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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, May 20, 2010.

Met at three minutes past twelve o'clock noon (Mr. Tolman in the Chair).

Reports of Committees.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4601),-- **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 4.**

[Estimated cost --

Direct Appropriation: \$29,353,565,573

Retained Revenue Authorization: \$478,867,741

Total: \$29,832,433,314]

(having been filed in the Office of the Clerk of the Senate on Wednesday, May 19, 2009 at twenty-seven minutes before twelve o'clock noon),-- **was, pursuant to an order previously adopted, placed in the Orders of the Day for Tuesday, May 25, 2010, for a second reading with the amendment pending.**

By Mr. Michael O. Moore, for the committee on Community Development and Small Business, on Senate, Nos. 85, 92, 94, 95, 96, 98, 99, 102, 104 and 105, an Order relative to authorizing the joint committee on Community Development and Small Business to make an investigation and study of certain current Senate documents relative to community development and small business (Senate, No. 2444);

By Mr. O'Leary, for the committee on Education, on Senate, Nos. 234, 236, 237, 240 and 272, an Order relative to authorizing the joint committee on Education to make an investigation and study of certain current Senate documents relative to charter schools (Senate, No. 2445); and

By the same Senator, for the same committee, on Senate, Nos. 274, 279, 284, 294 and 295, an Order relative to authorizing the joint committee on Education to make an investigation and study of certain current Senate documents relative to health issues (Senate, No. 2446);

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches acting concurrently.

By Mr. Richard T. Moore, for the committee on Health Care Financing, that the Senate Bill relative to home health aides (Senate, No. 860), -- **ought to pass, with an amendment in line 5, by striking out "G.L.c 111," and inserting in place thereof "Section 72F of Chapter 111"; in line 28, by adding after "Chapter 7", the following "in line 9"; and, in line 29, by adding the words "or home health aide pursuant to the provisions of Section 80B (8) of Chapter 112."** [Estimated cost - \$0];

By the same Senator, for the same committee, that the Senate Bill relative to the pronouncement of death in a rest home (Senate, No. 881), -- **ought to pass with an amendment in line 3, by striking out the ",", and inserting in place thereof "."**

[Estimated cost - \$0]; and

By the same Senator, for the same committee, that the Senate Bill relative to certain limited registrations (Senate, No. 2192), -- **ought to pass with an amendment in line 1, by striking out the figure “2006” and inserting in place thereof, the following “2008.” [Estimated cost – less than \$10,000];**
Severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

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 making a corrective change relative to the town of Millbury and payment of a certain bill (House, No. 4684),-- **referred, in concurrence, to the committee on Municipalities and Regional Government.**

Bills

Authorizing the lease of certain recreational facilities to the town of Milton (House, No. 4688, amended,-- on House, No. 845);
and

Relative to manufacturer rebates and discount programs (House, No. 4689, amended,-- on House, No. 1080);

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

Bills

Relative to savings bank life insurance (House, No. 889, changed,-- on Senate, No. 509 and House, No. 889); and
Establishing a regional public safety communications and dispatch center in the towns of Cohasset, Hingham, Hull and Norwell (House, No. 4610,-- on petition);

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

There being no objection, at four minutes past twelve o'clock noon, the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at a half 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.

Order Adopted.

On motion of Mr. Berry,--

Ordered, That a committee of the Senate be appointed to wait upon His Excellency the Governor, Deval L. Patrick, His Honor Timothy J. Murray, Lieutenant-Governor, Constitutional officers and the Honorable Council and inform them that the Senate is in session and awaits their presence for the swearing in of Sal N. DiDomenico as Senator from the Middlesex, Suffolk and Essex district and Richard J. Ross as Senator from the Norfolk, Bristol and Middlesex district.
Senators Menard, Hart and Knapik were appointed to the committee.

Subsequently, Ms. Menard, for the committee reported that His Excellency the Governor, Deval L. Patrick, the Constitutional officers and the Honorable Council would immediately attend upon the Senate.

The committee was discharged.

Soon after His Excellency the Governor Deval L. Patrick, the Secretary of the Commonwealth and the Honorable Council came into the Senate Chamber under the escort of the Sergeant-at-Arms.

