

## JOURNAL OF THE HOUSE.

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Thursday, July 21, 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 of Representative Fox of Boston.*

A statement of Ms. Fox of Boston 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 yesterday's sitting due to my attendance at the Council of State Governments Conference on Obesity. Had I been present for the taking of yea and nay numbers 138 to 161, inclusive, on overriding the Governor's vetoes and reductions to certain items in the fiscal year 2006 budget; and yea and nay numbers 162, 163 and 164, on passing certain engrossed bill to be enacted, I would have voted, in each instance, in the affirmative. Any roll calls that I missed yesterday was due entirely to the reason stated.

Statement of  
Representative  
Fox of Boston.

### *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 his hospitalization. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement  
concerning  
Representative  
Kennedy of  
Brockton.

### *Guest of the House.*

During the session, the Chair (Mr. Petrolati of Ludlow) declared a brief recess and introduced Frances Bothello-Hoeg, a long-time Kingston resident and current town moderator, as well as principal of Duval Elementary School in Whitman. Selected by Keith Lockhart and the Boston Symphony Orchestra as the 2005 POPSearch winner, Ms. Bothello-Hoeg, who is currently touring with the Boston Pops, sang "God Bless America". She was the guest of Representatives O'Brien of Kingston and Teahan of Whitman.

Frances  
Bothello-Hoeg.

### *Resolutions.*

Resolutions (filed with the Clerk by Mr. Miceli of Wilmington) honoring Jane C. Thomas on the occasion of the celebration of her

Jane C.  
Thomas.

eightieth birthday in Westford on July 23, 2005, 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. Donato of Medford, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Papers from the Senate.*

The House Bill establishing the interstate compact for adult offender supervision (House, No. 4192, amended) came from the Senate passed to be engrossed, in concurrence, with amendments in lines 136 to 148 (as printed), striking out proposed section 151D contained therein and inserting in place thereof the following:

“Section 151D. The chairman of the parole board, or his designee, shall serve as the compact administrator and as the state’s commissioner on the interstate compact commission. The Massachusetts state council shall be appointed by the compact administrator. The state council shall be comprised of 5 members whose term of office shall be for 4 years. The state council shall meet at least twice a year. The state council may advise the compact administrator or his designee on participation in the interstate commissioner activities and administration of the compact. The state council’s membership shall include at least 1 representative from the legislative, judicial and executive branches of government and victims’ groups.”; and by adding at the end thereof the following section:

“SECTION 4. Notwithstanding any general or special law to the contrary, compensation under section 12 of chapter 211D of the General Laws for private counsel assigned to criminal and civil cases under subparagraph (b) of section 6 of said chapter 211D shall be set according to the following rates for fiscal year 2006: for homicide cases, \$100 per hour; for superior court nonhomicide cases, including sexually dangerous person cases, \$60 per hour; for district court cases and children in need of services cases, \$50 per hour; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases, \$50 per hour.”.

Under suspension of the rules, on motion of Mr. O’Flaherty of Chelsea, the amendment was considered forthwith.

The House then non-concurred with the Senate in its amendment; and, on further motion of the same member, asked for a committee of conference on the disagreeing votes of the two branches. The Speaker appointed Representatives O’Flaherty, Tobin of Quincy and Evangelidis of Holden as the committee on the part of the House. Sent to the Senate to be joined.

The House Bill relative to claims trusts funds (House, No. 3835, changed) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 2, in line 7 (as printed), striking out the following:

Adult offender supervision.

Committee of conference.

Health care, trust fund.

“following 3 fiscal years” (as changed by the House committee on Bills in the Third Reading) and inserting in place thereof the following: “3 fiscal years beginning July 1, 2006”.

Under suspension of Rule 35, on motion of Mr. Lepper of Attleboro, 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.

**Bills**

Establishing a sick leave bank for Zenaida Correia, an employee of the Trial Court (Senate, No. 2071) (on a petition);

Relative to county roads (Senate, No. 2085) (on Senate, No. 1205);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Zenaida Correia, sick leave bank. County roads.

