

# JOURNAL OF THE HOUSE.

Tuesday, April 15, 2008.

Met at twelve minutes after eleven o'clock A.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).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God of Goodness and Truth, we pray for Your gift of wisdom and for the courage to respond thoughtfully and creatively to the pressing concerns of constituents and of all people in the Commonwealth. Teach us to listen intently and to evaluate carefully the public policy, legislative and administrative proposals of all in our districts. Inspire us to help people, especially students, to recognize and to utilize correctly their talents and human and spiritual gifts to meet the exciting challenges and opportunities of the times. May we continue our efforts to unite people in common ethical causes and to build goodwill towards all in our society. Grant us the vision and the confidence to face the future in a positive manner and to continue to respect the dignity and importance of each person in our community.

Grant your blessings to the Speaker, the members and employees of this House and their families. Amen.

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 St. Fleur of Boston.

A statement of Ms. St. Fleur of Boston, was spread upon the records of the House, as follows:

Statement of Representative St. Fleur of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business outside of the State House. Any roll calls that I may have missed today was due entirely to the reason stated.

### Statement Concerning Representative Straus of Mattapoisett.

A statement of Mr. Rogers of Norwood concerning Mr. Straus of Mattapoisett, was spread upon the records of the House, as follows:

Statement concerning Representative Straus of Mattapoisett.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Straus of Mattapoisett, will not be present in the House Chamber for today's sitting due to his attending to the needs of a family member. Any roll calls that he may miss today will be due entirely to the reason stated.

### Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Rogers of Norwood) congratulating Giles Parker on the occasion of his retirement from Norwood High School;

Giles Parker.

Resolutions (filed by Mr. Loscocco of Holliston and other members of the House) honoring the city of Marathon, the government of Greece and the flame of the Marathon Run;

Marathon.

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and D'Amico of Seekonk) congratulating Michael A. Fiore on receiving the Eagle Scout Award of the Boy Scouts of America;

Michael A. Fiore.

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and D'Amico of Seekonk) congratulating Mark A. Ledbetter on receiving the Eagle Scout Award of the Boy Scouts of America;

Mark A. Ledbetter.

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and D'Amico of Seekonk) congratulating Eric R. Marson on receiving the Eagle Scout Award of the Boy Scouts of America;

Eric R. Marson.

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and D'Amico of Seekonk) congratulating Rohan H. Vakil on receiving the Eagle Scout Award of the Boy Scouts of America; and

Rohan H. Vakil.

Resolutions (filed by Mr. Turner of Dennis) congratulating Patrick Johnson on receiving the Eagle Award of the Boy Scouts of America;

Patrick Johnson.

Mr. Scaccia of Boston, 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. Quinn of Dartmouth, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### Paper from the Senate.

The engrossed bill authorizing the town of Wakefield to issue pension obligation bonds and notes (see Senate, No. 1650), which had been returned to the Senate by His Excellency the Governor, in accordance with the provisions of Article LVI of the Amendments to the Constitution, with recommendation of amendment (for message, see Senate, No. 2552), came from said branch with the endorsement that it had adopted said amendment as contained in said message and as approved by the Senate committee on Bills in the Third Reading.

Wakefield, pension obligations.

Under suspension of Rule 35, on motion of Mr. Falzone of Saugus, the amendment was considered forthwith; and it was adopted, in concurrence.

### Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the joint petition of Charles A. Murphy and others relative to trial by jury for certain persons accused of sex

Sex offenders, jury trials.

offenses. Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Judiciary. Sent to the Senate for concurrence.

Department of  
Social  
Services,  
clients.

A report of the committee on Health Care Financing, asking to be discharged from further consideration of the Senate Bill governing removal of certain occupants to clients of the Department of Social Services (Senate, No. 1085), and recommending that the same be referred to the Senate committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, insomuch as relates to the discharge of the committee.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration

Town  
managers,  
appointment.  
Vehicle  
repairs,  
auto glass.