After being escorted to the Rostrum by Messrs. O'Leary and Tarr, the Honorable Sal N. DiDomenico at thirteen minutes before one o'clock P.M., on Thursday, May 20, 2010, before the Governor and Council, did take and subscribe the oath of office as State Senator from the Middlesex, Suffolk and Essex district.

Senator DiDomenico briefly addressed the Senate as follows:

President Murray, Governor Patrick, Lt. Governor Murray, my fellow Senate colleagues, dignitaries, family and friends,

This is a great day. I want to thank all of you for coming to share this moment with my family and I.

I also want to thank the resident of the Middlesex, Suffolk and Essex District for giving me the opportunity and honor to serve as their State Senator. Representing the citizens of Allston, Brighton, Cambridge, Charlestown, Chelsea, Everett, Revere, Saugus and Somerville is a responsibility that I will not take lightly.

Before I move on, I want to congratulate Senator-elect Ross on his victory and for also being sworn in today.

Madame President, MY PRESIDENT, thank you and your staff for the warm welcome back to the State Senate. I look forward to

working with you and the members of the Senate to move our state forward.

I want to thank Governor Patrick and Lt. Governor Murray for celebrating this occasion with us and for their kind words.

I would also like to thank my future colleagues who offered their counsel, advice and best wishes. I am ready to get right to work to help create more employment opportunities, strengthen our public schools.

And like many of you, I would not be standing here today if it was not for the support of my family and friends. President Murray, Governor Patrick, Lt. Governor Murray, my fellow Senate colleagues, dignitaries, family and friends.

(Introduce family)

I know some of you have heard this before, and you will hear it again today. Many people aspire to have lofty titles such as CEO, President, professional athlete, Senator or Governor. However, the titles that should matter most to us are Good Father, Good Mother, Good Husband, Good Wife, Good Son, Good Daughter, Good person. These are the titles that we should all be striving for. This is how we will be remembered. Not only is this our legacy but good people do great things. I am looking forward to joining my colleagues in the State Senate to do great things for the people of the Commonwealth. Thank you.

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

After being escorted to the Rostrum by Ms. Flanagan and Mr. Tisei, the Honorable Richard J. Ross at two minutes before one o'clock P.M., on Thursday, May 20, 2010, before the Governor and Council, did take and subscribe the oath of office as State Senator from the Norfolk, Bristol and Middlesex district.

Senator Ross briefly addressed the Senate as follows:

I particularly wish to thank my family, my friends, and my supporters, who are the core of my grass roots, and without whom none of today would be possible. You guys are the best and I am so grateful to each and every one of you and I am pleased that so many of you could be with me today to celebrate this chapter in my life.

And I want to say thank you to all of the constituents in the district, where nearly all of the communities that I will have the opportunity to represent, were united in saying that they are supportive of my message and desirous of the leadership that I offered during my campaign. From the top of the district to the bottom, they acknowledged that they were ready to have leadership that would respect and honor their individual strengths, and who would bring them together and unite this diverse and culturally rich district into one without sacrificing any of the individual uniqueness that is each towns pride and joy. I am so excited by the opportunities at hand and I look forward to learning all that I can that will help me meet this districts needs and to deal with all the challenges that face these communities today.

The journey that has brought me here is humbling, and I am honored to join my new colleagues in the Senate. I look forward to working with you Madam President, and in getting to know each of you in a way that we can all better serve the commonwealth and our residents. My door will always be open to you as I hope that yours will be to me, and I look forward to leaving shoes of partisanship at the door as we all roll up our sleeves and do the business that is the peoples' business, serving them and not ourselves.

In just a few moments we will celebrate for a short time, and then Madam President and fellow colleagues, game on, let's get to work and do that job to which we were elected. Thank you.

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

Seat Assignments.

The President announced the assignment of Senator Sal N DiDomenico to seat number 15 on the President's right.

The President announced the assignment of Senator Richard J. Ross to seat number 3 on the President's right.

The Sergeant-at-Arms then proceeded to escort His Excellency the Governor, the Constitutional Officers and the Honorable Council from the Chamber.

Communications.

