

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, March 8, 2012.

Met at two minutes past one o'clock P.M. (Mr. Donnelly in the Chair).

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, the State Champion Peabody Veterans Memorial High School Tanners Girls Soccer Team. The team was recognized for defeating East Longmeadow with a score of 1-0 for the Division 1 state crown and finished the season with a record of 22-0-2. That made them the number 1 team in New England and number 5 in the nation. They were led by captains Taylor Provost, Katie Bruenelle, Cayla Bucci and Hayley Dowd and were accompanied by Coach Dennis Desroches. The team was applauded for their accomplishments and withdrew from the Chamber. They were guests of Senator Berry.

There being no objection, the President handed the gavel to Ms. Chandler for the purpose of an introduction. Ms. Chandler then introduced, in the rear of the Chamber, Captain David Dunphy of the 26th "Yankee" Brigade, Massachusetts Army National Guard, where he served as the lead mentor of the Explosive Ordinance Disposal. He also served both in Afghanistan and Iraq. The Senate welcomed him with applause and he withdrew from the Chamber.

There being no objection, the President handed the gavel to Mr. Kennedy for the purpose of an introduction. Mr. Kennedy then introduced, in the rear of the Chamber, Ray Ledoux, Administrator of the Brockton Area Transit Authority. The Senate welcomed him with applause and he withdrew from the Chamber.

Communications.

The following communications were severally received and placed on file:

Communication from the Honorable Therese Murray, President of the Senate, announcing the appointment of Senators McGee (Co-Chairman), Richard T. Moore and Flanagan to the Special Commission established (pursuant to Chapter 313 of the Acts of 2010) to make an investigation and study of the issue of postpartum depression;

Communication from the Honorable Bruce E. Tarr, Senate Minority Leader, announcing (pursuant to Executive Order 539) the appointment of himself to the Special Commission for public housing sustainability and reform; and

Communication from the Honorable Bruce E. Tarr, Senate Minority Leader, announcing (pursuant to Section 68 of Chapter 194 of the Acts of 2011) the appointment of Senator Richard J. Ross to the Gaming Policy Advisory Committee.

Reports.

The following reports were severally received and placed on file:

A report from the Honorable Martin J. Benison, Comptroller, submitting a report on the competitive grant program for audit services (pursuant to Chapter 68 of the Acts of 2011) (received in the Office of the Clerk of the Senate on Tuesday, March 6, 2012, at thirteen minutes past four o'clock P.M.); and

A report from the Honorable Martin J. Benison, Comptroller, submitting a report on the comparison of actual revenue collections to budget for the final balances for FY2011 and for the first two quarters of FY2012 (pursuant to Sections 1A and 1B of Chapter 131 of the Acts of 2010 and pursuant to Sections 1A and 1B of Chapter 68 of the Acts of 2011) (received in the Office of the Clerk of the Senate on Thursday, March 8, 2012, at twenty-three minutes past ten o'clock P.M.).

Reports of Committees.

By Mr. Rodrigues, for the committee on Children, Families and Persons with Disabilities, on petition, a Bill creating a children's health policy council (Senate, No. 33);

By the same Senator, for the same committee, on petition, a Bill to provide for an income tax credit for taxpayers with family members requiring care in their homes (Senate, No. 44);

By the same Senator, for the same committee, on petition, a Bill to assess the impact of the public welfare system on the health and well-being of children (Senate, No. 54);

By the same Senator, for the same committee, on petition, a Bill relative to increasing consumer access to licensed marriage and family therapists (Senate, No. 72);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 40), a Bill regarding continuity of care for children and their eligible parents (Senate, No. 2164);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill relative to emergency medical services at certain prison facilities (Senate, No. 1235); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1216), a Bill providing for HIV testing for at risk police officers (Senate, No. 2167);

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on petition, a Bill authorizing a lease of a certain parcel of land under the control of the Department of Fish and Game to the Bourne Water District for water distribution purposes (Senate, No. 2130);

Read and, under Senate Rule 26, referred to the committee on Bonding, Capital Expenditures and State Assets.

