

JOURNAL OF THE HOUSE.
Monday, January 13, 2003.

Met according to adjournment, at eleven o'clock A.M., with Mr. O'Flaherty of Chelsea 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: God Our Creator, at the beginning of a new legislative work week in this new session of the General Court, we continue to address complex and often controversial, complicated legislative and public policy issues. In Your goodness, help us to select the best (not necessarily the easiest) options which are open to us. Inspire us each day to make measured and thoughtful judgements and decisions on matters at hand. Teach us to recognize both the intended and unintended consequences of our choices on the people, society and future generations. Inspire us to be ever mindful of the essential dignity, rights and value of each person who has been endowed with a human body, a spiritual soul and an eternal destiny. Help us to keep our minds and hearts open to You and Your ways.

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

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

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to amending the Governor's authority to address deficiencies in revenue (House, No. 2000) was filed in the office of the Clerk on Friday, January 10.

The message was read. Under suspension of the rules, on motion of Mr. DiMasi of Boston, on the foregoing message, a Bill amending the Governor's authority to address deficiencies in revenue (printed in House, No. 2000), was subsequently read.

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

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on motion of Mr. Ruane of Salem, until tomorrow.

Statement of Representative Peterson of Grafton.

A statement of Mr. Peterson of Grafton 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 I was unable to be present in the House Chamber for the sitting of Thursday last due to a long standing commitment. Any roll calls that I may have missed that day was due entirely to the reason stated. If I had been present for the taking of roll calls 8, 9, 10, 13, 14, 16 and 17 I would have voted in the affirmative, in each instance. I would have voted in the negative on roll calls 11, 12, 15, 18 and 19.

Recess.

At five minutes after eleven o'clock A.M., on motion of Mr. Rush of Boston (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed subject to the call of the Chair; and at twenty-two minutes after three o'clock P.M., the House was called to order (with Mr. O'Flaherty in the Chair)

Resolutions.

The following resolutions (filed with the Clerk) were considered forthwith, under suspension of the rules, in each instance on motion of Mr. Ruane of Salem; and they were adopted, as follows:
Resolutions (filed by Mr. Rush of Boston) congratulating Jeremiah Chaplin on receiving the Eagle Award of the Boy Scouts of America;
Resolutions (filed by Mr. Rush) congratulating Gregory Cleary on receiving the Eagle Award of the Boy Scouts of America;
Resolutions (filed by Mr. Rush) congratulating Michael Durant on receiving the Eagle Award of the Boy Scouts of America;
Resolutions (filed by Mr. Rush) congratulating Anthony Garcia on receiving the Eagle Award of the Boy Scouts of America; and
Resolutions (filed by Mr. Swan of Springfield) congratulating Moses Jackson on the occasion of his ninetieth birthday;

Paper from the Senate.

The following order was adopted, in concurrence:
Ordered, That a convention of the two Houses be held at one o'clock P.M., on Tuesday, January 14, for the purpose of administering the oath of office to Councillor-Elect Edward M. O'Brien of Easthampton.

Recess.

At twenty-five minutes after three o'clock P.M., (Monday, January 13) on motion of Mr. Jones of North Reading (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed until the hour of eleven o'clock A.M., on Tuesday, January 14; and at that time the House was called to order with Mr. O'Flaherty in the Chair.

Tuesday, January 14, 2003 (at 11:00 A.M.)

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:
Gracious God, we take a moment to recognize Your presence in our midst and Your goodness which is reflected in the daily times of many people. We furthermore ask for Your guidance and assistance as we struggle to resolve fairly current legislative issues. In this process, help us to remain clearly focused on both the essential and, perhaps, the less essential issues of the moment. Teach us to be good listeners as we sort out and clarify our goals, priorities and values, both human and spiritual. Help us to be patient when patience is called for, compassionate when kindness is needed and straight-forward when building trust is our primary

concern. We believe that by following Your ways and by implementing Your gift of wisdom, we will provide the people with fair, just and responsive legislation. Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

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

Statement Concerning Representative Garry of Dracut.

