

JOURNAL OF THE HOUSE.

Wednesday, November 9, 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).

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

Gracious God, we recognize and are grateful for Your presence in our midst as we begin today's formal legislation session. In Your goodness, help us to keep our personal and legislative goals, priorities and principles in clear focus. The daily stress of coping with the issues of the moment, planning for the future of our communities and addressing the current expectations of the people fill our daily schedules. Teach us to take one day at a time and to reflect before we make any and all decisions. May our hearts be filled with peace, our minds with hope and our wills open to You, Your ways and Your precepts as we carry out our daily responsibilities.

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

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.

Appointment to a Special Commission.

The Speaker announced the appointment of Representative St. Fleur of Boston as the Co-Chairperson of the special commission established (under section 2 of chapter 45 of the Acts of 2005) to make an investigation and study of methods to better coordinate, expand, finance, and improve accessible, affordable, quality out-of-school time programming for school age children in all settings.

Resolutions.

Resolutions (filed with the Clerk by Ms. Stanley of West Newbury) on the one hundred and and seventy-fifth anniversary of the First Baptist Church of Rowley, were referred, under Rule 85, to the committee on Rules.

Mrs. Harkins of Needham, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Casey of Winchester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Driscoll of Braintree, petition (accompanied by bill, House, No. 4483) of Joseph R. Driscoll and others (by vote of the

town) that the town of Braintree be authorized to establish a mayor and city council form of government;

Westborough, waste water.

By Ms. Polito of Shrewsbury, petition (accompanied by bill, House, No. 4484) of Karyn E. Polito and others (by vote of the town) relative to the agreement for the treatment of waste water in the town of Westborough; and

Shrewsbury, waste water.

By the same member, petition (accompanied by bill, House, No. 4485) of Karyn E. Polito and Edward M. Augustus, Jr. (by vote of the town) relative to the agreement for the treatment of waste water in the town of Shrewsbury;

Severally to the committee on Municipalities and Regional Government.

Burlington, streets.

By Mr. Murphy of Burlington, petition (accompanied by bill, House, No. 4486) of Charles A. Murphy (by vote of the town) that the town of Burlington be authorized to accept certain streets located in said town. To the committee on Transportation.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Windmills, regulating.

By Mr. Evangelidis of Holden, petition (subject to Joint Rule 12) of Lewis G. Evangelidis for legislation to regulate the construction of windmills in certain restrictive areas of the Commonwealth.

Leicester, land conveyance.

By the same member, petition (subject to Joint Rule 12) of Lewis G. Evangelidis and Stephen M. Brewer that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the town of Leicester to C.B. Blair Development Corporation.

Drivers, blood alcohol.

By Mr. Fagan of Taunton, petition (subject to Joint Rule 12) of James H. Fagan for legislation to lower the blood alcohol level of drivers charged with operator motor vehicles under the influence of alcoholic beverages.

Route 28, Harwich.

By Mrs. Gomes of Harwich, petition (subject to Joint Rule 12) of Shirley Gomes and Robert A. O'Leary for legislation to designate a certain portion of Route 28 in the town of Harwich as "Head of the Bay Road".

Public employees, disability retirement.

By Mrs. Haddad of Somerset (by request), petition (subject to Joint Rule 12) of Regina Anshewitz relative to the period of time for eligibility of certain public employees to qualify for accidental disability retirement.

Police officers, powers.

By Mrs. Parente of Milford, petition (subject to Joint Rule 12) of Marie J. Parente relative to the powers and duties of police officers to include the serving and execution of civil warrants.

Westborough and Shrewsbury.

By Ms. Polito of Shrewsbury, petition (subject to Joint Rule 12) of Karyn E. Polito and others relative to extending the term of the agreement between the town of Shrewsbury and the town of Westborough for the treatment plant located in said town of Westborough.

Samuel Russell, sick leave.

By Mr. Scibak of South Hadley, petition (subject to Joint Rule 12) of John W. Scibak and Stanley C. Rosenberg for legislation to establish a sick leave bank for Samuel Russell, an employee of the Trial Court of the Commonwealth.