**Bills**

To clarify the authority of conservation commissions to impose consultant fees (Senate, No. 1167) (on a petition);

Relative to the effective enforcement of municipal ordinances and by-laws (Senate, No. 1168) (on a petition);

Protecting police officers while making a lawful arrest (Senate, No. 1336, changed and amended) (changed by striking out paragraph (c) (as printed) and amended in paragraphs (a) and (b) (as printed) by striking out the words “person of, or immediate presence of, a police officer” and inserting in place thereof, in each instance, the words “actual or constructive possession of a police officer”) (on a petition);

Exempting certain positions in the fire department in the city of Northampton from the civil service law (Senate, No. 2069, amended in section 1, in line 4, by inserting after the word “Chief.” the following sentence: “All firefighter in the city of Northampton covered by this act shall be exempt from chapter 31 of the General Laws.”) (on a petition) [Local Approval Received];

Exempting certain positions in the police department in the city of Northampton from the civil service law (Senate, No. 2074, amended in section 1, in line 4, by inserting after the letter “B.” the following sentence: “The position of patrol officer in the city of Northampton, and the positions in the police department of the city of Northampton specified in subsection (b) of section 1 of chapter 4 of the acts of 2004, shall be exempt from chapter 31 of the General Laws.”) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Conservation commissions. Ordinances and by-laws.

Police, protection.

Northampton Fire Department.

Northampton Police Department.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2162) of Edward M. Augustus, Jr. and Paul K. Frost (by vote of the town) for legislation to authorize the town of Auburn to convey a certain parcel of land. To the committee on Municipalities and Regional Government.

Auburn, land conveyance.

Methuen,  
preliminary  
election.

Petition (accompanied by bill, Senate, No. 2163) of Steven A. Baddour and Arthur J. Broadhurst (with approval of the mayor and city council) for legislation relative to the preliminary election in the city of Methuen in the year 2005. To the committee on Election Laws.

Sudan,  
business  
limits.

A petition of Andrea F. Nuciforo, Jr., Susan C. Tucker, Edward M. Augustus, Jr., Cleon H. Turner and other members of the General Court for legislation relative to the prohibition of investment of certain public funds in companies doing business in Sudan, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2166) was referred, in concurrence, to the committee on Public Service.

#### *Reports of Committees.*

Milford  
geriatric  
authority.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill relative to borrowing by the town of Milford for the funding of the geriatric authority of Milford (House, No. 4182) [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.

Under suspension of Rule 7A, on motion of Mrs. Parente of Milford, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

#### *Emergency Measure.*

Health care,  
trust fund.

The engrossed Bill relative to claims trusts funds (see House, No. 3835, changed), 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 46 to 0. Sent to the Senate for concurrence.

#### *Engrossed Bills.*

##### Engrossed Bills

Bills  
enacted.

Relative to creditable service for vocational education teachers (see Senate, No. 2057) (which originated in the Senate);

Establishing a voting precinct in the city of Peabody (see House, No. 3415); and

Relative to federal reimbursement services for children with Autism (see House, No. 4177);

(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

Relative to illegal dumping in the city of Worcester (House, No. 1748) (its title having been changed by the committee on Bills in the Third Reading); and

Third  
reading  
bills.

Relative to the board of health in the town of North Andover (House, No. 4115);

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.

The House Bill relative to the development of underused state owned real property and the disposition of state owned surplus real property (House, No. 4278) was read a second time.

Second  
reading bill  
amended.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended in section 5 by striking out the following paragraph:

“This chapter shall not apply to the disposition of real property prior to July 1, 2005.”; in section 13, under the heading “Economic Development”, by striking out the following: “1599-xxxx” and inserting in place thereof the following: “1599-2001”; and by inserting after section 17 the following section:

“SECTION 17A. Sections 1 through 11 of this act, inclusive, shall not be effective as to the disposition of any real property designated surplus by the commissioner of the division of capital asset management and maintenance prior to July 1, 2005, or as to the disposition of any real property owned by the commonwealth and subject to a special act for the conveyance, lease or other disposition of such property with an effective date prior to July 1, 2005.” [Estimated Cost: \$9,800,000.00], — were adopted.

