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# UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



## JOURNAL OF THE SENATE.

*Monday, Tuesday, July 13, 2010.*

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

### *Distinguished Guests.*

There being no objection, the President handed the gavel to Mr. Downing for the purpose of an introduction. Mr. Downing then introduced a group of students and teachers from Hillcrest Educational Centers in Berkshire County. Hillcrest Educational Centers, Inc. has been providing state of the art residential treatment services to students with behavior disorders since 1985. The students and teachers performed a drum concert in the well of the Chamber. The Senate applauded their accomplishments and the group withdrew from the Chamber.

### *Reports of Committees.*

By Mr. Richard T. Moore, for the committee on Health Care Financing, on petition, a Bill relative to centers of excellence (Senate, No. 867);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 872), a Bill to prohibit mandatory overtime for nurses (Senate, No.. 2543); and

By Mr. McGee, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Holly Ann Beaumier, an employee of the office of Medicaid (Senate, No. 2538);

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

### *Committees Discharged*

Mr. Berry, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Labor and Workforce Development to make an investigation and study of a certain current Senate document relative to labor and workforce issues (Senate, No. 2537),-- **and recommending that the same be referred to the committee on Ethics and Rules.** **Under Senate Rule 36, the report was considered forthwith and accepted.**

### **PAPERS FROM THE HOUSE**

A Bill establishing a sick leave bank for Meghan Savage, an employee of the Department of Children and Families (House, No. 4798, amended,-- **on petition**),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Report of the committee on Election Laws asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4846) of Robert S. Hargraves and Steven C. Panagiotakos (by vote of the town) for legislation relative to the placing of a certain question on the ballot in the town of Pepperell in the current year relative to granting of licenses for the sale of alcoholic beverages in said town;-- **and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure,- was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

### *Recess.*

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 eight minutes past two o'clock P.M., 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 Mr. Downing) "celebrating the twenty-fifth anniversary of Hillcrest Educational Centers"; and

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

### **PAPERS FROM THE HOUSE**

#### *Emergency Preambles Adopted*

An engrossed Bill further regulating public charities (see Senate, No. 2117, 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 5 to 0. The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill relative to safety regulations for school athletic programs (see Senate, No. 2469, 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 6 to 0.**  
**The bill was signed by the President and sent to the House for enactment.**

*Reports of a Committee.*

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 requiring engine coolant and antifreeze to contain a bittering agent so as to render it unpalatable (House, No. 4285).

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

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 relative to qualified financial contracts (House, No. 4399).

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

**After remarks, pending the question on ordering the bill to a third reading, Mr. Montigny 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.**

**PAPERS FROM THE HOUSE**

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

Petition (accompanied by bill, House, No. 4874) of Timothy J. Toomey, Jr. and others (with the approval of the mayor and city council of Cambridge) relative to authorizing the city of Cambridge to grant a permanent easement on and over certain strips of land owned by the city of Cambridge that are located in the city of Watertown; and

Petition (accompanied by House, No. 4875) of Timothy J. Toomey, Jr. and others that the city of Cambridge be granted certain easements upon state owned land;

**Severally under suspension of Joint Rule 12, to the committee on State Administration and regulatory Oversight.**

*Engrossed Bills.*

An engrossed Bill relative to property tax exemptions for rental properties in the town of Wellfleet restricted as affordable housing (see House, No. 2852, amended) (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 re-enacted and signed by the President and again laid before the Governor for his approbation.**

The following engrossed bills (the first of which originated in the Senate), 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:

Further regulating funeral processions (see Senate, No. 1884, amended); and  
Authorizing the town of Westwood to grant 3 licenses for the sale of wines and malt beverages to food stores (see House, No. 4089, amended).

*Matters Taken Out of the Notice Section of the Calendar.*

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered forthwith:

The Senate Bill relative to level IV treatment interventions (Senate, No. 45) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft with the same title, Senate, No. 2540).

**The bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**The bill (Senate, No. 2540) was then ordered to a third reading, read a third time and, after debate, passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill creating a special commission on behavior modification (Senate, No. 46) (the committee on Ways and Means having recommended that the bill be amended by substituting a “Resolve providing for a special commission on behavior modification”, Senate, No. 2541).

**The bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**The resolve (Senate, No. 2541) was then ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

*Report of a Committee.*

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 relative to certain exemptions in Massachusetts automobile insurance plans (House, No. 4476).

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

Mr. Hart moved that the bill be amended in clause (b) of section 2 after the words “six members

from associations of insurance producers” by inserting the following:- “of which two of the producer representatives shall be producers who are assigned risk producers who write private passenger automobile insurance exclusively through the Massachusetts automobile assigned risk plan pursuant to the provisions of the plan approved under this section”.

