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The Commonwealth of Massachusetts

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**JOURNAL OF THE HOUSE.**



MONDAY, JULY 20, 2009.

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## JOURNAL OF THE HOUSE.

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Monday, July 20, 2009.

Met according to adjournment at eleven o'clock A.M., in an Informal Session, with 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.

Eternal God, we begin this legislative session with a prayer for Your assistance. Consequently we open our hearts to Your gift of peace, our intellects to Your gift of wisdom and our minds to Your offer of guidance. As we struggle with our list of things to do for the day, grant us the intellectual and moral strength to face and resolve our challenges in a fair, ethical and responsible manner. Teach us to be mindful of Your presence in our midst as we try to address the many complex social, political and economic issues which we face as a society. In our struggle to define the common good in this era of change, teach us to be aware of the needs of all in our communities and throughout the Commonwealth.

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.

### *Messages from the Governor.*

Charter schools.

A message from His Excellency the Governor recommending legislation relative to charter schools in underperforming districts (House, No. 4163), was filed in the office of the Clerk on Friday, July 17. The message was read; and it was referred, under Rule 30, to the committee on Education. Sent to the Senate for concurrence.

Readiness schools.

A message from His Excellency the Governor recommending legislation relative to establishing readiness schools (House, No. 4164), was filed in the office of the Clerk on Friday, July 17.

The message was read; and it was referred, under Rule 30, to the committee on Education. Sent to the Senate for concurrence.

Criminal trials,—  
drug  
analysis.

A message from His Excellency the Governor recommending legislation relative to establishing procedures for the use of certificates of analysis in criminal trials (House, No. 4162), was filed in the office of the Clerk on Friday, July 17.

The message was read; and it was referred, under Rule 30, to the committee on the Judiciary. Sent to the Senate for concurrence.

### *Petition.*

Tyngsborough,—  
liquor  
licenses.

Representative Gary of Dracut and Senator Panagiotakos presented a joint petition (accompanied by bill, House, No. 4165) of Colleen M. Gary and Steven C. Panagiotakos (by vote of the town)

for legislation to authorize the town of Tyngsborough to grant licenses for the sale of all alcoholic beverages to be drunk on the premises; and the same was referred, under Rule 24, to the committee on Consumer Protection and Professional Licensure. Sent to the Senate for concurrence.

*Papers from the Senate.*

A Bill relative to the recreation revolving fund in the town of Rutland (Senate, No. 2077) [Local Approval Received] (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Rutland,—  
recreation  
fund.

A report of the committee on Housing, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 629) of Benjamin B. Downing for legislation relative to tax increment financing plan reporting, and recommending that the same be referred to the committee on Revenue,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Tax  
increment  
financing.

A petition of Joan M. Menard and Patricia A. Haddad for legislation to establish a sick leave bank Theodore S. Bielecki, an employee of the Department of Correction, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

Theodore S.  
Bielecki,—  
sick leave  
bank.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2110) was referred, in concurrence, to the committee on Public Service.

*Reports of Committees.*

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Joint petition (accompanied by bill) of Matthew C. Patrick, Bruce E. Tarr and another relative to the establishment of residential energy preservation funds by cities, towns and counties. To the committee on Municipalities and Regional Government.

Energy  
preservation  
funds.

Petition (accompanied by bill) of Matthew C. Patrick and Timothy R. Madden for the issuance by the Registrar of Motor Vehicles of distinctive registration plates displaying the logo of the Woods Hole Oceanographic Institution. To the committee on Transportation.

Woods Hole  
Oceanographic  
Institution.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill authorizing the city of Attleboro to continue the employment of Ronald M. Churchill (House, No. 1884). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Ronald M.  
Churchill.

Woods Hole  
Oceanographic  
Institution.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

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

Judith  
Fitzsimmons,—  
sick leave  
bank.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill establishing a sick leave bank for Judith Fitzsimmons, an employee of the Trail Court (House, No. 1886). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

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

Sub-  
contractors,—  
losses.

By Ms. Coakley-Rivera of Springfield, for the committee on Labor and Workforce Development, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3695) of Michael J. Rodrigues for legislation to limit losses of subcontractors in private,— and recommending that the same be referred to the committee on State Administration and Regulatory Oversight. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Reprecincting.

By Mr. Moran of Boston, for the committee on Election Laws, on a petition, a Bill relative to reprecincting (House, No. 678).

Michele  
Merenda,—  
sick leave.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Michele Merenda, an employee of the Department of Transitional Assistance (House, No. 1149).

Amy S.  
Fein,—  
sick leave.

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for Amy S. Fein, an employee of the Department of Public Health (House, No. 1888).

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

### *Emergency Measures.*

Climbing  
wall  
instructors.

The engrossed Bill providing standards allowing camps to conduct criminal history record checks of climbing wall instructors (see House, No. 4140), 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 6 to 0. Sent to the Senate for concurrence.

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

The engrossed Bill relative to payroll deductions for charitable purposes by public employees (see House, No. 4146, amended), 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. Care attendants,—deductions.

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 7 to 0. Sent to the Senate for concurrence.

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

*Engrossed bills.*

The engrossed Bill establishing a sick leave bank for Tanya M. Dubois, an employee of the Trial Court (see House, No. 1683, amended), (which originated in the House), in respect to which the Senate had concurred in the adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. Bill enacted.