Severally, under Rule 24, to the committee on Rules.

Paper from the Senate.

The House Bill relative to economic investments to promote job creation, economic stability, and competitiveness in the Massachusetts economy (House, No. 4429) came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2264; striking out the emergency preamble and inserting in place thereof the following emergency preamble:

Economic stability.

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith supplemental appropriations for the costs for certain spending, public investment, and bonded debt of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and striking out the title and inserting in place thereof the following title: "An Act establishing a Commonwealth investment program."

Under suspension of the rules, on motion of Mr. Bosley of North Adams, the amendments were considered forthwith.

The House then non-concurred with the Senate in its amendments; and, on further motion of the same member, asked for a committee of conference on the disagreeing votes of the two branches. Representatives Bosley, DeLeo of Winthrop and Hill of Ipswich were appointed as the committee on the part of the House. Sent to the Senate to be joined.

Committee of conference.

Motion to Reconsider.

Mr. Casey of Winchester moved that the vote be reconsidered by which the House, at Monday's sitting, passed to be engrossed the House Bill relative to certain roadways of the Department of Conservation and Recreation formerly know as the Metropolitan District Commission (House, No. 3146); and the motion to reconsider prevailed.

Medford and Stoneham, roadways.

Pending the recurring question on passing the bill to be engrossed, further consideration thereof was postponed, on further motion of the same member, until Monday, November 14.

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 relative to child passenger safety (House, No. 1896); and

Child passenger safety.

Of the Bill requiring safety belts for passengers on public school buses (House, No. 4436);

School buses, safety belts.

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

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

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3140)

Framingham, housing plan.

of Deborah D. Blumer and others (by vote of the town) relative to the development and approval of a housing plan in the town of Framingham,— and recommending that the same be referred to the committee on Housing. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Physician credentialing process.

By Mr. Mariano of Quincy, for the committee on Financial Services, on House, Nos. 2962 and 3061, a Bill to streamline the physician credentialing process (House, No. 3061). Read; and referred, under Joint Rule 1E, to the committee on Health Care Financing.

Insolvency Fund.

By Mr. Mariano of Quincy, for the committee on Financial Services, on House, Nos. 2979 and 3054, a Bill relative to the Massachusetts Insurers Insolvency Fund (House, No. 3054).

Hazardous material, transportation.

By Mr. Wagner of Chicopee, for the committee on Transportation, on a petition, a Bill relative to uniform hazardous material transportation procedures (House, No. 2041).

Regional transit authorities.

By the same member, for the same committee, on a petition, a Bill relative to regional transit authorities (House, No. 2110).

Terminal audits.

By the same member, for the same committee, on a petition, a Bill relative to terminal audits for commercial vehicles (House, No. 2113).

Motor carriers.

By the same member, for the same committee, on House, No. 2106, a Bill relative to the creation of a motor carrier advisory council (House, No. 4487).

Motor carrier safety law.

By the same member, for the same committee, on House, No. 4054, a Bill relative to preserving federal highway funds and ensuring compliance with the Federal Motor Carrier Safety Improvement Act (House, No. 4488).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Wine shipments.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to direct wine shipments (House, No. 4477) ought to pass with an amendment substituting therefor a Bill authorizing the direct shipment of wine (House No. 4490). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Marion, betterment assessments.

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to betterment assessments in the town of Marion (House, No. 4201) [Local Approval Received].

Brookline, investments.

By the same member, for the same committee, on a petition, a Bill authorizing the treasurer of the town of Brookline to invest the trust fund of said town in accordance with the Prudent Man Rule (House, No. 4222) [Local Approval Received].

Arlington, finance committee.

By the same member, for the same committee, on a petition, a Bill further amending an Act establishing a town manager act for the town of Arlington in regard to the appointment of finance committee members (House, No. 4269) [Local Approval Received].

Arlington, Symes conservation.

By the same member, for the same committee, on House, Nos. 4106 and 4270, a Bill authorizing the town of Arlington to establish a

special account in regard to the Symes conservation and improvement project (House, No. 4270) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill relative to the release of a conservation restriction in the town of Bedford (House, No. 4317) [Local Approval Received].

