

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 10, 2012.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, the Finnish Ambassador to Australia, Maija Lahtenmaki. Finland is the first nation to empower women in political leadership positions. The Senate welcomed her with applause and she withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Donnelly for the purpose of an introduction. Mr. Donnelly then introduced, in the rear of the Chamber, Richard O'Keefe, Kathleen Wunschel and Eugenia Kennedy. They are visiting the State House for the adoption of Resolutions designating this week as North American Occupational Safety and Health Week. The Senate welcomed them with applause and they withdrew from the Chamber.

Communication.

The following communication was received in the Office of the Clerk of the Senate on Thursday, May 10, 2012 at two minutes before one o'clock P.M.:

May 10, 2012

William F. Welch, Clerk
Office of the Senate Clerk
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

After a vote of the caucus of the majority party in the Senate, we have nominated and elected the following members for the mentioned positions and committees as listed below.

Senator Jennifer Flanagan – Vice Chair, Senate Committee on Ways & Means.
Senator Benjamin B. Downing – Chair, Senate Committee on Steering and Policy.

Sincerely yours,
THERESE MURRAY,
President of the Senate.

Report of Committees.

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on Senate, Nos. 341, 344, 346, 359, 366, 368, 375, 383, 384, 387, 388, 1060 and 1938, an Order relative to authorizing the joint committee on Environment, Natural

Resources and Agriculture to make an investigation and study of certain current Senate documents relative to hazardous waste, waste management and other waste issues (Senate, No. 2258);

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

By Mr. Brownsberger, for the committee on Public Service, on petition, a Bill relative to the Essex regional retirement system (Senate, No. 2230);

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE.

Bills

Establishing a sick leave bank for Kristin LaPlante, an employee of the Executive Office of Health and Human Services (House, No. 4061,-- on petition);

Establishing a sick leave bank for Mark Lewis, an employee of the Department of Developmental Services (House, No. 4065,-- on petition); and

Making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4079,-- on House, No. 3898, in part);

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

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at twenty-eight minutes before three o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and staff 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 Messrs. Donnelly and Brewer, Ms. Chandler, Ms. Clark, Mr. DiDomenico, Ms. Fargo, Messrs. Finegold and Hart, Ms. Jehlen and Messrs. Joyce, Keenan, Knapik, Michael O. Moore, Richard T. Moore, Pacheco and Wolf)

“congratulating the Greater Boston Chapter of the American Society of Safety Engineers on its celebration of North American Occupational Safety and Health Week and Occupational Safety and Health Professional Day”;

Resolutions (filed by Mr. Hart) “congratulating the Amalgamated Transit Union Local 589, the Boston Carmen’s Union, on the centennial anniversary of its founding”;

Resolutions (filed by Ms. Spilka) “congratulating David Jeffrey Hastie on his elevation to the rank of Eagle Scout”; and

Resolutions (filed by Messrs. Tarr and Brewer, Ms. Clark, Ms. Creem, Ms. Fargo, Ms. Flanagan and Messrs. Hart, Michael O. Moore, Richard T. Moore, Ross and Timilty) “honoring Sister Adelaide Bisol, Sister of Notre Dame De Namur, for her 75 years of dedicated service.”

Orders of the Day

The Orders of the Day were considered as follows:

The Senate Bill further regulating certain town meeting notices in the town of Belmont (Senate, No. 2223),-- was read a second time and ordered to a third reading.

There being no objection, during consideration of the Orders of the Day, the following matters were considered as follows:

PAPERS FROM THE HOUSE

Engrossed Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the town of Swansea volunteer fire department (see House, No. 3996, amended) [for message, see House, No. 4066],— **came from the House with amendment in the form approved by the committee on Bills in the Third Reading as follows:-**

In section 2 by striking out the second paragraph and inserting in place thereof the following paragraph:

"A person participating in the program authorized by section 1 shall be a public employee for the purposes of chapter 258 of the General Laws."

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Rodrigues, and the Governor's amendment was considered forthwith. On further motion of Mr. Rodrigues, the Governor's amendment was adopted, in concurrence. Sent to the House for re-enactment.

Engrossed Bill.

An engrossed Bill validating the actions taken at the annual town meeting in the town of North Andover (see House Bill, printed in House, No. 3665) (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, two-thirds of the members present having voted in the affirmative, and was signed by the President and laid before the Governor for his approbation.

Orders of the Day

The Orders of the Day were further considered as follows:

There being no objection, the following item was taken out of order and considered forthwith:

The Senate Bill relative to regional 911 emergency communications districts (Senate, No. 2037),-- **was considered, the main question being on ordering it to a third reading.**

The proposed Ways and Means new draft (Senate, No. 2248),-- was considered.