The bill (House, No. 4278, amended) then was ordered to a third reading.

#### *Recesses.*

At twelve minutes after eleven o'clock A.M., on motion of Mr. Jones of North Reading (Mr. Petrolati of Ludlow being in the Chair) the House recessed until one o'clock P.M.; and at six minutes after one o'clock the House was called to order with Mr. Petrolati in the Chair.

Recesses.

The House thereupon took a further recess, on motion of Mr. O'Brien of Kingston, until half past one o'clock; and at twenty minutes before two o'clock the House was called to order with Mr. Petrolati in the Chair.

#### *Quorum.*

Mr. O'Brien then asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having

Quorum.

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. 165.

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. 165 in Supplement.]**

Therefore a quorum was present.

*Paper from the Senate.*

Emergency contraception, access.

A report of the committee of conference on the disagreeing votes of the two branches with reference to the House amendments to the Senate Bill providing timely access to emergency contraception (Senate, No. 2073) recommending that the Senate recede from its non-concurrence and concur therein with a further amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2165), came from the Senate with the endorsement that it had been accepted by said branch.

Mr. Koutoujian of Waltham moved that the rules be suspended in order that the report might be considered forthwith.

Rules suspended, yea and nay No. 166.

On the question on suspension of the rules, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 133 members voted in the affirmative and 19 in the negative.

**[See Yea and Nay No. 166 in Supplement.]**

Therefore the rules were suspended.

Conference committee report accepted, yea and nay No. 167.

After debate on the question on acceptance of the report, (Mrs. Harkins of Needham being in the Chair) in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Koutoujian of Waltham; and on the roll call 128 members voted in the affirmative and 24 in the negative.

**[See Yea and Nay No. 167 in Supplement.]**

Therefore the report of the committee of conference was accepted, in concurrence.

*Engrossed Bill — Land Taking.*

Andover sewer easement.

The engrossed Bill providing a temporary sewer easement in the town of Andover (see Senate, No. 2088, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 168.

On the recurring question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 152 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 168 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Order.*

An Order (filed by Mr. Scaccia of Boston) relative to amending Joint Rules 1, 11B, 12 and 26 (House, No. 4286), having been reported from the committee on Rules, under the provisions of House Rule 7C, was considered.

Budget, procedures.

On the question on adoption of the order, 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 128 members voted in the affirmative and 23 in the negative.

Order adopted, yea and nay No. 169.

**[See Yea and Nay No. 169 in Supplement.]**

Therefore the order (House, No. 4286) was adopted. Sent to the Senate for concurrence.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the recommendations of the Provision of Counsel to Indigent Persons Commission (printed in House, No. 2793) ought to pass with an amendment substituting therefor a Bill relative to the provision of counsel to indigent persons (House, No. 4287). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Indigent persons.

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

Under suspension of Rule 7A, on motion of Mr. O’Flaherty of Chelsea, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: “An Act providing counsel to indigent persons.”

Pending the question on passing the bill to be engrossed, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 140 members were recorded as being in attendance. No. 170.

Quorum, - yea and nay No. 170.

**[See Yea and Nay No. 170 in Supplement.]**

Therefore a quorum was present.

After debate on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. DeLeo of Winthrop; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Bill passed to be engrossed, yea and nay No. 171.

**[See Yea and Nay No. 171 in Supplement.]**

Therefore the bill (House, No. 4287) was passed to be engrossed. Sent to the Senate for concurrence.

*Engrossed Bill.*Emergency  
contraception.

The engrossed Bill providing timely access to emergency contraception (see Senate, No. 2073, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill passed  
to be  
enacted,  
yea and nay  
No. 172.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 142 members voted in the affirmative and 9 in the negative.

**[See Yea and Nay No. 172 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Order.*

On motion of Mr. DiMasi of Boston,—

Next  
sitting.

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

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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 thirteen minutes after five o'clock P.M. (Mr. Petrolati of Ludlow being in the Chair), the House adjourned, to meet Monday next at eleven o'clock A.M., in an Informal Session.