

Wednesday, March 30, 2011.

Met according to adjournment at one o'clock P.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement of Representative Canavan of Brockton.

A statement of Representative Canavan of Brockton was spread upon the records of the House, as follows:

Statement of Mrs. Canavan of Brockton.

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for today's sitting due to a previously scheduled oral surgery appointment. My missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Koczera of New Bedford.

A statement of Mr. Murphy of Burlington concerning Mr. Koczera of New Bedford was spread upon the records of the House, as follows:

Statement concerning Mr. Koczera of New Bedford.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Koczera of New Bedford, is unable to be present in the House Chamber for today's sitting due to a death in his family. His missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Wolf of Cambridge.

A statement of Ms. Reinstein of Revere concerning Ms. Wolf of Cambridge was spread upon the records of the House, as follows:

Statement concerning Ms. Wolf of Cambridge.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Wolf of Cambridge, is unable to be present in the House Chamber for today's sitting due to a brief illness. Her missing of roll calls today is due entirely to the reason stated.

Guests of the House.

During the session, the Chair (Mrs. Haddad of Somerset) introduced the Haydenettes, a synchronized skating team based in Lexington with members from throughout the Commonwealth. The team, having won their nineteenth national championship this month, will be competing as Team USA at the World Championships in Finland in April. Team member Hannah Lapuck, a part-time aid to Representative Wagner of Chicopee, was presented citations recognizing the accomplishments of the team. Accompanied by their coach, Saga Krantz, they were the guests of Representatives Kaufman of Lexington, Stanley of Waltham, Wagner and others.

Haydenettes skating team.

Resolutions.

Mrs. Haddad of Somerset being in the Chair,—
The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Representatives Barrows of Mansfield, Poirier of North Attleborough and Howitt of Seekonk) congratulating the town of Norton on its three hundredth anniversary; Norton,— anniversary.

Resolutions (filed by Mr. Levy of Marlborough) congratulating the Immaculate Conception School on the occasion of its one hundredth anniversary; and Immaculate Conception.

Resolutions (filed by Mr. Vallee of Franklin) honoring the Franklin Council on Aging on the occasion of its fortieth anniversary; Franklin Council on Aging.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Mariano of Quincy, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

A petition of Robert F. Fennell (accompanied by bill, House, No. 3325) for legislation to establish the North Shore Community College Assistance Corporation (having been returned by the State Secretary, under the provisions of Chapter 3 of the General Laws with memorandum relative thereto) was referred to the committee on Higher Education. Sent to the Senate for concurrence. North Shore Community College.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Haddad of Somerset), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum. Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance. Quorum,— yea and nay No. 26.

[See Yea and Nay No. 26 in Supplement.]

Therefore a quorum was present.

Reports of Committees.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill making appropriations for fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3318), be scheduled for consideration by the House. Supplemental appropriations.

Under suspension of the rules, on motion of Mr. Dempsey of Haverhill, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Supplemental appropriations.

After remarks on the question on passing the bill to be engrossed, Messrs. Canessa of New Bedford and Markey of Dartmouth moved to amend it in section 2 by inserting after item 1102-3302 the following item:

"1233-XXXX For reimbursements to certain cities and towns for additional educational costs pursuant to chapter 40S of the general laws, provided further that cities and towns eligible for funding in fiscal year 2010 shall be reimbursed \$363,399.00".

The amendment was rejected.

Mr. Hill of Ipswich then moved to amend the bill in section 2A by inserting after 0521-0005 the following item:

"2200-XXXX For the cost of construction and reconstruction of culverts under or adjacent to town ways; provided that such costs may include expenses related to the relocation of utility lines in conjunction with such construction or reconstruction; provided further, that the commonwealth shall reimburse any such city or town under this item within 30 days after receipt by the department of a request for reimbursement from the city or town, which request shall include certification by the city or town that actual expenses have been incurred, and that the work has been completed to the satisfaction of the city or town according to the specifications of the project and in compliance with applicable laws and procedures established by the department \$1,000,000".

The amendment was rejected.

Mr. Jones of North Reading and other members of the House moved to amend the bill in section 55, in lines 809 to 815, inclusive, by striking out the sentence in those lines and inserting in place thereof the following sentence: "There shall be established a board of trustees to consist of 3 members of the senate, 2 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; 3 members of the house of representatives, 2 of whom shall be appointed by speaker of the house and 1 of whom shall be appointed by the minority leader of the house; the state treasurer or his designee, who shall serve as chair; and 8 persons to be appointed by him, who shall have experience in fundraising, education or financial services; the attorney general or her designee; the undersecretary of consumer affairs and business regulation or her designee; the secretary of education or his designee; the commissioner of elementary and secondary education or his designee and the secretary of housing and economic development or his designee."

