

## JOURNAL OF THE HOUSE.

---

Tuesday, July 12, 2005.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

Pledge of  
allegiance.

*Statement Concerning Representative Garry of Dracut.*

A statement of Mr. Rogers of Norwood concerning Ms. Garry of Dracut was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Garry of Dracut, will not be present in the House Chamber for today's sitting due to a family illness. Any roll calls that she may miss today is due entirely to the reason stated.

Statement  
concerning  
Representative  
Garry of  
Dracut.

*Statement Concerning Representative Humason of Westfield.*

A statement of Mr. Jones of North Reading concerning Mr. Humason of Westfield was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Humason of Westfield, will not be present in the House Chamber for today's sitting due to his attending the Emerging Political Leaders Program at the Darden Graduate School of Business Administration, University of Virginia, Charlottesville. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement  
concerning  
Representative  
Humason of  
Westfield.

*Statement Concerning Representative Kennedy of Brockton.*

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

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to being under medical care. He wishes it to be known that in the event any Governor's vetoes and reductions to the fiscal year 2006 budget are voted on, he would vote in the affirmative, in each instance, to override. Any roll calls that he may miss today and the next several days will be due entirely to the reason stated.

Statement  
concerning  
Representative  
Kennedy of  
Brockton.

*Quorum.*

During consideration of the Orders of the Day, Mr. Nangle of Lowell asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Quorum,  
yea and nay  
No. 85.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

**[See Yea and Nay No. 85 in Supplement.]**

Therefore a quorum was present.

*Guest of the House.*

Connecticut  
State  
Representative  
Mike Lawlor.

During the session, the Speaker declared a brief recess and introduced State Representative Mike Lawlor of Connecticut. Representative Lawlor has chaired the committee on Judiciary of the Connecticut House for the past 12 years, serving under three Speakers. He was the guest of Representative Festa of Melrose.

*Petitions.*

Petitions (deposited with the Clerk previously to five o'clock in the afternoon on Wednesday, December 1, 2004) were transmitted to the State Secretary under Chapter 3 of the General Laws, as follows:

Northern  
Berkshire  
Industrial Park  
Corporation.

By Mr. Bosley of North Adams, petition (subject to Joint Rule 9) of Daniel E. Bosley for legislation to make certain changes in the organization and operation of the Northern Berkshire Industrial Park and Development Corporation.

Municipal  
buildings,  
revolving  
fund.

By Ms. St. Fleur of Boston, petition (subject to Joint Rule 9) of Thomas M. Menino and others for legislation to establish an energy efficiency revolving loan fund for municipal public buildings and providing for the administration of said fund by the Massachusetts Technology Park Corporation.

*Papers from the Senate.*

Emergency  
contraception.

The Senate Bill providing timely access to emergency contraception (Senate, No. 2073) came from the Senate with the endorsement that said branch had non-concurred with the House in its amendment adding at the end thereof the following two sections:

“SECTION 5. Section 12DD of chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

Each facility or pharmacy initiating emergency contraception shall report the number of times emergency contraception is administered to the department of public health on a quarterly basis. Whenever any such case is treated in a hospital, clinic or other institution, the administrator, manager, or other person in charge thereof shall report such case to the commissioner of public health at the end of each calendar month. Whenever such case is treated in a pharmacy, the manager or other person in charge shall report, by individual store location, such case to the commissioner of public health quarterly. The reports made pursuant to this section shall be confidential and shall not be a public record as defined by section 7 of chapter 4. The department of public health shall promulgate regulations to carry out the provisions of this section. Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars or more than one hundred dollars.

SECTION 6. Section 21B of chapter 272 of the General Laws shall apply to the provisions of this act.”

The bill bore the further endorsement that the Senate had asked for a committee of conference on the disagreeing votes of the two branches; and that Senators Resor, Fargo and Tisei had been appointed as the committee on the part of the Senate.

Committee of  
conference.

On motion of Mr. Koutoujian of Waltham, the House insisted on its amendment; and concurred with the Senate in the appointment of a committee of conference. The Speaker appointed Representatives Koutoujian, Harkins of Needham and Gomes of Harwich as the committee on the part of the House. Sent to the Senate to be noted.

H.

A petition (accompanied by bill, Senate, No. 2151) of Stephen M. Brewer (by vote of the town) for legislation to authorize the town of Winchendon to use a portion of a certain parcel of public park land for library purposes, was referred, in concurrence, to the committee on Municipalities and Regional Government.

Winchendon,  
library land.

*Reports of Committees.*

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill affecting county commissioners (House, No. 1618),— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted.

County  
commissioners.

By Mr. O’Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill concerning illegal dumping in the city of Worcester (House, No. 1748).