The Clerk read the following communications from the Secretary of the Commonwealth, to wit:

The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts

May 20, 2010

To the Honorable Senate:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the eleventh day of May, 2010, for Senator in the General Court, Middlesex, Suffolk and Essex District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the Senate, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

FOR STATE SENATOR IN GENERAL COURT
MIDDLESEX, SUFFOLK AND ESSEX SENATORIAL DISTRICT
(to fill vacancy)

Sal N. DiDomenico of Everett (Democratic) has..... 3,802 votes
John T. Cesan of Agawam (Independent) has.....515 "
All others..... 98 "
Blanks..... 43 "
Total Votes Cast.....4,458 "

The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts

May 20, 2010

To the Honorable Senate:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the eleventh day of May, 2010, for Senator in the General Court, Norfolk, Bristol and Middlesex District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the Senate, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth.

FOR STATE SENATOR IN GENERAL COURT
NORFOLK, BRISTOL AND MIDDLESEX SENATORIAL DISTRICT
(to fill vacancy)

Richard J. Ross of Wrentham (Republican) has..... 15,902 votes
Peter B. Smulowitz of Needham *(Democratic) has..... 9,823 "
All others..... 100 "
Blanks..... 110 "
Total Votes Cast 25,935 "

Order Adopted.

On motion of Mr. Downing,

Ordered, That the returns of votes for Senator to fill a vacancy in the Middlesex, Suffolk and Essex district and a vacancy in the Norfolk, Bristol and Middlesex district be referred to a special committee to consist of three members of the Senate.

Senators Spilka, Baddour and Hedlund were appointed the committee.

Subsequently, Ms. Spilka, for the committee, reported, that from an examination of the returns, it appears the Honorable Sal N.

DiDomenico had been duly elected to the Middlesex, Suffolk and Essex district and the Honorable Richard J. Ross has been duly elected to the Norfolk, Bristol and Middlesex district.

The report was read and accepted.

There being no objection, at seventeen minutes past one o'clock P.M., the President declared a recess subject to the call of the Chair; and, at twenty-four minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:- Resolutions (filed by Mr. Richard T. Moore) "celebrating Massachusetts Lafayette Day"; and Resolutions (filed by Ms. Murray) "honoring Shirley Peters for her many contributions to the town of Mashpee."

Orders of the Day.

The Orders of the Day were considered as follows:

The Senate Bill validating the election of a charter commission in the city of Holyoke (Senate, No. 2408),-- **was read a second time and ordered to a third reading.**

The Senate Bill relative to housing rights for victims of domestic violence (Senate, No. 2274, amended),-- **was considered, the question being on passing the bill to be engrossed.**

On motion of Mr. Brewer, the bill was recommitted to the committee on Ways and Means.

The House Order relative to extending until Tuesday, May 18, 2010, the time within which joint standing committees and the committees on Rules of the two branches, acting concurrently, are authorized to make reports on all matters referred to them,-- **was considered, the main question being on adoption of the order.**

The pending motion, previously moved by Mr. Tisei, to lay the order on the table,-- **was considered; and the motion was negative.**

Pending the question on adoption of the order, Mr. Berry moved that the order be amended by striking out the words "May 18, 2010" and inserting in place thereof the following words: "June 8, 2010".

After remarks, the amendment was adopted.

Mr. Tisei then withdrew his pending motion for a call of the yeas and nays on the question of adoption.

After further remarks, the order was adopted, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Reports of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill authorizing a governmental body to enter into contracts for the inspection, maintenance, repair or modification of water storage facilities (Senate, No. 2135),-- **ought to pass, with an amendment substituting a new draft entitled "An Act authorizing governmental bodies to enter in contracts for the inspection, maintenance, repair or modification of water storage facilities" (Senate, No. 2449).**

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

The bill (Senate, No. 2449) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill protecting lakes and ponds (Senate, No. 2374),-- **ought to pass, with an amendment substituting a new draft entitled "An Act protecting lakes and ponds from aquatic nuisances" (Senate, No. 2450).**

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

The bill (Senate, No. 2450) was then ordered to a third reading, read a third time and, after remarks, was passed to be engrossed.

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill authorizing the commissioner of capital asset management and maintenance to convey certain land to the town of Concord housing development corporation for affordable housing and open space (House, No. 4442),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing the commissioner of capital asset management and maintenance to convey certain land to the Concord Housing Development Corporation for affordable housing and open space purposes".