By Mr. Rodrigues, for the committee on Children, Families and Persons with Disabilities, on petition, a Bill relative to creating a loan repayment program for direct care human service workers (Senate, No. 29);

By the same Senator, for the same committee, on petition, a Bill relative to safety in child care centers (Senate, No. 36);

By the same Senator, for the same committee, on petition, a Bill relative to the financial support of foster children (Senate, No. 43);

By the same Senator, for the same committee, on petition, a Bill establishing a deaf children's bill of rights (Senate, No. 47);

By the same Senator, for the same committee, on petition, a Bill requiring equal benefits for all new mothers (Senate, No. 58);

By the same Senator, for the same committee, on petition, a Bill revising the interstate compact on the placement of children (Senate, No. 63);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on Senate, No. 1187 and House, No. 3168, a Bill to include call/volunteer firefighters on the Fire Service Commission (Senate, No. 1187);

By the same Senator, for the same committee, on petition, a Bill relative to implementing a blue alert system in the Commonwealth (Senate, No. 1193);

By the same Senator, for the same committee, on petition, a Bill relative to the safety of police, fire and medical personnel (Senate, No. 1221);

By the same Senator, for the same committee, on petition, a Bill relative to hazardous materials response (Senate, No. 1239);

By the same Senator, for the same committee, on petition, a Bill relative to process piping (Senate, No. 1250);

By the same Senator, for the same committee, on petition, a Bill relative to trench safety (Senate, No. 1253);

By the same Senator, for the same committee, on petition, a Bill relative to the issuance of uniform firefighter identification cards (Senate, No. 1254);

By the same Senator, for the same committee, on petition, a Bill relative to the issuance of uniform sheriff's identification cards (Senate, No. 1255);

By the same Senator, for the same committee, on petition, a Bill relative to police training (Senate, No. 1258);

By the same Senator, for the same committee, on petition, a Bill relative to voluntary towing reform (Senate, No. 1682);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1190) a Bill relative to certain tanks used for the storage of fluids (Senate, No. 2166);

By the same Senator, for the same committee, on Senate, No. 1244 and House, No. 2408, a Bill establishing the Fire Prevention Regulations Appeals Board (Senate, No. 2168); and

By Mr. Brownsberger, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Judith Christianson, an employee of the Department of Transitional Assistance (Senate, No. 2161);

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

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill requiring a fire arms licensing authority to provide a receipt for firearm license applications (Senate, No. 1214); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1182), a Bill relative to the safety of law enforcement officers (Senate, No. 2165);

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

PAPERS FROM THE HOUSE

A petition (accompanied by bill, House, No. 3852) of Alice K. Wolf and others (with the approval of the mayor and city council) providing the city of Cambridge with the authority to impose and increase certain motor vehicle fines in the City of Cambridge in order to improve driving,-- **was referred, in concurrence, to the committee on Transportation.**

A report of the committee on Health Care Financing, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3953) of Patricia Haddad, Michael J. Rodrigues and other members of the General Court (by vote of the town) for legislation relative to a certain parcel of land in the town of Freetown, and recommending that the same be referred to the committee on House Rules,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, in the discharge of the joint committee.**

There being no objection, at three minutes past one o'clock P.M., the Chair (Mr. Donnelly) declared a recess subject to the call of the Chair; and, at twenty-four minutes before two 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 Mr. Richard T. Moore) “congratulating the Southbridge Lions Club on the seventy-fifth anniversary of its founding”;

Resolutions (filed by Ms. Murray) “congratulating the town of Pembroke and the First Church of Pembroke on the town's Tricentennial Celebration”;

Resolutions (filed by Mr. Pacheco) “honoring Mary C. Powers for her 50 years of dedicated service to the Girl Scouts of the United States of America”;

Resolutions (filed by Mr. Tarr) “honoring Joanne Holbrook Patton for her lifetime of dedication to our Military Community”;

and

Resolutions (filed by Mr. Timilty) “congratulating Gertrude Messier on the joyous celebration of her ninetieth birthday.”

PAPERS FROM THE HOUSE

Engrossed Bill.

An engrossed Bill authorizing the city of Fitchburg to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (see House, No. 3738) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

The Senate Bill relative to community housing and services (Senate, No. 1967),-- **came from the House, passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 3963, amended.**

The rules were suspended, on motion of Mr. Wolf, and the House amendment was adopted, in concurrence.

The House Bill to provide retirement options for nonprofit organizations (House, No. 3754, amended),-- came from the House with the endorsement that the House had concurred in the Senate amendments with a further amendment in Section 1, by striking out the words “that are established, organized or chartered under the laws of the commonwealth and doing business in the commonwealth” (inserted by amendment by the Senate) and inserting in place thereof the words: “that are established, organized or chartered under the laws of the commonwealth and doing business in the commonwealth and employing not more than 20 persons.”.