Bedford, conservation restriction.

By the same member, for the same committee, on a petition, a Bill authorizing the towns of Fairhaven, Marion, Mattapoisett and Rochester to make certain conveyances of well field and water supply and protection land to the Mattapoisett River Valley Water District (House, No. 4379).

Mattapoisett River Valley Water District.

By the same member, for the same committee, on a petition, a Bill amending the town of Southbridge home rule charter (House, No. 4382) [Local Approval Received].

Southbridge, charter.

By the same member, for the same committee, on House, No. 4227, a Bill further regulating meetings of municipal boards (House, No. 4489).

Municipal boards.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill establishing a primary seat belt law (House, No. 229) [Senators Barrios and Buoniconti, and Representatives Murphy of Burlington and Reinstein of Revere, dissenting].

Seat belt law.

By the same member, for the same committee, on Senate, No. 1325 and House, No. 1871, a Bill authorizing the use of ultrasonic thickness determination of air tanks and other receptacles (House, No. 1871).

Air tanks.

By the same member, for the same committee, on a petition, a Bill relative to bicycle safety (House, No. 1867).

Bicycles, safety.

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

By Mr. Scaccia of Boston, for the committee on Rules, that the Bill authorizing a public waterfront walkway to be exempted from the harbor line in the Charlestown Navy Yard, city of Boston (House, No. 1305, changed) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Charlestown Navy Yard, waterfront walkway.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting the question, being on ordering to a third reading.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Bill establishing a project mitigation contribution or linkage program for affordable housing in the city of Somerville (Senate, No. 2044) [Local Approval Received] be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading with an amendment previously recommended by the committee on Housing (House, No. 4474) pending.

Somerville, affordable housing.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

House bills

Pembroke. Authorizing the town of Pembroke to borrow certain sums of money (printed as Senate, No. 1193) [Local Approval Received];
 Metropolitan Area Council. Amending the membership of the Metropolitan Area Planning Council (House, No. 3143);

Genetic testing. Relative to genetic testing results (House, No. 3899);
 Arlington. Authorizing the town of Arlington to establish another post employment benefits trust fund (House, No. 4272) [Local Approval Received]; and

Northern Berkshire. Reconstituting the Board of the Northern Berkshire Industrial Park and Development Corporation and authorizing the corporation to undertake residential and mixed use development (House, No. 4376);

Severally placed in the Orders of the Day for the next sitting for a second reading.

Rehoboth, water district. By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, ought NOT to pass, on the petition (accompanied by bill, House, No. 3558) of Philip Travis relative to authorizing the Rehoboth Water District to hold its annual district meetings at the Dighton-Rehoboth Regional High School building.

Newburyport. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 4256) of Michael A. Costello (with the approval of the mayor and city council) that the city of Newburyport be authorized to transfer certain balances into the capital improvements and stabilization fund of said city.

Prevailing wage law. By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, ought NOT to pass, on the petition (accompanied by bill, House, No. 3510) of Shirley Gomes and Susan W. Pope that cities and towns be exempt from provisions of the prevailing wage law.

Bridges of the Commonwealth. By Mr. Wagner of Chicopee, for the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 1689) of David B. Sullivan that the Executive Office of Transportation and Construction be authorized to offer sponsorship rights for bridges throughout the Commonwealth.

Blackstone river. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1692) of Rosaire Rajotte relative to the building of a bridge over the Blackstone River.

Seekonk. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1972) of Philip Travis that the Department of Highways be authorized to perform certain reconstruction roadwork in the town of Seekonk.

Motorcycles, reduced tolls. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1982) of Demetrius J. Atsalis that the Port Authority and the Turnpike Authority be directed to reduce tolls for motorcycles for the use of facilities of said authorities.