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill relative to debt restructuring (House, No. 4617, amended) (the committee on Bonding, Capital Expenditures and State Assets having recommended that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2432),-- **ought to pass, with an amendment recommending that the proposed Bonding, Capital Expenditures and State Assets new text (Senate, No. 2432) be amended in section 1, by striking out subsection (d).**

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time. Pending the main question on ordering the bill to a third reading, and pending the questions on adoption of the amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets, and the recommended amendment by the committee on Ways and Means, Mr. Montigny moved that the matter be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed until the next session.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Requiring proof of liquor legal liability insurance by all persons licensed to sell alcoholic beverages for on-premises consumption (see House, No. 947, amended);

Amending the town of Yarmouth Home Rule Charter (see House, No. 4175, amended); and

Establishing a sick leave bank for Stephen R. Fratalia, an employee of the Trial Court (see House, No. 4576).

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4698) of Dennis A. Rosa for legislation to authorize the Department of Children and Families to establish a sick leave bank for Rick Leclair, an employee of said department;

Under suspension of Joint Rule 12, to the committee on Public Service.

Petition (accompanied by bill, House, No. 4699) of Lori Ehrlich, Stephen J. D'Amico and others relative to the classification of and response to natural gas leaks;

Under suspension of Joint Rule 12, to the committee on Telecommunications, Utilities and Energy.

Order Adopted.

On motion of Ms. Candaras,

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; and, notwithstanding an order previously adopted, when the Senate adjourns on Monday, pursuant to the provisions of Senate Rule 38B, it adjourn to meet again on Wednesday next at ten o'clock A.M., in a full formal session with the only item on the Calendar being the General Appropriations Act.

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 Sergeant Joshua David Desforges of Ludlow.

Adjournment in Memory of Sergeant Joshua David Desforges

The Senator from Hampden and Hampshire, Ms. Candaras, requested that when the Senate adjourns today, it adjourn in memory of Sergeant Joshua David Desforges of Ludlow.

On Wednesday, May 12, 2010, the world lost an extraordinary, true hero. Sergeant Joshua David Desforges, 23, tragically lost his life while supporting combat operations in Marjeh, Afghanistan. A lifelong resident of Ludlow, Josh was educated at the Children's Community Center, Veterans Park Elementary School, Paul R. Baird Middle School and was a 2004 graduate of Ludlow High School. Josh joined the Westover Young Marine Program at the age of thirteen, and upon his graduation from Ludlow High School and the Westover Young Marines, he began his lifelong dream to become a United States Marine, attending boot camp at Parris Island, South Carolina. Josh attended the School of Infantry and was a member of the Close Quarters Battle Team. Josh was on his second deployment to Afghanistan with 1st Battalion 6th Marines out of Camp Lejeune, North Carolina. During his time in the Marine Corps, Josh was a Pistol Sharpshooter and a Second Award Rifle Expert. He received the Combat Action Ribbon with one Gold Star, Navy and Marine Corps Achievement Medal, Marine Corp Good Conduct Medal, Sea Service Deployment Ribbon with one Bronze Star, Afghanistan Campaign Medal with Bronze Service Star, Global War on Terrorism Service Medal, National Defense Service Medal, Navy Meritorious Unit Commendation and NATO Medal-ISAF Afghanistan. Josh was an outstanding Marine, ultimately earning the prestigious Purple Heart Medal for sacrificing his life while serving his country. He treasured the joy of being outdoors, enjoying off roading, surfing, kite boarding, rock climbing, hiking

and fishing. When home on leave, Josh enjoyed spending time with his family. Josh will be deeply missed by many people. He leaves his parents David and Arlene Desforbes, his loving, adoring sister Jenelle Desforbes, of Ludlow. He was a cherished grandson of Edward and Anne Martin, of Ludlow, David Desforbes and wife Sandy of Westfield and Sylvia Desforbes, also of Ludlow. He was a treasured nephew to Thomas and Annie Martin, of Chicopee, and Roger and Heidi Jo Martin of Brimfield. He leaves several cousins, extended family members and dear friends including his best friends Cody Binette, Sergeant Andrew Rouser and their families, and the rest of his brothers of 1/6.

Accordingly, as a mark of respect to the memory of Sergeant Joshua David Desforbes at one minute past three o'clock P.M., on motion of Mr. Tolman, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.