two annually permitted reviews.”

**The amendment was adopted.**

Messrs. Tisei, Tarr, Knapik and Hedlund moved that the proposed new draft be amended by adding at the end there of the following section: -

“SECTION X. Chapter 80 of the acts of 2008 is hereby repealed.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-four minutes before four o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 4 – nays 32*) [**Yeas and Nays No. 210**]:

Insert Roll Call 210

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

Ms. Spilka moved that the proposed new draft be amended in section 35 by inserting after line 1033 the following paragraph:

“(e) the secretary of housing and economic development shall from time to time convene the Massachusetts Life Sciences Center created under chapter 23I, the Massachusetts Clean Energy Technology Center created under chapter 23J, the Massachusetts Technology Development Corporation created under chapter 40G, Massachusetts Technology Park Corporation created under

chapter 40J, Massachusetts Technology Transfer Center created under chapter 75 , for the purpose of ensuring that: (1) the agencies' projects, programs, and plans are coordinated and consistent with the provisions of this section; (2) the agencies are sharing administrative functions for efficiencies and cost saving measures; (3) the agencies are sharing information that is beneficial to the growth and expansion of technology related companies in Massachusetts; and (4) the agencies are sharing best practices related to assisting technology related companies with debt and equity products and technical assistance”.

**The amendment was adopted.**

Ms. Spilka moved that the proposed new draft be amended in section 19, by striking out in line 527, the number “6” and inserting in place thereof the following number: “10”.

**The amendment was adopted.**

Ms. Spilka moved that the proposed new draft be amended in section 61, by striking out at line 1789 paragraph (r) and inserting in place thereof, the following paragraphs:

“(r) in addition to any other power it has hereunder, make loans, grants and undertake other financing transactions consistent with, or in furtherance of, the purpose of the authority set forth in section 4 of this chapter;

(s) in addition to any other power it has hereunder, to establish and collect such fees and charges as the authority without appropriation shall determine to be reasonable; and to receive and apply revenues from fees and charges to the purposes of the authority or allotment by the commonwealth or any political subdivision thereof;

(t) do all things necessary or convenient to carry out the purpose of this chapter.

In carrying out the purposes of this chapter, the authority may undertake joint projects for 2 or more participating institutions for higher education or 2 or more participating hospitals, or for any combination of participating institutions for higher education and participating hospitals, and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the authority and the participants in such joint projects.

The authority shall not undertake a project on behalf of a public institution for higher education except upon written request made by the advisory committee on education policy established under section 2 of chapter 15A.”

**The amendment was adopted.**

Mr. Eldridge moved that the proposed new draft be amended in section 69, by inserting after the word “sentence”, in line 2220, the following words:- “and inserting in place thereof the following sentence:- The requirements to file small business impact statements set forth in sections 2 3, 5A and this section shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement filed shall not be grounds for invalidating or staying the effect of the regulation”;

In section 70, by inserting after the word “agency”, in line 2223, the following words:- “shall file an amended small business impact statement that”;

In said section 70, by striking out the last sentence and inserting in place thereof the following clause:- “(6) minimizing adverse impact on small businesses by using alternative regulatory methods.”; and

In section 71, by inserting after the word “agency”, in line 2246, the following words:- “shall file a small business impact statement that”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at seven minutes before four o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 32 – nays 4*) **[Yeas and Nays No. 211]:**

Insert Roll Call 211

**The yeas and nays having been completed at one minute before four o'clock P.M., the amendment was adopted.**

Messrs. Tisei, Tarr, Knapik and Hedlund move to amend the proposed new draft by inserting at the end thereof the following section: -

“SECTION XX. Section 1 of chapter 30A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out paragraph (6) and inserting in place thereof the following paragraphs:—