Route I-495. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1992) of Marie J. Parente that the Department of Highways be directed to construct an access ramp on Route I-495 to the industrial areas of the towns of Milford, Bellingham and Franklin.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2015) of Anne M. Gobi and others relative to certain regulations issued by the Massachusetts Turnpike Authority and the Executive Office of Transportation and Construction affecting the use of motorcycles.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2016) of Anne M. Gobi and Robert L. Hedlund for legislation to direct the Department of Highways to evaluate the safety benefits of centerline markings on unmarked paved roads.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2017) of Anne M. Gobi and Robert L. Hedlund relative to the operation of motorcycles in the breakdown lane during heavy traffic periods.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2049) of Rosaire Rajotte for legislation to connect Route 22 to Route 140 beginning in Rockdale and ending in Upton.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2063) of Leonard H. Golder relative to the establishments of toll booths at the New Hampshire border on certain highways.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2064) of J. James Marzilli, Jr., and others relative to permitting the operation of low-emission vehicles in high occupancy vehicle lanes.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2065) of J. James Marzilli, Jr., relative to the traffic utilization of Route 60 in the town of Arlington and the city of Medford.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2091) of Robert F. Fennell and Douglas W. Petersen requiring the posting of signs along state highways and interstate roadways with prohibited right lane travel.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2093) of James B. Leary and others relative to the use of allocations from the Highway Fund by cities and towns for the conversion of private ways to public ways.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2100) of Kay Khan and others requiring the Turnpike Authority to perform certain roadwork in the city of Newton.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2103) of Patricia D. Jehlen and others for legislation to further regulate the posting of street signs at intersections of roadways.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2108) of Joseph F. Wagner relative to the powers and duties of the Massachusetts Turnpike Authority.

Motorcycles, highway use.

Roadway safety.

Motorcycle, traffic relief.

Upton, Route 140.

New Hampshire border, toll booths.

Low-emission vehicles.

Route 60.

State highway, signs.

Private ways, conversion.

Newton, resurface Turnpike.

Street signs.

Turnpike Authority, operation.

Route 128, improvements. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2140) of Theodore C. Speliotis and others that the Department of Highways be directed to study the feasibility of making improvements to interchanges on a certain portion of state highway Route 128.

Mass. Turnpike Authority, property. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2150) of Paul Kujawski for legislation to prohibit the lease, sale or conveyance of property in the town of Warren and under the control of the Massachusetts Turnpike Authority.

Highway business loan fund. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2167) of Peter J. Larkin for legislation to provide for a highway business revolving loan fund.

State highway fund. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2175) of Walter F. Timilty and John W. Scibak for legislation to establish the state highway public safety fund.

MBTA surplus property use. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2180) of Thomas M. Menino and others relative to the sale of surplus property of the Massachusetts Bay Transportation Authority for housing and community development projects.

MBTA, Times of service. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2186) of Alice K. Wolf and others for legislation to extend the hours of service of the Massachusetts Bay Transportation Authority.

Massachusetts Turnpike discount. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2188) of Paul K. Frost relative to discount tolls for certain motorists who participate in the fast lane toll program.

Commuter boats. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2201) of Garrett J. Bradley relative to changes of rates and scheduling changes by commuter boats in the Commonwealth.

Entrance roadways. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2203) of Steven M. Walsh and Thomas M. McGee relative to improvement of certain roadways entering cities and towns.

Billboards, regulating. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2205) of Steven M. Walsh and others for legislation to make certain changes in the law relating to billboards.

North Shore rail link. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2243) of Mary E. Grant and others relative to the North Shore rail link.

Wayland and Sudbury, MBTA assessments. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2246) of Susan W. Pope for legislation to exempt the towns of Wayland and Sudbury from the Massachusetts Bay Transportation Authority assessment.

Wayland and Sudbury. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2247) of Susan W.

Pope for legislation to exempt the towns of Wayland and Sudbury from the Massachusetts Bay Transportation Authority assessment.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2261) of Peter V. Kocot relative to the Pioneer Valley Transit Authority.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2264) of Steven M. Walsh relative to extending the hours of service of the Massachusetts Bay Transportation Authority.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 4126) of Robert K. Coughlin (by vote of the town) relative to prohibiting truck traffic on a portion of East Street in the town of Dedham.

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

Mr. Donato of Medford, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting, the question, in each instance, being on acceptance.

Orders of the Day.

The Senate Bill creating the military family relief fund (Senate, No. 2009, changed and amended) was read a second time.