The amendment was adopted.

Mr. Mariano of Quincy being in the Chair,—

Representatives Haddad of Somerset and Peisch of Wellesley moved to amend the bill by inserting after section 55 the following section:

"SECTION 55A. Item 3000-4050 of said section 2 of said chapter 131 of the Acts of 2010 is hereby amended by striking out the words 'provided further, that the commissioner of early education and

care may transfer funds to this item from items 3000-1000 and 3000-4060, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 30 days before the transfer; and provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2011' and inserting in place thereof the following words:— and provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000, 3000-3050 and 3000-4060, as necessary, pursuant to an allocation plan which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 15 days before the transfer."

The amendment was adopted.

Mrs. Haddad of Somerset being in the Chair,—

Mr. Jones of North Reading and other members of the House moved to amend the bill in section 2A by inserting after item 0521-0004 the following item:

"1201-XXXX For distribution to cities and towns for snow and ice removal expenses on municipal ways during the fiscal year 2011; provided, that a city or town receiving funds under this item may reimburse school districts for snow and ice removal expenses; provided, further that 58.34 per cent of funds appropriated under this item shall be apportioned to each city or town proportionally based on the number of road miles as determined by the division of highways within the department of transportation; 20.83 per cent of funds appropriated under this item shall be apportioned to each city or town proportionally based on the population of the city or town as determined by the department of revenue; and 20.83 per cent of funds appropriated under this item shall be apportioned to each city or town proportionally based on the employment population in the city or town as determined by the executive office of labor and workforce development; provided, further that any funds received by a city or town in excess of its liability for snow and ice removal expenses shall be used for the construction and reconstruction of municipal ways as described in clause (b) of section 4 of chapter 6C of the General Laws.... \$25,000,000".

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by inserting at the end of the proposed item, after the words "General Laws", the following paragraph:

"Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the executive office of administration and finance and the department of revenue have furnished a study of its impact on the state's economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment and ancillary eco-

conomic activity, to the joint committee on revenue and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 120 members voted in the affirmative and 34 in the negative.

[See Yea and Nay No. 27 in Supplement.]

Therefore the further amendment was adopted.

The amendment, as amended, then also was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 144 members voted in the affirmative and 9 in the negative.

[See Yea and Nay No. 28 in Supplement.]

[Mr. Howitt of Seekonk answered “Present” in response to his name.]

Therefore the bill (House, No. 3318, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill providing for the municipal road and bridge maintenance needs of the Commonwealth (House, No. 3316), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 3324).

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets,— that the bill be amended by substitution of a bill with the same title (House, No. 3320),— and the amendment recommended by the committee on Ways and Means, pending.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith.

The amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets then was rejected.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 3324) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Dempsey of Haverhill, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After remarks on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Straus of Mattapoisett; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 29 in Supplement.]

Therefore the bill (House, No. 3324) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the following House bills be scheduled for consideration by the House:

Governing the issuance of temporary loans by the town of Winchester (House, No. 1840); and

Exempting the positions of fire chief and city marshal in the city of Newburyport from the civil service law (House, No. 1846);

Under suspension of Rule 7A, in each instance, on motion of Mr. Kafka, the bills severally were read a second time forthwith; and they were ordered to a third reading.

By Mr. Kane of Holyoke, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to Falmouth affordable housing fund (House, No. 3255) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill amending the charter of the town of Eastham (House, No. 3256) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill creating an appointed town treasurer-collector position in the town of Eastham (House, No. 3257) [Local Approval Received].

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill relative to a sick leave bank (House, No. 3250).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Orders of the Day.

The Senate Bill authorizing the town of Sandwich to enter into leases for recreational fields and facilities (Senate, No. 1884, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the town of Sandwich to enter into leases for recreational fields and facilities (see Senate, No. 1884, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (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); and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 30 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bill.

The engrossed Bill providing for the appointment of a treasurer-collector in the town of Barre (see Senate, No. 1873) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Further amendment adopted,— yea and nay No. 27.

Bill passed to be engrossed,— yea and nay No. 28.

Roads and bridges,— maintenance.

Bill passed to be engrossed,— yea and nay No. 29.

Winchester,— loans.

Newburyport,— city marshal.

Falmouth affordable housing fund.

Eastham,— town charter.

Eastham,— treasurer-collector.

Daniel Murphy,— sick leave.

Third reading bill.

Sandwich,— recreational facility.

Bill enacted (land taking),— yea and nay No. 30.

Bill enacted.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next
sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

At twenty-two minutes after four o'clock P.M., on motion of Mr. Hill of Ipswich (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.