**After remarks, 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.**

### **PAPER FROM THE HOUSE**

The Senate Bill relative to economic development reorganization (Senate, No. 2380),— **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 4863.**

**Mr. Downing moved that the Senate NON-concur in the House amendment and ask for a committee of conference on the disagreeing votes of the two branches.**

After debate, the question on non-concurrence in the House amendment and appointment of a committee of conference was determined by a call of the yeas and nays, at twelve minutes before four o'clock P.M., on the motion of Mr. Tisei, as follows, to wit (*yeas 33 – nays 5*) [**Yeas and Nays No. 331**]:

### **INSERT ROLL CALL “331”**

**The yeas and nays having been completed at seven minutes before four o'clock P.M., the Senate NON-concurred in the House amendment and appointed a committee of conference. Senators Spilka, Downing and Tarr were appointed to the committee on the part of the Senate.**

**The bill was returned to the House endorsed accordingly.**

### *Report of a Committee.*

Mr. Berry, for the committee on Ethics and Rules, that the Senate Order (offered by Mr. Montigny) relative to requesting the opinion of the Attorney General on a certain matter of law relative to an amendment to the enhanced gaming bill,-- **ought NOT to be adopted.**

**There being no objection, the rules were suspended, on motion of Mr. Berry, and the report of the committee was considered forthwith and accepted.**

**The order was placed on file.**

### *Orders of the Day.*

The Orders of the Day were considered as follows:

Bills

Authorizing the town of Cohasset to use a certain parcel of water supply land for general municipal purposes (House, No. 4844); and

Relative to the charter of the town of Franklin (House, No. 4845);  
**Were severally read a second time and ordered to a third reading.**

The Senate Bill relative to auto body labor rates (Senate, No. 122),-- **was read a third time.**  
Pending the question on passing the bill to be engrossed, Mr. Panagiotakos moved that the bill be amended in subsection (c) of proposed section 11 by inserting after the first sentence the following sentence:- “The average national auto repairer hourly compensation rate shall apply only to the rate charged to automobile insurers by auto repair shops.”

**The amendment was adopted.**

**After remarks, the bill (Senate, No. 122, amended) was then passed to be engrossed.  
Sent to the House for concurrence.**

The Senate Bill relative to compliance with reserve requirements of life insurers (Senate, No. 2542),-- **was read a third time and, after remarks, passed to be engrossed.  
Sent to the House for concurrence.**

The House Bill establishing the Massachusetts Food Policy Council (House, No. 4568),-- **was read a third time and, after remarks, passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.  
Sent to the House for concurrence in the amendment.**

The House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4156),-- **was considered, the main question being on passing the bill to be engrossed.**

**The pending motion, previously moved by Mr. Tisei, to lay the matter on the table was considered; and it was negated.**

**Mr. Tarr moved that further consideration of the matter be postponed until the next session.**

**After remarks, the motion to postpone was rejected, by a vote of 5 to 6.**

**After further remarks, pending the question on adoption of the amendment, previously moved by Mr. Tisei, and the main question on passing the bill to be engrossed, Mr. Tarr 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.**

*Order Adopted.*

On motion of Ms. Menard,

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at one o'clock P.M., in a full formal session.

*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 Marine Corporal Paul Fagundes.

*Adjournment in Memory of Marine Corporal Paul Fagundes*

The Senator from Bristol and Plymouth, Ms. Menard, requested that when the Senate adjourns today, it adjourn in memory of Marine Corporal Paul Fagundes.

Corporal Paul Fagundes, a native of Fall River, died July 4, 2010 in a valiant attempt to save two fellow Marines who drowned in the waters near Guantanamo Bay, Cuba, where they were stationed.

Corporal Fagundes enlisted in the Marines last year and was deployed to Guantanamo Bay only a few months ago. He was assigned to the Fleet Anti-Terrorism Team Alpha Company, 6th Platoon based out of Norfolk, Virginia.

Corporal Fagundes is survived by his wife, Cynthia Marie (Amaral) Fagundes; their son, Cazzian Paul Fagundes and an expected daughter, Anya Paulynn Fagundes. He also leaves his parents, Jorge and Rosemary (Furtado) Fagundes; and sister, Belinda Fagundes.

Corporal Fagundes was a 1999 graduate of Joseph Case High School in Swansea and Bristol Community College in Fall River.

A burial service for Corporal Fagundes was held today with full military honors.

Our hearts and prayers are with his loved ones.

Accordingly, as a mark of respect to the memory of Marine Corporal Paul Fagundes, at seventeen minutes past four o'clock P.M., on motion of Ms. Menard, the Senate adjourned to meet again on Thursday next at one o'clock P.M.