Worcester,  
dumping.

By Mr. Kaufman of Lexington, for the committee on Public Service, on a petition, a Bill to ensure quality appointments (House, No. 282).

Commissions.

By the same member, for the same committee, on a petition, a Bill relative to the appointment of retired police officers in the town of Weymouth to serve as special officers (House, No. 3848) [Local Approval Received].

Weymouth,  
police  
officers.

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for a certain employee of the Department of Correction (House, No. 4056).

Bercier,  
Earle.

By the same member, for the same committee, on a petition, a Bill authorizing the retirement of officer Zenaida Flores of the Boston police department (House, No. 4120) [Local Approval Received].

Boston,  
Zenida  
Flores.

By the same member, for the same committee, on a petition, a Bill authorizing the retirement of Boston police officer Robert Welby (House, No. 4121) [Local Approval Received].

Boston,  
Robert  
Welby.

By the same member, for the same committee, on a petition, a Bill for a special law re: the retirement of William I. Griffiths (House, No. 4123) [Local Approval Received].

William I.  
Griffiths.

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

*Engrossed Bill.*Bill  
enacted.

The engrossed Bill designating a certain bridge in the town of Westport as the Westport Police Officers Memorial Bridge (see House, No. 1690) (which originated in the House), 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 Speaker and sent to the Senate.

*Orders of the Day.*Third  
reading  
bill.

The House Bill increasing the borrowing authority of the Ring's Island Water District of Salisbury (House, No. 3600) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Second  
reading  
bills.

The Senate Bill relative to creditable service for vocational education teachers (Senate, No. 2057); and  
House bills  
Relative to living organ donation (House, No. 476);  
Authorizing the conveyance of certain land in the town of Tewksbury to Mr. Robert W. Lafreniere (House, No. 1421);  
Authorizing Capital Asset Management and Maintenance to convey certain land to the town of Hingham (House, No. 1430);  
Relative to the transportation finance commission (House, No. 2116, changed);  
Relative to Mattapoisett communication services (House, No. 4097);  
Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Marlborough (House, No. 4162);  
To maximize federal reimbursement for special education services for children with Autism (House, No. 4177); and  
Relative to the school department in the town of Fairhaven expending revenue derived from advertising in schools without further appropriation by the town (House, No. 4221);  
Severally were read a second time; and they were ordered to a third reading.

House  
reports.

House reports  
Of the committee on Public Health, ought NOT to pass, on the petition (accompanied by bill, House, No. 2639) of Dorothy Raymond for legislation to require medical examinations for certain persons whose duties involve the handling of food; and  
Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2735) of Arthur J. Broadhurst relative to the issuance or renewal of physicians' certificates of registration;  
Severally were accepted.

At thirteen minutes after eleven o'clock A.M., on motion of Mr. Spellane of Worcester (Mr. Petrolati of Ludlow being in the Chair) the House recessed until one o'clock P.M.; and at twenty seven minutes before two o'clock the House was called to order with the Speaker in the Chair.

Recess.

The House Bill providing for a certain exemption from the sales tax (House, No. 4220) was read a second time.

Sales tax  
holiday.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended in section 1, in line 6, by inserting after the word "telecommunications," the following: "tobacco products subject to the excise imposed by chapter 64C of the General Laws," in line 7, by striking out the word "boats" and inserting in place thereof the word "motorboats"; and in section 2, in lines 11 and 12, by inserting after the word "telecommunications," the following: "tobacco products subject to the excise imposed by chapter 64C of the General Laws," and in line 12, by striking out the word "boats" and inserting in place thereof the word "motorboats",— were adopted.

The bill (House, No. 4220, amended) then was ordered to a third reading.

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

After debate on the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the House moved that it be amended by adding at the end thereof the following section:

"SECTION 6. This section shall be known as the Energy Efficiency and Savings Act of 2005.

(a) The following words, whenever used in this section, shall have the following meaning:

'Energy efficient products', any air conditioner, ceiling fan, ceiling fan light kit, clothes dryer, clothes washer, dehumidifier, dishwasher, freezer, furnace, hot water heater, light bulb, light fixture, programmable thermostat or refrigerator, which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding the energy efficiency requirements under the agencies' Energy Star program.

(b) Notwithstanding any general or special law to the contrary, the secretary of economic development may designate the two-week period of October 1, 2005 until October 14, 2005 an Energy Efficiency Sales Tax Holiday, wherein no excise shall be imposed on non-business sales at retail in the Commonwealth of energy efficient products. The secretary of economic development shall give the public at least two weeks notice prior to the date of the Energy Efficiency Sales Tax Holiday.