Pending the question on adoption of the amendment previously recommended by the committee on Ways and Means,— that the bill be amended in section 1, in line 9, by striking out "35T" and inserting in place thereof the following:—"35CC",— and the main question on ordering the bill to a third reading, the subject matter was recommitted, on motion of Mr. DeLeo of Winthrop, to the committee on Ways and Means.

At twenty-one minutes after eleven o'clock A.M., on motion of Mr. Flynn of Bridgewater (Mr. Petrolati of Ludlow being in the Chair), the House recessed until one o'clock P.M.; and at that time the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Hynes of Marshfield, until two o'clock; and at ten minutes after two o'clock the House was called to order with the Speaker in the Chair.

The motion of Mr. Binienda of Worcester, that the vote be reconsidered by which the House, on Thursday, November 3, 2005, concurred with the Senate in amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2241, striking out the title and inserting in place thereof the following title: "An Act relative to tax laws."; and inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make certain changes in the tax laws and other laws relating to the department of revenue, therefore

MBTA assessment.

Pioneer Valley transit authority.

MBTA, hours of service.

Dedham, truck traffic.

Military family relief fund.

Recesses.

Tax provisions, update.

Tax

provisions, update.

it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”) to the House Bill relative to the tax laws of the Commonwealth (House, No. 4169), was considered.

Quorum.

Pending the question on reconsideration, Mr. Jones of North Reading 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, yea and nay No. 273.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

[See Yea and Nay No. 273 in Supplement.]

Therefore a quorum was present.

After debate the motion to reconsider prevailed.

After debate on the recurring question on concurring with the Senate in its amendments, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Wednesday, November 16.

House concurred in Senate amendments, yea and nay No. 274.

After remarks the motion to postpone was negated.

After remarks on the recurring question on concurring with the Senate in its amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Lepper of Attleboro; and on the roll call 119 members voted in the affirmative and 31 in the negative.

[See Yea and Nay No. 274 in Supplement.]

Therefore the House concurred with the Senate in its amendments.

Reports of Committees.

Heating energy assistance.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to heating energy assistance and tax relief (House, No. 4473) ought to pass with amendments by striking out section 12 and inserting in place thereof the following section:

“SECTION 12. Notwithstanding any general or special law or rule or regulation to the contrary, an owner of residential property located in the commonwealth shall be allowed a one-time credit against the tax imposed by chapter 62 of the General Laws for all energy efficient items purchased on or after December 1, 2005, but not later than March 31, 2006, for installation in said property. The credit allowed for such purchases for installation in any 1 residential building shall equal 30 percent of the cost; provided further, that said credit shall not exceed \$600 for residential dwelling or \$1,000 for a multi-unit dwelling. Joint owners of a residential property shall share any credit available to the property under this subsection in the same proportion as their ownership interest.

The credit allowed under this section may be taken in taxable year 2005 or 2006, regardless of the exact date on which any or all qualifying purchases were made. The amount of credit that exceeds the total tax due for the taxable year in which the credit is taken may be carried over, as reduced, and applied against the tax liability for the next taxable year; provided, however, that in no taxable year may the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant taxable year.

The commissioner of revenue shall promulgate such rules and regulations as may be necessary for the implementation of this section; provided, however, that the commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the proportionate ownership share of the condominium or cooperative dwelling costs. The department shall file a copy of any rules and regulations with the clerk of the senate and of the house of representatives and with the joint committee on revenue.

As used in this section the following words shall have the following meanings:

‘Energy efficient heating items’, shall include, but not be limited to, home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems, solar domestic hot water systems, materials for insulation or sealing of a duct, attic basement, rim joint or wall and pipe insulation for heating systems.