The pending amendment, previously moved by Mr. Tarr, inserting at the end thereof the following new section:-

“SECTION __. Notwithstanding any general or special law to the contrary, each member community of the Essex County Regional Emergency Communications Center that has accepted and executed the Intergovernmental Agreement shall be assessed on a per capita basis as provided for in the Intergovernmental Agreement. The assessment shall be made through a cherry sheet assessment. The amount of the assessment shall be levied on each member city or town and the funds transferred by the treasurer into a new account or accounts established by the comptroller and under the control of the Sheriff Department of Essex consistent with the intent of the Intergovernmental Agreement. The comptroller shall establish an operational account and a trust account for capital expenses. The state comptroller shall exempt the Essex County Sheriff's Department from all applicable charges or assessments made against grants disbursed from the Enhanced 911 Fund to the Essex County Regional Emergency Communications Center pursuant to its authority under sections 5D and 6B of chapter 29 of the General Laws.

Notwithstanding any special of general law to the contrary the Essex County Regional Emergency Communications Center may obtain private liability insurance.”-- **was withdrawn, on motion of Mr. Tarr.**

Mr. Brewer moved that the proposed new draft be amended by striking out, in line 1, the figure “7” and inserting in place thereof the following figure:- “8”; by striking out, in lines 2, 18, 65 and 74, the word “18S” and inserting in place thereof, in each instance, following word:-“18T”; by striking out, in line 27, the word “center's” and inserting in place thereof the following word:- district's; by inserting, after clause (vii) of the proposed section 18N, the following clause:-

“(viii) that the district board may designate 1 or more of its members to approve payrolls or bills for salary or compensation of district board members or employees; provided, however, that the member or member approving such payroll or bill shall make available to the board at its next meeting the record of that action.”;

By striking out, in lines 71 and 72, the words “within 45 days of such recommendation”; by striking out, in line 113, the figure “30” and inserting in place thereof the following figure:- “60”; by striking out the proposed section 18Q of chapter 6A of the General Laws and inserting in place thereof the following section:-

“Section 18Q. The regional 911 emergency communication district board shall annually determine the necessary amounts to maintain and operate the district during the ensuing fiscal year and the amounts required to pay any debt and interest incurred by the district. The district board shall apportion the amount so determined among the member municipalities in accordance with the terms of the district agreement. The amounts apportioned for each member municipality shall be certified by the district treasurer to the chief executive officers, board of assessors and treasurers of the participating municipalities not later than February 1st annually, and the amounts so certified shall be appropriated and paid to the district treasurer at the times specified in the district agreement. If any participating municipality fails to include any apportioned amount so certified in its appropriations for the fiscal year, the board of assessors shall raise the amount in the tax levy of that year under section 23 of chapter 59.”;

By striking out the fifth sentence of the proposed section 18R of chapter 6A of the General Laws, and inserting in place thereof the following sentence:- “Upon the completion of each audit, the district board shall forward a copy of the audit to the mayor, the chairman of the board of selectmen or town council of each member municipality, the finance advisory subcommittee, the state auditor, the state 911 department and the division of local services.”;

By striking out, in line 180, the figure “60” and inserting in place thereof the following figure:- “44”; and

By inserting before the enacting clause, the following emergency preamble:-

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to maximize forthwith effective emergency and 911 dispatch services as well as regional interoperability for the citizens of the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.”

After remarks, the amendment was adopted.

The pending Ways and Means new draft, as amended, was then adopted

The bill (Senate, No. 2248, amended) was then 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.
Sent to the House for concurrence.**

The Senate Committee Bill relative to the right to repair (Senate, No. 2204),-- **was considered, the main question being on ordering the bill to a third reading.**

Pending the question on the motion, previously moved by Ms. Fargo, to lay the matter on the table, pending the question on adoption of the amendment previously recommended by Mr. Keenan, and pending the main question on ordering the bill to a third reading, on motion of Mr. Hart, the further consideration thereof was postponed until Thursday, May 17th.