(6) ‘Regulatory impact statement’ means a statement by the promulgating authority which shall, to a reasonable degree of completeness: (i) identify the statutory change, problem, issue or deficiency addressed by the proposed regulation; (ii) identify specifically who is affected and to what extent by the proposed regulation; (iii) identify when such regulation becomes effective, when such regulation will be changed, if known, and how and when the regulation will be reviewed in the future, if at all; (iv) identify costs and/or benefits, including, without limitation, impacts on businesses and jobs in the commonwealth and the impact to the protection of natural resources and public health, if any, paying particular attention to those environmental benefits which may not be easily or immediately quantifiable. Any data, including written information or material, statistics, measurements, calculations or other information used as the basis for the regulation, including any such information provided to the agency by a consultant, vendor or other third party, shall be part of the record and available to the public upon request.

SECTION 2. Section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:—

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups who are interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons or groups. Not later than 30 days prior to the notice of a hearing described above, the agency conducting the hearing shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification of rulemaking

shall: (a) identify the rule to be noticed for hearing and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for more information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 3. Said section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the fifth paragraph the following paragraph:—

Agencies may initiate emergency regulatory actions under relevant sections of this chapter without prior compliance with sections 1, 2, 3, and 5; provided, however that compliance shall be initiated as soon as practicable following the emergency action and, in any event, prior to making any emergency action permanent.

SECTION 4. Section 3 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:—

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons and groups. Not later than 30 days prior to the notice described above the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of agency rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification shall: (a) identify the rule to be noticed and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for further information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 5. Section 5 of said chapter 30A, as so appearing, is hereby amended by striking the first sentence of the second paragraph and inserting in place thereof the following:—

No rule or regulation so filed with the state secretary, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described above and is filed with the state secretary. The secretary of the enforcing agency shall review all regulatory impact statements prior to their filing with the state secretary to ensure and certify that a proper methodology and approach was used by the agency submitting said impact statement and to certify that the impact statement as submitted complies with the definition of 'regulatory impact statement' as set forth in section 1 of chapter 30A within 90 days of receipt.

In addition, no rule or regulation so filed, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until the promulgating agency has filed with the state secretary a statement verifying that said rule or regulation does not conflict with, overlap or duplicate other agencies' rules or regulations."

The amendment was *rejected*.

Mr. Eldridge moved that the proposed new draft be amended by inserting, after section 136, the following new section:-

"SECTION XX. Section 24 of chapter 40B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in the first paragraph, after the words 'commissioner of highways,' the words 'the director of economic development' and inserting in place thereof the following words: the secretary of housing and economic development."

**The amendment was adopted.**

Ms. Flanagan and Mr. Rosenberg moved that the proposed new draft be amended in section 28, by striking out, in line 876, the figure "28" and inserting in place thereof the following figure:- "30"; in said section 28, by inserting after the word "Bureau", in line 889, the following words:- ", the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau"; and, in section 29, by inserting after the word "Bureau", in line 998, the following words:- ", the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau".

**The amendment was adopted.**

Mr. Downing moved that the proposed new draft be amended by inserting after section 5 the following section:

“SECTION 5A: Chapter 7 of the General Laws is hereby amended by inserting, after section 22M, the following section:-

SECTION 22N. Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a state agency or authority shall establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.”; and by inserting after section 71 the following section:-

“SECTION 71A. Chapter 30B of the General Laws is hereby amended by adding the following section:-

SECTION 22. (a) Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a governmental body may, by a majority vote, establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.

(b) If a governmental body establishes such a preference, the procurement officer responsible for procuring products and services on behalf of the governmental body shall effectuate such preference for the procurement in: (i) advertising for bids, contracts or otherwise and making reasonable efforts to facilitate the purchase of such products or services; and (ii) purchasing products or services by businesses, as defined in said section 3A of said chapter 23A, with its principal place of business in the commonwealth, unless the price of such goods or services exceed, by more than 10 per cent, the price of such goods or services produced by businesses with their principal place of business outside of the commonwealth.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at four minutes past four o'clock P.M., on motion of Mr. Downing, as follows, to wit (*yeas 36 – nays 0*) [**Yeas and Nays No. 212**]:

Insert Roll Call 212

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

Messrs. Downing and Baddour moved that the proposed new draft be amended in section 104, by inserting after the words “cooling purposes” in line 2888, the following sentence: “For purposes of this paragraph, in determining whether the sole member of a limited liability company treated as a disregarded entity is a manufacturing corporation or a research and development corporation, the attributes and activities of the limited liability company shall be taken into account by the member along with the member's other attributes and activities.”