Engrossed bills  
 Establishing the Arlington Redevelopment Government Board as the Board of Survey (see House, No. 3471); and Bills enacted.  
 Relative to the Falmouth Historic District Commission (see House, No. 4104).  
 (Which severally originated in the House);  
 Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

*Orders of the Day.*

House bills  
 Establishing a town manager form of government for the town of Hanover (House, No. 1123); Third reading bills.  
 Establishing a sick leave bank for Mary F. Keeler, an employee of the Trial Court (House, No. 1138); Relative to a certain alcoholic beverages license in the town of Dracut (House, No. 3800); and  
 Validating a certain vote passed by the town of Foxborough (printed in House, No. 4161);  
 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.

*Recess.*

Recess.

At nineteen minutes after eleven o'clock A.M., on motion of Ms. Wolf of Cambridge (Mr. Donato of Medford being in the Chair), the House recessed until a quarter before twelve o'clock noon; and at seven minutes after twelve o'clock, the House was called to order with Mr. Donato in the Chair.

*Paper from the Senate.*

Capital gains  
revenues,—  
reporting  
dates.

The engrossed Bill providing for reporting dates for capital gains revenue and transferring certain funds (see House, No. 4142, amended) came from the Senate, with the endorsement that said branch concurred in the House amendment with a further amendment adding the following four sections:—

“SECTION 2. Subsection (b) of section 26 of chapter 304 of the acts of 2008 is hereby amended by adding the following 2 sentences:— If the authority certifies to the secretary that it has received such notice, within 24 hours of such certification, the chairman or executive director of the authority and said secretary shall jointly certify, and affirm, in writing, to the chairpersons of the house and senate committees on ways and means, and the chairpersons of the house and senate committees on bonding, capital expenditures and state assets that, in their judgment, there exists no feasible alternative to a pledge of the commonwealth's full faith and credit pursuant to this act. Said chairman or executive director and said secretary shall jointly report to the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation, and the chairpersons of the house and senate committees on bonding, capital expenditures and state assets all efforts undertaken to avoid the need for a full faith and credit guaranty of the commonwealth pursuant to this act.

SECTION 3. Said chapter 304 is hereby further amended by striking out section 29 and inserting in place thereof the following section:—

Section 29. The state treasurer and all quasipublic entities and independent authorities shall submit a report on their borrowing practices during fiscal years 1997 to 2009, inclusive, to the secretary of administration and finance, the state auditor, the chair of the finance advisory board established in section 97 of chapter 6 of the General Laws, the chairpersons of the house and senate committees on ways and means and the chairpersons of the house and senate committees on bonding, capital expenditures and state assets prior to September 4, 2009. The report shall include: (1) all transactions entered into, including fixed-rate borrowing, during the 6 months immediately preceding the filing of the report; (2) a list of all transactions related to derivative financial products; (3) the terms and conditions of each derivative financial product transaction; (4) the parties involved in negotiating each derivative financial product transaction; (5) copies of all agreements entered into between the parties relative to derivative financial product transactions; (6) the financial impact of each such transaction including, but not limited to, the interest rates, fluctuation in interest rates and payments associated therewith; and (7) a written rationale for the determination to enter into any such transaction. The

report shall be signed under oath by (i) the state treasurer or by the chief financial officer of the quasipublic entity or independent authority filing the report and (ii) the secretary of administration and finance. For the purposes of this section, 'derivative financial products' shall mean financial instruments with values derived from, or based upon, the value of other assets or on the level of an interest rate index including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors, collars, inverse floaters, auction rate securities or any other financial transaction of a similar nature. As of the effective date of this act, no quasipublic state entity or independent authority of the commonwealth shall be authorized to enter into any transaction involving a derivative financial product; provided, however that (i) a quasi-public state entity or independent authority of the commonwealth may enter into any transaction involving a derivative financial product if a request is made to the secretary of administration and finance, and upon receipt of the approval thereof by the governor and treasurer of the commonwealth if such transaction is subject to any level of commonwealth credit support; and (ii) a quasi-public state entity or independent authority of the commonwealth may enter into a transaction involving a derivative financial product if a request is made to the secretary of administration and finance and upon receipt of the approval thereof by the governor if such transaction not subject to any level of commonwealth credit support.

SECTION 4. Pursuant to section 8 of chapter 12 A of the General Laws, the inspector general shall prepare a report, to be submitted not later than September 4, 2009, to the chairpersons of the house and senate committee on ways and means and the chairpersons of the house and senate committee on bonding, capital expenditures and state assets. The report shall detail an investigation by the inspector general of the swap and swaption transactions between the Massachusetts Turnpike Authority and any financial lenders including, but not limited to, UBS, JP Morgan and Lehman Brothers during calendar years 1999 through 2007, inclusive.

SECTION 5. Sections 2 to 4, inclusive, shall take effect as of June 30, 2009."

Under suspension of Rule 35, on motion of Mr. Murphy of Burlington, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

#### *Reports of Committees.*

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Marie P. St. Fleur and others for legislation to provide for the establishment of in-district charter schools with pay-for-performance. To the committee on Education.

Charter schools.

Petition (accompanied by bill) of Cheryl A. Coakley Rivera and others relative to project review or permit requirement upon certain land by the Department of Fisheries, Wildlife and Environmental Law Enforcement. To the committee on Environment, Natural Resources and Agriculture.

Department of Fisheries, Wildlife and Environmental Law Enforcement.

U. Mass  
Medical  
School,—  
creditable  
service.

Petition (accompanied by bill) of Lewis G. Evangelidis relative to creditable service for retirement purposes for certain persons employed in affiliation with the University of Massachusetts Medical School. To the committee on Public Service.

Under suspension of the rules, on motion of Ms. St. Fleur of Boston, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

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

Next  
sitting.

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At twelve minutes after twelve o'clock noon, on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Thursday at eleven o'clock A.M., in an Informal Session.