

Wednesday, November 4, 2009.

Met according to adjournment, at eleven o'clock A.M., with Mr. Basile of Boston 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, in reflection and prayer, we open our hearts and minds to You and Your assistance as we address our daily tasks and responsibilities. We believe that Your gifts to us of knowledge and wisdom enable us to make the right decisions and choices in legislative and personal matters during the course of the day. Our awareness of Your presence in our midst is also an unfailing source of guidance, inspiration and strength upon which we depend. Teach us to recognize and build upon the goodwill and good intentions of constituents and colleagues in our common effort to build a peaceful, fair and just society. May we work together in promoting common goals and public policies which will serve the present and future well-being of all citizens in our Commonwealth.

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

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

*Statement Concerning Representative Atsalis of Barnstable.*

A statement of Mr. Vallee of Franklin concerning Mr. Atsalis of Barnstable 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 Atsalis of Barnstable, was not present in the House Chamber for today's sitting due to official business in Washington, D.C. If he had been able to be present, he would have voted in the affirmative on ye and nay numbers 245 and 246, on passing to be engrossed House, Nos. 4309 and 4310. His missing of roll calls today is due entirely to the reason stated.

*Guest of the House.*

During the session, Mr. Bradley of Hingham took the Chair, declared a brief recess, and introduced Chief Petty Officer Keith Jermyn of Hingham who has served in the United States Armed Forces as a Navy Sea Bee for fifteen years.

Chief Petty Officer Jermyn served in the Persian Gulf in 1987 and 1988, Operation Desert Storm in 1990 and 1991 and Operation Iraqi Freedom in 2004 and 2005 and also in 2008 and 2009.

During Chief Petty Officer Jermyn's last deployment, he received a flag of the Commonwealth in a care package that Representative

Bradley had sent to him at Combat Outpost Tripoli in Al Anbar Province, Iraq. Chief Petty Officer Jermy then presented that flag to Representative Bradley.

*Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Anthony Edward Barbato.

Resolutions (filed by Mr. Calter of Kingston) congratulating Anthony Edward Barbato on receiving the Eagle Award of the Boy Scouts of America;

Peter Trettel.

Resolutions (filed by Mr. Fernandes of Milford) congratulating Peter Trettel on earning the Eagle Scout Award;

Jake Keough.

Resolutions (filed by Mr. Kujawski of Webster) congratulating Jake Keough on receiving the Eagle Award of the Boy Scouts of America; and

Carl Nagy-Koechlin.

Resolutions (filed by Representatives Rushing of Boston and Fox of Boston) honoring Carl Nagy-Koechlin;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Hill of Ipswich, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Order.*

On motion of Mr. Binienda of Worcester,—

Members,—voting.

*Ordered.* That, Notwithstanding any rule to the contrary, a court officer shall be assigned to cast roll call votes, except for quorum roll calls, for Representatives Sánchez of Boston, Grant of Beverly and Evangelidis of Holden during their deliberation on the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments of Senate Bill relative to pandemic and disaster preparation and response in the Commonwealth.

*Petitions.*

Salisbury,—liquor license.

Representative Costello of Newburyport and Senator Baddour presented a joint petition (accompanied by bill, House, No. 4313) Michael A. Costello and Stephen A. Baddour (by vote of the town) that the town of Salisbury be authorized to convert a seasonal liquor license to an annual license for the sale of all alcoholic beverages to be drunk on the premises; and the same was referred to the committee on Consumer Protection and Professional Licensure. Sent to the Senate for concurrence.

Rose Fitzgerald Kennedy Greenway.

Mr. Michlewitz of Boston presented a petition (subject to Joint Rule 12) of Aaron Michlewitz for legislation to authorize the lease of a certain parcel of land to the Rose Fitzgerald Kennedy Greenway; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently,

then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Hill of Ipswich, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Alicea of Charlton, petition (subject to Joint Rule 12) of Geraldo Alicea, Anne M. Gobi and others for legislation to regulate the closing of branch offices of the Registry of Motor Vehicles.

Registry branch closings.

By the same member, petition (subject to Joint Rule 12) of Geraldo Alicea, Anne M. Gobi and others that the Registry of Motor Vehicles be required to hold a certain public hearing in the town of Southbridge.

Southbridge,—public hearing.

By Mr. Curran of Springfield, petition (subject to Joint Rule 12) of Sean Curran for an appropriation of a certain sum of money for a “911” text messaging grant program for police departments in the cities and towns of the Commonwealth.

“911”—grant program.

By Representative Flynn of Bridgewater and Senator Pacheco, a joint petition (subject to Joint Rule 12) of David L. Flynn and Marc R. Pacheco for legislation to establish sick leave banks for Lori Polson and Eric Polson, employees of the Department of Correction.

Lori and Eric Polson,—sick leave bank.

By Mr. Kaufman of Lexington, petition (subject to Joint Rule 12) of Jay R. Kaufman for legislation to exempt certain non-profit groups from payment of fees for the use of certain facilities in the State House.

State House,—non-profit groups.

By Mr. Galvin of Canton, petition (subject to Joint Rule 12) of Steven B. Drobni for legislation to repeal the law authorizing boards of assessors in cities and towns to request property owners to return certain information concerning the valuation of such property.