**The amendment was adopted.**

Messrs. Knapik, Downing, Tarr and Rosenberg moved that the proposed new draft be amended by inserting at the end thereof the following new section:-

“Section X: The governor in conjunction with the Massachusetts Broadband Institute shall submit a report to the Legislature no later than December 31, 2010, detailing the Massachusetts Broadband Institute's progress in expanding broadband access in the commonwealth. The report shall detail and explain what the administration has done to ensure broadband access in the commonwealth since chapter 231 of the acts of 2008 became law, notwithstanding any efforts that have been impacted by funding received from the American Recovery and Reinvestment Act. The report shall include but not be limited to explanations of the following: which geographic areas have been identified as lacking broadband access; which geographic areas have been prioritized to receive broadband access; how the local economy of these areas has been affected by the lack of this technology and how it will be affected by high-speed internet access; and how the administration will proceed to ensure all citizens of the commonwealth have access to high-speed internet by June 30, 2011.”

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

Mr. Knapik moved that the proposed new draft be amended by inserting at the end thereof the following new section:-

“Section XX: Regulations under 225 CMR 14.00 shall be immediately subject to Section 67 through Section 71 and Section 124.

Section XX: Regulations under 225 CMR 14.00 shall not become effective until compliance is reached as prescribed under Section 67 through 71 and Section 124.”

After debate, the amendment was *rejected*.

Mr. Downing moved that the proposed new draft be amended by inserting after the last section the following section:

“SECTION XX. Section 1. Section 59 of chapter 40 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended after paragraph (vii) by inserting the following paragraph:

(vii) provides a report to the city or town clerk and the economic assistance coordinating council detailing the status of the construction laid out in the plan; the current value of the property; the number of jobs created to date due to the plan; the salary of

newly created positions; and, the plans, if any, to create additional jobs due to the exemption. A report shall be filed every five years for the term of the tax increment exemption. A final report shall be filed in the final year of the exemption.

Section 2. The executive office of housing and economic development shall amend 760 CMR and the economic assistance coordinating council shall amend 402 CMR to reflect the changes implemented in Section 1.”

**The amendment was adopted.**

Mr. Knapik moved that the proposed new draft be amended by inserting at the end thereof the following new section:-

“Section X: Chapter 23A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 10A the following new section:-

Section 10B. (a) There shall be established and set upon the books of the commonwealth a separate fund to be known as the student entrepreneurial development and economic investment fund, hereinafter referred to as the student investment fund, to which shall be credited any appropriations, bond proceeds, or other monies authorized by the general court and specifically designated to be credited thereto and additional funds designated for deposit to the student investment fund, including any pension funds, federal grants or loans, or private donations made available to the secretary of economic development. The secretary of economic development shall hold the student investment fund in an account separate from other funds or accounts. Amounts credited to the student investment fund shall be available to the investment board as established in subsection (b) to carry out the purposes of subsection (c).

(b) The investment board shall consist of the following members: the secretary of economic development or his designee, who shall serve as chairperson of the board; the chairman of the board of higher education or his designee, who shall serve as the vice-chairperson of the board; the president of the Massachusetts technology development corporation, or his designee; the executive director of commercial ventures and intellectual property, or his designee, two private Massachusetts-based investors to be chosen by the chairperson in consultation with the president of the Massachusetts technology development corporation; one student representative selected by the university of Massachusetts representative to the board of higher education; one student representative selected by the state college representative to the board of higher education; and one student representative selected by the community college representative to the board of higher education. The chairman of the board of higher education shall establish a student application program to aid the representative of the board of higher education in the selection of student members to the board.