Of the Bill relative to the appointment of executive secretaries and town managers (Senate, No. 1204);

Of the Bill prohibiting motor vehicle insurance companies from directing insureds to specific auto glass companies for repair of vehicles (House, No. 1003);

Hygienists,  
appointments.

Of the Bill to increase the presence of dental hygienists on the Board of Registration in Dentistry (House, No. 2180); and

Non-teaching  
school  
employees.

Of the Bill relative to protecting the rights of custodial, maintenance and other nonteaching employees of school districts (House, No. 2664);

And recommending that the same severally be referred to the House committee on Ways and Means.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Children and  
families, study.

By Ms. Coakley-Rivera of Springfield, for the committee on Children, Families and Persons with Disabilities, on House, Nos. 73, 86, 90, 91, 95, 96, 99, 100, 101, 109, 124, 125, 127, 129, 130, 140, 142, 382, 895, 1027, 1287, 1904, 1983, 2145, 2244, 2245, 3839, 3922 and 4025, an Order relative to authorizing the committee on Children, Families and Persons with Disabilities to make an investigation and study of certain House documents concerning children, families and persons with disabilities and other related matters (House, No. 4678).

Higher  
education,  
study.

By Mr. Murphy of Lowell, for the committee on Higher Education, on Senate, Nos. 710, 711, 712, 718, 820, 722, 723, 724, 726, 728, 730, 733, 739 and 742 and House, Nos. 512, 546, 563, 1176, 1177, 1179, 1180, 1181, 1187, 1190, 1192, 1193, 1198 and 3857, an Order relative to authorizing the committee on Higher Education to make an investigation and study of certain Senate and House documents concerning higher education institutions and other related matters (House, No. 4679).

Public higher  
education,  
study.

By the same member, for the same committee, on Senate, No. 732 and House, Nos. 1175, 1185, 1186 and 1188, an Order relative to authorizing the committee on Higher Education to make an investigation and study of certain Senate and House documents concerning public higher education and other related matters (House, No. 4680).

Public safety,

By Mr. Costello of Newburyport, for the committee on Public Safety and Homeland Security, on House, Nos. 63, 76, 697, 2281, 2282, 2283, 2286, 2287, 2288, 2289, 2292, 2293, 2294, 2295, 2296, 2299, 2302, 2306, 2307, 2308, 2309, 2310, 2311, 2313, 2315, 2316, 2319, 2320, 2321, 2323, 2324, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2339, 2340, 2341, 2342, 2343, 2344, 2347, 2348, 2350, 2352, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2365, 2367, 2368, 2369, 2372, 2376, 2380, 2382, 2384, 2387, 2388, 2390, 2393, 2394, 2397, 2398, 2399, 2402, 2404, 2406, 2407, 2408, 2409, 2410, 3478, 3802, 3804, 3890, 3891 and 3923, an Order relative to authorizing the committee on Public Safety and Homeland Security to make an investigation and study of certain House documents concerning public safety and other related matters (House, No. 4681).

study.

By Mr. Dempsey of Haverhill, for the committee on Telecommunications, Utilities and Energy, on House, Nos. 32, 35, 279, 1979, 1980, 3271, 3272, 3273, 3274, 3275, 3276, 3278, 3280, 3281, 3282, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3318, 3319, 3323, 3326, 3327, 3328, 3329, 3330, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3379, 3380, 3381, 3382, 3383, 3384, 3386, 3387, 3388, 3389, 3390, 3392, 3784, 3813, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3827, 3828, 3914 and 3915, an Order relative to authorizing the committee on Telecommunications, Utilities and Energy to make an investigation and study of certain House documents concerning telecommunications, utilities and energy and other related matters (House, No. 4682).

Telecommunica-  
tions, utilities and  
energy, study.

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

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of the orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Day care  
centers,  
licensing.

By Ms. Coakley-Rivera of Springfield, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to the licensure of day care centers (House, No. 4604). Read; and referred, under Rule 33, to the committee on Ways and Means.