‘Net expenditure’, the total of the purchase price for all energy efficient items, plus installation cost less any credits received pursuant to the Internal Revenue Code, any grants or rebates received from the united states department of housing and urban development, and any rebates or discounts received from an electric utility or gas utility.”; and by striking out section 16 and inserting in place thereof the following section:

“SECTION 16. Section 19 of chapter 25, as so appearing, is further amended by adding the following 2 paragraphs:—

The commissioner of the division of energy resources is hereby authorized and directed to establish a pilot program, hereinafter referred to as the HEAT Loan Program, to assist consumers with the purchase of energy efficient items for residential home modifications. For the purposes of this Program energy efficient items, shall include home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems, solar domestic hot water systems, materials for insulation or sealing of a duct, attic basement, rim joint or wall and pipe insulation for heating systems or other retail items for use in a residential dwelling that increase the energy efficiency of said dwelling.

In establishing said Program, the commissioner shall develop a list of qualified state or federally chartered banking institutions or credit unions that do business in the commonwealth and that are governed by the provisions of chapter 167 or 171 of the general laws as participatory lending institutions. For the purposes of this section, a qualified lending institution shall include a lending institution, as described herein that is certified by the division and which shall offer zero and low interest loans for the purpose of enhancing the energy efficiency of a residential dwelling. The Program shall be funded from that portion of the mandatory charge that is authorized by this section and allocated to residential customers consistent with the provisions of section 11G of chapter 25A, provided that not less

Heating

energy
assistance.

than \$5,000,000 shall be made available to assist participating financial institutions in offering said loan products by through interest rate write downs or other credit enhancement features, and provided further, that loans offered pursuant to said Program shall be offered to residential homeowners in the commonwealth solely for the purposes stated herein. The division shall make such loans available for purchases made on or after January 1, 2006, but not later than December 31, 2006. The division shall establish the rules and guidelines to carry out the purposes of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and energy efficiency product requirements and lending institution tracking and reporting requirements. The division shall submit a report detailing the rules and guidelines to the joint committee on telecommunications, utilities and energy no later than January 1, 2006. The division shall submit a report detailing the program results no later than February 1, 2007 to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means." Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

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

Pending the question on adoption of the amendments recommended by the committee on Ways and Means, and the main question on ordering the bill to a third reading, further consideration thereof was postponed, on further motion of the same member, until one o'clock P.M.

Subsequently, the noon recess having terminated (the Speaker being in the Chair), the matter was considered further.

Mr. Dempsey of Haverhill thereupon 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.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 148 members were recorded as being in attendance.

[See Yea and Nay No. 275 in Supplement.]

Therefore a quorum was present.

Mr. Straus of Mattapoisett then moved that the amendments recommended by the committee on Ways and Means be amended in proposed section 16, in the first paragraph, in the second sentence, by inserting after the phrase "solar domestic hot water systems," the following: "or fuel efficient hot water systems".

The further amendment was adopted.

The amendments recommended by the committee on Ways and Means, as amended, then also were adopted.

After debate on the question on ordering the bill, as amended, to a third reading, Mr. Jones of North Reading and other members of the House then moved that it be amended by adding at the end thereof the following two sections:

"SECTION 20. (a) The following words, wherever used in this section, shall have the following meaning:

'Energy efficient goods', 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 a 10 day period of October 13 until October 22 in calendar year 2006 an energy efficiency sales tax holiday, wherein no excise shall be imposed on non-business sales at retail in the commonwealth of energy efficient goods. 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 in the commonwealth shall add to the sales price or collect from any purchaser any excise upon sales at retail of energy efficient goods. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of energy efficient goods 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 goods, by law or by regulation, including, but not limited to the requirement for filing returns 4required by chapter 62C of the General Laws shall remain in effect for sales for the energy efficiency sales tax holiday.

(e) On or before December 31, 2006, the commissioner of revenue shall certify to the comptroller the amount of sales tax revenue forgone due to the operation of this section. 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 section.

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

SECTION 21. (a) The following words, wherever used in this section, shall have the following meaning:

'Energy efficient products', any furnace, boiler, hot water heater, window, door, insulation or insulation product 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, no excise shall be imposed on non-business sales at retail in the commonwealth of energy efficient products purchased between October 13 through October 22, 2006."

Amendment

Quorum.

Quorum,
yea and nay
No. 275.

adopted,
yea and nay
No. 276.

On the question on amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 276 in Supplement.]

Therefore the amendment was adopted.