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4079), ought to pass, with an amendment striking out sections 5 to 8, inclusive, and inserting in place thereof the following 2 sections:-

“SECTION 5. Subsection (c) of section 223 of chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph: -

(2) All competitive foods or beverages sold or provided in public schools shall be limited to foods or beverages that comply with the nutritional standards; provided, however, that the nutritional standards shall not apply to competitive foods and beverages sold on school grounds up to 30 minutes before the beginning of the school day or to competitive foods and beverages sold on school grounds 30 minutes after the end of the school day; provided further, that notwithstanding the foregoing, the nutritional standards shall apply at all times to competitive foods or beverages sold on school grounds through vending machines. A public school district or board of trustees may elect to apply the nutritional standards to competitive foods and beverages sold or provided on school grounds up to 30 minutes before the beginning of the school day or to competitive foods and beverages sold or provided on school grounds 30 minutes after the end of the school day; provided, however that the nutritional standards shall not apply at any time to competitive foods or beverages sold or provided at booster sales, concession stands and other school-sponsored or school-related fundraisers and events.

SECTION 6. Said section 223 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 78, the word ‘may’ and inserting in place thereof the following word: - shall.”

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

At twenty minutes past three o'clock P.M., Mr. Tarr doubted the presence of a quorum; and at twenty-one minutes past three o'clock P.M., the President declared that a quorum was present.

After remarks, the pending amendment, previously recommended by the committee on Ways and Means, was considered; and it was adopted.

Mr. Tarr moved that the bill be amended by inserting after section __, the following new section:-

“SECTION __. Chapter 171 of the acts of 2011 is hereby amended, in section 6, by inserting after the words ‘the type of assistance later required and provided,’ the following language:- the financial implications of the broader range of strategies implemented by the HomeBase program to address family homelessness, specifically addressing how the program has met expectations of efficiency and cost savings, detailing any areas the program has not produced the desired efficiency and what steps if any have been implemented to help reach the stated goals, including planned actions intended to reach future cost savings.”

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting after section __ the following new sections:-

“SECTION __. The first sentence of subsection (l) of section 3 of chapter 23K of the General Laws, as appearing in section 16 of chapter 194 of the Acts of 2011, is hereby amended by striking out the words ‘commission may’ and inserting in place thereof the following words:- commission shall.

SECTION __. Said first sentence of said subsection (l) of said section 3 of said chapter 23K, as so appearing, is hereby further amended by inserting after the word ‘credit’ the following words:- and background.”

After remarks, the amendment was adopted.

The bill, as amended, was then ordered to a third reading and read a third time.

Mr. Hart in the Chair, after remarks, the question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at five minutes past four o'clock P.M., on motion of Mr. Knapik, as follows, to wit (34 yeas – 0 nays) [Yes and Nays No. 175]:

YEAS

Berry, Frederick E.	Jehlen, Patricia D.
Brewer, Stephen M.	Joyce, Brian A.

Brownsberger, William N.	Keenan, John F.
Candaras, Gale D.	Kennedy, Thomas P.
Chandler, Harriette L.	Knapik, Michael R.
Chang-Diaz, Sonia	McGee, Thomas M.
Clark, Katherine M.	Montigny, Mark C.
Creem, Cynthia Stone	Moore, Michael O.
DiDomenico, Sal N.	Moore, Richard T.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fargo, Susan C.	Rush, Michael F.
Finegold, Barry R.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E
Hedlund, Robert L.	Wolf, Daniel A. — 34.

NAYS — 0.

ABSENT OR NOT VOTING

Flanagan, Jennifer L.	Spilka, Karen E.
Rosenberg, Stanley C.	Welch, James T. — 4.

The yeas and nays having been completed at eleven minutes past four o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

There being no objection, at thirteen minutes past four o'clock P.M., the Chair (Mr. Hart) declared a recess subject to the call of the Chair; and, at twenty-eight minutes past five o'clock P.M., the Senate reassembled, Mr. Petrucelli in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4079, 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 2 to 0.**

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

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

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

Order Adopted.

On motion of Mr. Ross,--

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.

Adjournment in Memory of Stephen Perez, Jr.

Mr. Hart in the Chair, the Senator from Suffolk and Middlesex, Mr. Petruccelli, moved that when the Senate adjourns today, it adjourn in memory of U.S. Army Veteran Specialist Stephen Perez, Jr. of Revere.

United States Army veteran, Specialist Stephen Perez Jr. of Revere passed away tragically on April 28, 2012.

Specialist Perez was a 2007 Revere High School graduate and a student at Bunker Hill Community College.

Specialist Perez served his country admirably in Afghanistan and Iraq, while receiving numerous commendations for his actions in combat.

He is survived by his parents Stephen Perez and Kimberly McGee, sisters Rebecca Prouty and Amanda O'Sullivan, and brothers Shawn McGee and Salvatore Perez.

Mr. Petruccelli in the Chair, accordingly, as a mark of respect to the memory of Stephen Perez, Jr., at twenty-six minutes before six o'clock P.M., on motion of Mr. Ross, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.