The rules were suspended, on motion of Ms. Clark, and the further House amendment was adopted, in concurrence.

The Senate Bill relative to tiered and selective network health plans (Senate, No. 2148, amended),-- **came from the House, passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 3981.**
The rules were suspended, on motion of Mr. Richard T. Moore, and the House amendment was adopted, in concurrence (as corrected BTR).

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

Petition (accompanied by bill, House, No. 3982) of Martin J. Walsh, Sal N. DiDomenico and others relative to Congo conflict minerals;

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight

Petition (accompanied by bill, House, No. 3983) of Shauna L. O'Connell and others relative to the disposition of veterans remains;

Under suspension of Joint Rule 12, to the committee on the Veterans and Federal Affairs.

Reports of Committees.

Mr. Berry for the committee on Ethics and Rules, reported, that the following matter be placed in the orders of the Day for the next session:

The House Bill designating a certain bridge on interstate Highway Route 195 in the town of Wareham as the First Sergeant Charles W. Parker Memorial Bridge (House, No. 3757).

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

Pending the question on ordering the bill to a third reading, Mr. Pacheco moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:-

“SECTION 1. Chapter 46 of the acts of 1971 is hereby repealed.

SECTION 2. Bridge W-6-51 on interstate highway route 195 in the town of Wareham shall be designated and known as the First Sergeant Charles W. Parker Memorial Bridge, in memory of Charles W. Parker, who was killed in action while a member of the armed forces of the United States during World War II. The division of highways within the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing this designation in compliance with the standards of the department.”

The amendment was adopted.

The bill, as amended, was then 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.

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 Susan C. Fargo, Jennifer E. Benson and Denise Provost for legislation to regulate the practice and licensure of lactation consultants.

Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Health.

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 Richard T. Moore, Benjamin B. Downing, Stephen L. DiNatale, Linda Dean Campbell and other members of the General Court for legislation to promote American manufacturing.

Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration and Regulatory Oversight.

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 Gale D. Candaras for legislation relating to municipal wholesale electric companies.

Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy.

Severally sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate Bill authorizing the town of Milton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premise of a certain restaurant (Senate, No. 2052),-- **was read a second time and ordered to a third reading.**

The Senate Bill regulating the release of information concerning adoption (Senate, No. 52),-- **was read a second time.**

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with same title (Senate, No. 2163) was considered, and it was adopted

After remarks the bill (Senate, No. 2163) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at three minutes past two o'clock P.M., on motion of Mr. Knapik, as follows, to wit (*yeas 36 – nays 0*) [**Yeas and Nays No. 160**]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Brownsberger. William N. Knapik, Michael R.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone Pacheco, Marc R.
DiDomenico, Sal N. Petrucci, Anthony
Donnelly, Kenneth J. Rodrigues, Michael J.
Donoghue, Eileen M. Ross, Richard J.
Downing, Benjamin B. Rush, Michael F.
Eldridge, James B. Spilka, Karen E.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 36.

NAYS — 0.

ABSENT OR NOT VOTING

Fargo, Susan C. Rosenberg, Stanley C.—3.
Jehlen, Patricia D.

The yeas and nays having been completed at eight minutes past two o'clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

The Senate Bill further regulating business practices between motor vehicle dealers, manufacturers and distributors (Senate, No. 1975),-- **was read a second time.**

Pending the question on adoption of the pending amendment, previously recommended by the committee on Ways and Means, and pending the main question on ordering the bill to a third reading, Mr. Kennedy moved that the matter be laid on the table; and, under the provisions of Senate Rule 24, the further consideration thereof was laid over until the next session.

The Senate Bill to establish the Massachusetts Uniform Trust Code (Senate, No. 2034),-- **was considered, the main question on ordering the bill to a third reading.**

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft entitled “An Act further regulating the probate code and establishing a trust code” (Senate, No. 2128),-- was considered.