Public health pro-  
tection.

By Mr. Koutoujian of Waltham, for the committee on Public Health, that the recommitted Bill protecting the public health (House, No. 4346) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bus stops,  
illegal  
parking.

By Mr. Wagner of Chicopee, for the committee on Transportation, that the recommitted Bill relative to illegal parking in bus stops (House, No. 4314) ought to pass, with the amendment previously recommended by said committee,— substituting therefor a bill with

the same title (House, No. 4524),— pending. [Representative Fennell of Lynn dissenting]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Long term care, grants.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, on a petition, a Bill to improve long term care career ladder grant program (House, No. 613).

Uniform probate code.

By the same member, for the same committee, on a petition, a Bill relative to the uniform probate code (House, No. 1633).

Light cigarettes, marketing.

By the same member, for the same committee, on a petition, a Bill relative to the marketing of light cigarettes and the effect on public health (House, No. 2156).

Flavored cigarettes.

By the same member, for the same committee, on a petition, a Bill relative to flavored cigarettes in the Commonwealth (House, No. 4576).

Tobacco products.

By the same member, for the same committee, on a petition, a Bill to protect children from tobacco products packaged as blunt wraps (House, No. 4577).

Arlington, town water maintenance.

By Mr. Pedone of Worcester, for the committee on Municipalities and Regional Government, on a message from His Excellency the Governor, a Bill (printed in House, No. 4471).

Natick, annual town meeting.

By the same member, for the same committee, on a message from His Excellency the Governor, a Bill validating the acts and proceedings to the 2007 spring annual town meeting and 2007 fall annual town meeting to the town of Natick (printed in House, No. 4623).

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

*Emergency Measure.*

Kathryn McGaffey, sick leave bank.

The engrossed Bill establishing a sick leave bank for Kathryn McGaffey, an employee of the Department of Social Services (see Senate, No. 2447), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Bill enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Reconsideration.*

Seniors, bank fees.

Mr. Hynes of Marshfield moved that the action be reconsidered by which the House, on Tuesday, March 11, sent to the Senate the engrossed Bill relative to exempting seniors from certain bank fees (see House, No. 975), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, No. 4550); and the motion to reconsider was considered forthwith; and it prevailed.

The same member then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4683; and the amendment was adopted.

The bill then was sent to the Senate for its action.

*Orders of the Day.*

Senate bills  
Providing for the establishment of a fire department in the town of Georgetown (Senate, No. 2343, amended); and

Third reading bills.

Authorizing bilingual ballots in municipal elections in the city of Worcester (Senate, No. 2362);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills  
Establishing the Nantucket sewer act (House, No. 4213); and  
Establishing a sick leave bank for Deborah A. Jones, an employee of the Department of Mental Retardation (House, No. 4928);  
Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

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Second reading bill engrossed.

The House Bill relative to the Westford police (House, No. 4463) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Hall of Westford, the bill (having been 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, its title having been changed by said committee to read: "An Act relative to the appointment of retired police officers in the town of Westford." Sent to the Senate for concurrence.

Senate bills  
Relative to the recorking of wine (Senate, No. 198); and  
Authorizing the city of Northampton to convert 5 seasonal licenses for the sale of all alcoholic beverages to be drunk on the premises to annual (Senate, No. 2594); and

Second reading bills.

House bills  
Relative to open space residential development (House, No. 1244);  
Designating Route 116 as a scenic byway corridor (House, No. 3550); and

Exempting the position of deputy chief of police in the town of Dartmouth from the provisions of the civil service law (House, No. 4464);

Severally were read a second time; and they were ordered to a third reading.

Enteral formulas.

The House Bill increasing coverage of nonprescription enteral formulas (House, No. 925), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, it was recommitted, on motion of Mrs. Canavan of Brockton, to the committee on Health Care Financing.

Recess.

*Recess.*

At twenty-two minutes after eleven o'clock A.M., on motion of Mr. Lepper of Attleboro (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at twenty-nine minutes after one o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Quorum.