Five members of the board shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(c) The purpose of the student investment fund shall be to provide an opportunity for interested students to gain experience in entrepreneurialism and early-stage business development while fostering an economic environment that will attract students to the commonwealth and forge a relationship between the public higher education system and the Massachusetts business community with the intent of driving economic growth. Funds made available to the student investment board from the student investment fund shall be used for a grant program administered by the board for a prototype funding of Massachusetts' student ideas in early development stages; provided however, that the development of such ideas, plans, or business, occur within the commonwealth. The secretary of economic development shall promulgate rules regarding the enforcement and penalties for recipients who relocate outside of the commonwealth. The board shall not be limited in the number of grants distributed to student in any one year; provided however, that the total monetary amount of all grants distributed by the board in a fiscal year shall not exceed twenty percent of the fund's first year balance. The board shall hold periodic hearings to allow selected students, who have submitted a statement of interest and initial business plan, the opportunity to present a comprehensive business plan describing characteristics and proprietary positions of the student's products or services; present and future markets for such products or services; potential strategies for the future development and funding of the prototype product or service; a statement of amount, timing and projected use of the capital sought by the student; and a statement of the projected growth in employment or other positive economic impacts. Comprehensive business plans may be written and reviewed in consultation with the Massachusetts technology transfer center at the University of Massachusetts.

(d) The board shall, by January 1 of each year, submit a report of its activities for the preceding fiscal year to the governor, the joint committee on economic development and emerging technologies, and the clerks of the house of representatives and senate. Each report shall set forth a complete financial statement covering its operation during the year and shall also include any requests for additional appropriations.”

The amendment was *rejected*.

Mr. Knapik moved that the proposed new draft be amended by striking out section 1 of Chapter 151 of the General Laws in its entirety and replacing it with the following:

“Section 1. It is hereby declared to be against public policy for any employer to employ any person in an occupation in this

commonwealth at an oppressive and unreasonable wage as defined in section two, and any contract, agreement or understanding for or in relation to such employment shall be null and void. A wage of less than \$8.00 per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term 'minimum wage' is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine; provided, further, that an employer may pay an employee who is under the age of 19 and is employed between June 1 and August 31 a wage of no less than \$6.00 an hour for the first 90 consecutive days of the employees employment within those dates; provided, further, that the hiring of any employees under the age of 19 does not displace other workers."

**After remarks and pending the questions on adoption of the pending amendment (Knapik) and adoption of the recommended Ways and Means new draft (Senate, No. 2345), and pending the main question on ordering the bill to a third reading, on motion of Mr. Berry, the further consideration thereof was postponed until Thursday, April 8.**

*Reports of a Committee.*

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stephen J. Buoniconti for legislation relative to the Medical Professional Mutual Insurance Company; **The rules were suspended, on motion of Mr. Brown, and the report was considered forthwith; Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Financial Services.**

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stephen J. Buoniconti, for legislation to reduce health care cost trends; **The rules were suspended, on motion of Mr. Brown, and the report was considered forthwith; Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Financial Services. Severally sent to the House for concurrence.**

**PAPER FROM THE HOUSE**

*Order Adopted.*

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith and adopted in concurrence, as follows:

**Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Economic Development and Emerging Technologies shall be granted until Friday, May 21, 2010, within which to report on Senate Nos. 174, 2038, 2039, 2040 and 2042 and House, Nos. 330, 334, 337, 343, 640, 4063, 4064, 4065, 4066, 4067, 4068, 4069, 4081, 4082 and 4490.**

*Order Adopted.*

On motion of Mr. Michael O. Moore,—

*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.

On motion of Mr. Tisei, at seven minutes past five o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.