A statement of Mr. DiMasi of Boston concerning Miss 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 death in her family outside the Commonwealth. Any roll calls that she may miss today will be due entirely to the reason stated.

Recess.

At ten minutes after eleven o'clock A.M. (Tuesday, January 14), on motion of Ms. Grant of Beverly (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed until two o'clock P.M.

Joint Session.

At one o'clock P.M. (Tuesday, January 14), a Joint Session of the two Houses was called for the purpose of administering the oath of office to Executive Councillor-Elect Edward M. O'Brien.

Councillor-Elect O'Brien was administered the oath of qualification by the Senate President; and the convention was dissolved.

At two o'clock P.M., the House was called to order with Mr. DiMasi of Boston in the Chair.

Recesses.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until three o'clock P.M.; and at that time the House was called to order with Mr. O'Flaherty of Chelsea in the Chair.

The House thereupon took a further recess, on motion of Mr. DiMasi, until a quarter before four o'clock; and at three minutes before four o'clock, the House was called to order with the Speaker in the Chair.

The Speaker thereupon declared a further recess until a quarter after four o'clock; and at half past four o'clock the House was called to order with the Speaker in the Chair.

Orders of the Day.

The House Bill amending the Governor's authority to address deficiencies in revenue (printed in House, No. 2000) was considered.

Pending the question on ordering the bill to a third reading, Mr. Rogers of Norwood moved that it be amended by substitution of a bill with the same title (House, No. 2010), which was read.

The amendment was adopted; and the substituted bill was ordered to a third reading.

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

After remarks on the question on passing the bill to be engrossed (Mr. Hall of Westford being in the Chair), Mr. Travis of Rehoboth moved that it be amended by adding at the end thereof the following section:

"SECTION 5. The extension of power granted to the governor under Chapter 9C is extended contingent on the Commonwealth creating an emergency reserve fund of \$200 million to be either funded from available resources or by state general obligation bonds which will be administered by the department of revenue.

The proceeds of this bond authorization shall be placed in a reserve account for cities and towns of the commonwealth to draw from to mitigate the impact of 9c cuts made by the governor through June 30, 2003.

It will require that any draw down of any funds by cities and towns shall be scheduled for prepayment over a five year schedule starting with the fiscal year 2004.

Repayment to the Commonwealth shall be based on a five-year schedule amortization. Any repayment shall be accepted without penalty. Any community not meeting their scheduled payment by December 30th each year shall have their payment automatically deducted from their next scheduled local aid payment."

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 26 members voted in the affirmative and 127 in the negative.

[\[See Yea and Nay No. 20 in Supplement.\]](#)

Therefore the amendment was rejected.

Mr. Flynn of Bridgewater being in the Chair,—

Ms. Balser of Newton moved that the bill be amended by adding at the end thereof the following section:

"SECTION 5. Before any accounts are reduced, the Governor shall use the state's stabilization fund in its entirety to make up for any deficiencies in the budget."

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 Ms. Jehlen of Somerville; and on the roll call 15 members voted in the affirmative and 136 in the negative.

[\[See Yea and Nay No. 21 in Supplement.\]](#)

Therefore the amendment was rejected.

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

"SECTION 5. And provided further that no further reductions to appropriations or allotments to housing, health care, human services or transitional assistance programs in excess of

\$200,000,000 be made without legislative approval by majority vote of both the house of representatives and the senate.”.

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 Mrs. Paulsen of Belmont; and on the roll call (the Speaker having returned to the Chair) 23 members voted in the affirmative and 130 in the negative.

[See Yea and Nay No. 22 in Supplement.]

Therefore the amendment was rejected.

Mr. O'Brien of Kingston and other members of the House then moved that the bill be amended in section 4 by striking out the date “June 30, 2004” and inserting in place thereof the date “June 30, 2003”.

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 the same member; and on the roll call 139 members voted in the affirmative and 13 in the negative.

[See Yea and Nay No. 23 in Supplement.]

Therefore the amendment was adopted.