*Quorum.*

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

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance.

**[See Yea and Nay No. 307 in Supplement.]**

Therefore a quorum was present.

Quorum, yea and nay No. 307.

Budget, procedures.

*Orders.*

An Order (filed by Mr. Scaccia of Boston) relative to the procedures for consideration of the General Appropriation Bill for fiscal year 2009 (House, No. 4699), having been reported from the committee on Rules, under the provisions of House Rules 7B and 7C, was considered.

After debate on the question on adoption of the order, Mr. Jones of North Reading and other members of the House moved to amend it by striking out the fifth paragraph.

After debate on the question on adoption of the 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 25 members voted in the affirmative and 131 in the negative.

**[See Yea and Nay No. 308 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order in the third paragraph, in the first sentence, by striking out the words “; provided, however, that any such amendment appropriating, earmarking, or otherwise segregating revenue shall not be in order”.

After remarks on the question on adoption of the 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 19 members voted in the affirmative and 137 in the negative.

**[See Yea and Nay No. 309 in Supplement.]**

Therefore the amendment was rejected.

Amendment rejected, yea and nay No. 309.

Mr. Jones of North Reading and other members of the House then moved to amend the order by striking out the fourth paragraph.

After debate on the question on adoption of the 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 54 members voted in the affirmative and 100 in the negative.

**[See Yea and Nay No. 310 in Supplement.]**

Therefore the amendment was rejected.

Subsequently identical statements of Representatives Canavan of Brockton, Fennell of Lynn and Walsh of Lynn were made, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call it was my intention to vote in the affirmative. However, I now find that, for some inexplicable reason, I was recorded in the negative.

Mr. Jones of North Reading and other members of the House then moved to amend the order by adding at the end thereof the following paragraph:

“*Ordered*, That notwithstanding any provision of this Order or the rules of the House to the contrary, no consolidated amendment to the General Appropriation Act offered by the committee on ways and means shall be considered by the House until the expiration of at least thirty minutes after the consolidated amendment shall have been first filed with the Clerk and made available to the members.”.

Pending the question on adoption of the amendment, the same members moved to amend it by striking out the words “forty-five minutes” and inserting in place thereof the words “thirty minutes”.

After remarks 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 155 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 311 in Supplement.]**

Therefore the further amendment was adopted.

The amendment, as amended, then also was adopted.

Mr. Quinn of Dartmouth the moved to amend the order by adding at the end of the seventh paragraph the following paragraph.

*Ordered*, That upon receipt of a consolidated amendment offered by the Committee on Ways and Means any member shall be granted by request an additional 20 minutes to review the consolidated amendment above and beyond any amount of time previously granted by this order before further action is taken; provided further that only one request per consolidated amendment may be allowed”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call (Mr. Donato of Medford being in the Chair) 26 members voted in the affirmative and 127 in the negative.

**[See Yea and Nay No. 312 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order by striking out the eighth paragraph; and the amendment was rejected.

Amendment rejected, yea and nay No. 310.

Statements of Representatives Canavan, Fennell and Walsh of Lynn.

Further amendment adopted, yea and nay No. 311.

Amendment rejected, yea and nay No. 312.

Order adopted, yea and nay

No. 313.

After debate on the question on adoption of the order, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 133 members voted in the affirmative and 22 in the negative.

**[See Yea and Nay No. 313 in Supplement.]**

Therefore the order (House, No. 4699, printed as amended) was adopted.

Next  
sitting.

On motion of Mr. DiMasi of Boston,—  
*Ordered*, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

Representatives Clark of Marblehead, Finegold of Andover and Lantigua of Lawrence then moved that as a mark of respect to the memory of Rene R. Bernardin, a member of the House from Lawrence from 1953 to 1957, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty minutes before five o'clock P.M., on motion of Mr. Golden of Lowell (Mr. Donato of Medford being in the Chair), the House adjourned to meet on Thursday next at eleven o'clock A.M., in an Informal Session.