After remarks, pending the question on adoption of the amendment, Mr. Brewer moved that the pending new draft be amended by inserting after section 22, the following section:-

“SECTION 22A. Subsection (a) of section 3-715 of said chapter 190B is hereby amended by inserting after paragraph 23, the following paragraph:- (23 ½) sell, lease or encumber to an arm's length third party any real estate of the estate, or an interest in that real estate, for cash, credit or for part cash and part credit, with or without security for unpaid balances and whether the personal representative has been appointed formally or informally; the sale, lease or encumbrance shall be conclusive notwithstanding section 3-302 or any contest of the informal probate proceeding, provided that: (i) if the decedent died without a will, a license has been issued under chapter 202; or (ii) if the decedent died with a will, either: (a) the will, probated formally or informally, empowered the personal representative to sell, lease or encumber that real estate or an interest in that real estate, or (b) a license has been issued under chapter 202;”;

By inserting after section 23, the following section:-

“SECTION 23A. Section 5-101 of said chapter 190B, as so appearing, is hereby amended by striking out the definition of “Nursing facility” and inserting in place thereof the following definition:- (15) “Nursing facility”, an institution or a distinct part of an institution which is primarily engaged in providing to residents: (i) skilled nursing care and related services for residents who require medical or nursing care; (ii) rehabilitation services for the rehabilitation of injured, disabled or sick persons; or (iii) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services, above the level of room and board, which can be made available to that individual only through institutional facilities that are not primarily a mental health facility or mental retardation facility; provided however, that the term nursing

facility shall not apply with regard to the placement or transfer of a patient to a facility that is (i) licensed by the department of public health, under section 51 of chapter 111, as a long term acute care hospital or inpatient rehabilitation facility; (ii) licensed by the department of public health, under section 71 of chapter 111, as a rest home; or (iii) licensed or certified as an assisted living residence by the executive office of elder affairs under 651 CMR 12.00 et seq.”;

In section 54, by inserting in section 112 of proposed chapter 203E of the General Laws, before the word “shall”, in line 554, the following words:- “by will”;

In section 58, by striking out, in line 1516, the words “for the filing of petition for adoption, \$100;”;

In section 58, by striking out, in line 1544, the word “adoption,”;

In section 58, by striking out, in line 1546, the word “adoption,”;

In section 58, by inserting after the word “representative,” in line 1559, the following words:- for the filing of a statement of voluntary administration,”;

In section 58, by striking out, in line 1564, the words “for statement of voluntary administration,”; and

In section 58, by inserting after the word “support”, in line 1578, the following word:- “, adoption”.

The amendment was adopted.

The Ways and Means amendment was then adopted, as amended.

The bill (Senate, No. 2128, amended) was then ordered to a third reading.

The rules were suspended, on motion of Mr. Hart, and the bill was read a third time and passed to be engrossed.

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Hart,--

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 Attilio R. Antonioni

The Senator from Worcester and Middlesex, Ms. Flanagan, moved that when the Senate adjourns today, it adjourn in memory of Attilio R. Antonioni of Leominster, the father of former Senator Robert A. Antonioni.

Attorney Attilio “Tony” Antonioni died unexpectedly on Monday, February 27, 2012 in Health Alliance/Leominster Hospital after a brief illness. Tony was born on June 19, 1929 in Leominster, the son of Attilio D. and Ilda (Cattel) Antonioni. A graduate of Leominster High School Class of 1947, he attended The College of the Holy Cross in 1951 and received his Juris Doctor degree from Boston College Law School in 1957. Tony founded the Antonioni & Antonioni Law Offices in Leominster and shared the practice with his son, Bob until his death at the age of 82. Tony was a United States Army Veteran serving during the Korean War era.

In addition, he was Assistant City Solicitor for the City of Leominster for more than 20 years. He served as an Assistant Attorney General under Robert Quinn and was a member of the Worcester County Bar Association for more than 50 years and was recognized in 2007. Tony also was a member of the North Worcester County Bar Association. Tony was very active in St. Anna Parish in Leominster where he served on the Parish Council and the Bishops Fund Committee. He was a member of the Leominster Lodge of Elks and the Leominster Knights of Columbus.

He is survived by his wife of 54 years, Jacqueline (Gagne) Antonioni of Leominster, his son, Attorney Robert ‘Bob’ Antonioni of Leominster, four daughters, Marie D. Sunder of Winchester, Dr. Janet L. Antonioni of Belmont, Ellen F. Bernard-Myers of Leominster, Christine Antonioni-Hanson of Paxton, seven grandchildren, Diana, Dennis, Tristan, Corey, Christian, Michael and Logan; his brother George D. Antonioni of Leominster, and two sisters, Margaret G. Ford of Fitchburg, and Jennie P. Antonioni of Andover, and many nieces, nephews and life-long friends. He was predeceased by his son, John G. Antonioni in 1999. Tony will be sorely missed by his family, friends and community.

Accordingly, as a mark of respect to the memory of Attilio R. Antonioni, at twenty-three minutes past two o'clock P.M., on motion of Mr. Brewer, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.