Mr. O'Brien and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 5. Notwithstanding any General Law to the contrary the Board of Education shall not grant a commonwealth charter to any applicant for a period of three years, retroactive to January 1, 2003. Further, the Board of Education shall not authorize additional enrollment beyond the enrollment specified in the charter of any previously approved commonwealth charter school for a period of three years, as of January 1, 2003.

SECTION 6. The legislature shall establish a 13 member special commission to study the commonwealth charter school funding formula and funding sources and to investigate alternative funding formulas and funding sources. The commission shall also evaluate the budgetary impact on local school districts and the feasibility of designating commonwealth charter school tuition as a separate line item in the state budget. The commission may also review the academic performance of commonwealth charter schools, the demographics of charter school enrollment, and the adequacy of the Department of Education's oversight of commonwealth charter schools.

Said commission shall consist of six legislators including the House and Senate chairs of the Joint Committee on Education, Arts and Humanities, and two members appointed by the President of the Senate and two members appointed by the Speaker of the House, including one member in each chamber from the minority party; two members appointed by the governor and one representative each from the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Teachers Association, and the Massachusetts Federation of Teachers.

The special commission shall submit its report and recommendations, if any, to the legislature by December 1, 2004.”.

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the gentleman from Kingston was improperly before the House for the reason that it went beyond

the scope of the pending bill.

The Speaker ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Linsky of Natick and other members of the House then moved that the bill be amended by inserting after section 2 the following section:

“SECTION 2A. Any reduction in line items 7061-0008, 7061-0022, 0611-5500, and ‘Lottery Distribution’, so-called, in Chapter 184 of the Acts of 2002, shall be no more than one third of the total reductions made by the Governor after the effective date of this Act.”.

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. Jones of North Reading; and on the roll call 139 members voted in the affirmative and 12 in the negative.

[\[See Yea and Nay No. 24 in Supplement.\]](#)

Therefore the amendment was adopted.

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

MR. SPEAKER: During the taking of the above yeas and nays, I was present in the House Chamber and voted in the negative. Nevertheless I now find that due to an error in the electronic voting machine, I was not recorded as having voted. Had the voting machine been in proper working order, I would have been recorded in the negative.

Mr. Linsky and other members of the House then moved that the bill be amended by inserting after section 2A (inserted by amendment) the following section:

“SECTION 2B. Any reduction in payments to a municipality or school pursuant to line items 7061-0008, 7061-0022, 0611-5500 or ‘Lottery Distribution’, so-called, in Chapter 184 of the Acts of 2002, from the amounts originally passed in said Act shall be made in equal proportion, on a percentage of reduction basis, as to each municipality or school district.”.

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 131 members voted in the affirmative and 20 in the negative.

[\[See Yea and Nay No. 25 in Supplement.\]](#)

Therefore the amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 124 members voted in the affirmative and 28 in the negative.

[\[See Yea and Nay No. 26 in Supplement.\]](#)

Therefore the bill, as amended, was passed to be engrossed. Mrs. Harkins of Needham moved that this vote be reconsidered and the motion to reconsider was considered forthwith; and it was negatived. The bill (House, No. 2010, printed as amended) then was sent to the Senate for concurrence.

Subsequently a statement of Mr. Lantiqua of Lawrence was spread upon the records of the

House, as follows:

MR. SPEAKER: During the taking of the above yeas and nays, I was present in the House Chamber and voted in the negative. Nevertheless I now find that due to an error in the electronic voting machine, I was recorded as having voted in the affirmative. Had the voting machine been in proper working order, I would have been recorded in the negative.

Order.

On motion of Mr. Cabral of New Bedford,—

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

Mr. Bradley of Hingham then moved that as a mark of respect to the memory of Daniel J. Henderson, a member of the House from Hull in 1975 and 1976, the House adjourn; and the motion prevailed.

Accordingly, at sixteen minutes before seven o'clock P.M. (Tuesday, January 14), on motion of Mr. Flynn of Bridgewater (the Speaker being in the Chair), the House adjourned, to meet on Thursday next at eleven o'clock A.M., in an Informal Session.