(c) Notwithstanding any general or special law to the contrary, for any particular Energy Efficiency Sales Tax Holiday, no vendor

Sales tax  
holiday.

in the Commonwealth shall add to the sales price or collect from any purchaser any excise upon sales at retail of energy efficient products. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of energy efficient products purchased during an Energy Efficiency Sales Tax Holiday but any excise erroneously or improperly collected during an Energy Efficiency Sales Tax Holiday shall be remitted to the Department of Revenue.

(d) Any reporting requirements imposed upon vendors of energy efficient products, by law or by regulation, including, but not limited to the requirement for filing returns required by chapter 62C of the General Laws shall remain in effect for sales for any Energy Efficiency Sales Tax Holiday.

(e) On or before December 31 of any calendar year in which the Governor has proclaimed an Energy Efficiency Sales Tax Holiday, the commissioner of revenue shall certify to the comptroller the amount of sales tax revenue forgone due to the operation of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, notwithstanding this act.

(f) The commissioner of revenue shall issue any instructions or forms, or promulgate rules or regulations, necessary to carry out the purposes of this act.”

Amendment  
rejected,  
yea and nay  
No. 86.

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 21 members voted in the affirmative and 133 in the negative.

**[See Yea and Nay No. 86 in Supplement.]**

Therefore the amendment was rejected.

Bill passed  
to be  
engrossed,  
yea and nay  
No. 87.

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. Binienda of Worcester; and on the roll call 151 members voted in the affirmative and 4 in the negative.

**[See Yea and Nay No. 87 in Supplement.]**

Therefore the bill (House, No. 4220, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Motion  
picture  
industry,  
tax  
incentives.

The House Bill providing incentives to the motion picture industry (House, No. 4060) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4252),— was adopted.

The substituted bill then was ordered to a third reading.

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

After debate on the question on passing the bill to be engrossed, Mr. DeLeo of Winthrop and other members of the House moved that it be amended in section 1, in line 00, by inserting after the word “commonwealth.” the following paragraph:

“‘Principal photography’, the phase of production during which the motion picture is actually filmed. Said term shall not include preproduction or postproduction.”, in line 00, by striking out the paragraph contained therein and inserting in place thereof the words, “‘Production expense’ or ‘production cost’, preproduction, production and postproduction expenditures directly incurred in the production of a motion picture.”, in lines 00 to 00, inclusive, by striking the paragraph contained therein and inserting in place thereof the following paragraph:

“(c) A taxpayer shall be allowed an additional credit against the taxes imposed by this chapter equal to 25 percent of all Massachusetts production expenses where said motion picture is also eligible for a credit pursuant to subsection (b) and either Massachusetts production expenses exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the commonwealth.”; in section 2, in line 00, by inserting after the word “commonwealth.” the following paragraph:

“‘Principal photography’, the phase of production during which the motion picture is actually filmed. Said term shall not include preproduction or postproduction.”, in lines 00 to 00, by striking out the paragraph contained therein and inserting in place thereof the words “‘Production expenses’ or ‘production costs’, preproduction, production and postproduction expenditures directly incurred in the production of a motion picture.”, by inserting after the word “production.”, in line 00, the following paragraph:

“‘Resident’, (1) any natural person domiciled in the commonwealth, or (2) any natural person who is not domiciled in the commonwealth but who maintains a permanent place of abode in the commonwealth and spends in the aggregate more than one hundred eighty-three days of the taxable year in the commonwealth, including days spent partially in and partially out of the commonwealth.”, and in lines 00 to 00, inclusive, by striking the paragraph contained therein and inserting in place thereof the following paragraph:

“(c) A taxpayer shall be allowed an additional credit against the taxes imposed by this chapter equal to 25 percent of all Massachusetts production expenses where said motion picture is also eligible for a credit pursuant to subsection (b) and either Massachusetts production expenses exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the commonwealth.”.

The amendments were 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. Binienda of Worcester; and on the roll call 147 members voted in the affirmative and 4 in the negative.

**[See Yea and Nay No. 88 in Supplement.]**

[Mr. Wallace of Boston answered “Present” in response to his name.]

Therefore the bill (House, No. 4252, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Bill passed  
to be  
engrossed,  
yea and nay  
No. 88.

Subsequently a statement of Mr. Eldridge of Acton was spread upon the records of the House, as follows:

Statement of  
Representative  
Eldridge of  
Acton.

MR. SPEAKER: During the taking of the above yeas and nays, I was absent from the House Chamber due official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the affirmative.

*Order.*

On motion of Mr. Rushing of Boston,—

Next  
sitting.

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

---

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at six minutes after three o'clock P.M., on motion of Mr. Binienda of Worcester (the Speaker, being in the Chair), the House adjourned, to meet on Thursday next eleven o'clock A.M.