Mr. DeLeo of Winthrop moved that the bill be amended by striking out section 13 and inserting in place thereof the following section:

"SECTION 13. Notwithstanding any general or special law or rule or regulation to the contrary, an owner of residential property located in the commonwealth shall be allowed a one-time credit against the tax imposed by chapter 63 of the General Laws for all energy efficient items purchased on or after December 1, 2005, but not later than March 31, 2006, for installation in said property in said property. The credit allowed for such purchases for installation in any 1 residential building shall equal 30 percent of the cost; provided further, that said credit shall not exceed \$600 for residential dwelling or \$1,000 for a multi-unit dwelling. Joint owners of a residential property shall share any credit available to the property under this subsection in the same proportion as their ownership interest.

The credit allowed under this section may be taken in the fiscal year in which any qualifying purchase was made. The amount of credit that exceeds the total tax due for the fiscal year in which the credit is taken may be carried over, as reduced, and applied against the tax liability for the next fiscal year; provided, however, that in no fiscal year may the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant fiscal year.

The commissioner of revenue shall promulgate such rules and regulations as may be necessary for the implementation of this section; provided, however, that the commissioner shall also include in such rules and regulations eligibility provision for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the proportionate ownership share of the condominium or cooperative dwelling costs. The department shall file a copy of any rules and regulations with the clerk of the senate and the house of representatives and with the joint committee on revenue.

As used in this section the following words shall have the following meanings:

'Energy efficient heating items', shall include, but not be limited to, home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas propane, or electric heating systems, solar domestic hot water systems, materials for insulation or sealing of a duct, attic basement, rim joint or wall pipe insulation for heating systems.

'Net expenditure', the total of the purchase price for all energy efficient items, plus installation cost less any credits received pursuant to the Internal Revenue Code, any grants or rebates received from the United States department of housing and urban develop-

ment, and any rebates or discounts received from an electric utility or gas utility."

The amendment was adopted.

Mr. Honan of Boston then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Technology Park Corporation shall expend monies from the Renewable Energy Trust Fund, as deemed necessary and appropriate by the corporation, to provide grants, loans, or other forms of financial support for weatherization measures, energy efficiency improvements, and emergency fuel assistance, targeting residential dwellings occupied by low income customers. The corporation shall administer this program through its existing Low Income Initiative in a manner that is consistent with the following parameters:— (1) weatherization and energy efficiency funds shall be expended for the primary purpose of protecting or restoring the environment as such terms are defined in Section 126(b) of the Internal Revenue Code, as amended, and the implementing regulations set forth in Title 7 CFR Part 14; (2) the corporation shall seek to leverage to the maximum extent feasible energy efficiency incentives, rebates, services, and other related forms of assistance made available by and through electric utility distribution companies; and (3) the corporation shall cooperate with state and federal agencies, electric utility distribution companies, community action agencies, and other entities that that directly service the energy needs of low income customers to identify and implement the most cost effective methods to deliver benefits and avoid duplication of effort and investment. The corporation may set standards and adopt rules and regulations to carry out the purposes of this section. The corporation shall submit a report detailing the standards, rules and regulations, if any, to the joint committee on telecommunication, utilities and energy no later than February 1, 2006."

The amendment was adopted.

On the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Dempsey of Haverhill; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 277 in Supplement.]

Therefore the bill (House, No. 4473, amended) was ordered to a third reading.

Order.

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

Bill ordered
to a third
reading,
yea and nay
No. 277.

Next
sitting.

Recesses.

At thirteen minutes after four o'clock P.M., on motion of Mr. Petrucelli of Boston (Mr. Petrolati of Ludlow being in the Chair), the House recessed until five o'clock P.M.; and at that time the House was called to order with Mr. Petrolati in the Chair.

Recesses.

The House thereupon took a further recess, on motion of Mr. Jones of North Reading, until half past five o'clock.

There being no objection,— the House was called to order sooner than the time to which it had recessed, at five minutes after five o'clock P.M., with Mr. Petrolati of Ludlow in the Chair. Mr. Jones of North Reading then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes after five o'clock P.M., the House adjourned, to meet tomorrow at eleven o'clock A.M.