Board of assessors,—property values.

By Mr. Michlewitz of Boston, petition (subject to Joint Rule 12) of Aaron Michlewitz and Sonia Chang-Diaz for legislation to regulate the amount of insurance required on tunnels used for railways and roadways.

Tunnels,—insurance.

By the same member, petition (subject to Joint Rule 12) of Aaron Michlewitz, Jeffrey Sanchez and Sonia Chang-Diaz relative to the membership of the Franklin Foundation commonly known as the Franklin Institute of Boston.

Franklin Institute.

By Mr. Murphy of Weymouth, petition (subject to Joint Rule 12) of James M. Murphy that the Department of Correction be authorized to establish a sick leave bank for David Pizzi, an employee of said department.

David Pizzi,—sick leave.

By Mr. Patrick of Falmouth, petition (subject to Joint Rule 12) of Matthew C. Patrick relative to the operation of bicycles on crosswalks and on the roadways of the Commonwealth.

Bicycles.

By Ms. Polito of Shrewsbury, petition (subject to Joint Rule 12) of Karyn E. Polito, Louis L. Kafka and Michael O. Moore that the Secretary of the Commonwealth be directed to place on the ballot debt exclusion questions in certain towns of the Commonwealth.

Debt exclusion.

Saugus Watershed Commission.

By Ms. Reinstein of Revere, petition (subject to Joint Rule 12) of Kathi-Anne Reinstein for legislation to include the Saugus Watershed Commission on the citizens advisory board on the uses of land within the Rumney March Reservation.

Swimming pools.

By Mr. Smith of Everett, petition (subject to Joint Rule 12) of Stephen Stat Smith, Paul J. Donato and others relative to the opening and closing of swimming pools under the jurisdiction of the Department of Conservation and Recreation.

Patricia Cahill,—sick leave.

By Mr. Spellane of Worcester, petition (subject to Joint Rule 12) of Robert P. Spellane that the Department of Transitional Assistance be authorized to establish a sick leave bank for Patricia Cahill, an employee of said department.

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

*Reports of Committees.*

Yarmouth Marina.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 7B be suspended on the petition of Cleon H. Turner relative to the development of the Yarmouth Marina in the town of Yarmouth. Under suspension of the rules, on motion of Mr. deMacedo of Plymouth, the report was considered forthwith. Joint Rule 7B was suspended; and the petition (accompanied by bill) was referred to the committee on Community Development and Small Business. Sent to the Senate for concurrence.

Cohasset,—land.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 7B be suspended on the petition of Garrett Bradley relative to authorizing the town of Cohasset to grant certain interests in land. Under suspension of the rules, on motion of Mr. Hill of Ipswich, the report was considered forthwith. Joint Rule 7B was suspended; and the petition (accompanied by bill) was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

*Emergency Measure.*

Terry Howard,—sick leave bank.

The engrossed Bill establishing a sick leave bank for Terry Howard, an employee of the Department of Public Health (see Senate, No. 2131, 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.

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 3 to 0. Sent to the Senate for concurrence.

Bill enacted.

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

*Engrossed Bill.*

The engrossed Bill designating the Vietnam Veterans Memorial Skating Rink in the city of North Adams as the Peter W. Foote Vietnam Veterans Memorial Skating Rink (see House, No. 3550) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. Bill enacted.

*Recesses.*

At eight minutes before twelve o'clock noon, on motion of Mr. Hill of Ipswich (Mr. Basile of Boston being in the Chair), the House recessed until half past one o'clock P.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair. Recesses.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until a quarter before two o'clock; and at two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

*Quorum.*

Mr. Peterson of Grafton thereupon 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 145 members were recorded as being in attendance. Quorum,—yea and nay No. 244.

**[See Yea and Nay No. 244 in Supplement.]**

Therefore a quorum was present.

*Reports of Committees.*

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill instituting saltwater fishing licenses (House, No. 4224) ought to pass with an amendment by substitution of a bill with the same title (House, No. 4309). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Saltwater fishing licenses.

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

Under suspension of Rule 7A, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith.

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

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of Mr. Straus of Mattapoisett, the bill

Saltwater  
fishing  
licenses.

Bill passed to  
be engrossed,—  
yea and nay  
No. 245.

Veterans  
and service  
members.

(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 for saltwater fishing licenses."

After remarks 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. Straus; and on the roll call 156 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 245 in Supplement.]**

Therefore the bill (House, No. 4309) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill for the home of the brave (House, No. 4295) ought to pass with an amendment substituting therefore a Bill to ensure the rights of veterans and service members (House, No. 4310). 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 of the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith.

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

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of Mr. Naughton of Clinton, 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 benefits to veterans and servicemembers."

After remarks on the question on passing the bill to be engrossed, Mr. Jones of North Reading and other members moved to amend it by striking out sections 14 to 17, inclusive, and inserting in place thereof the following two sections:

"SECTION 14. The third paragraph of section 95 of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Federal write-in absentee ballots shall be received and counted as provided in section 103 of the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. section 1973ff-2, for any preliminary, primary or general election for federal, state, city, town, county or district office or any ballot question.

SECTION 15. Said section 95 of said chapter 54, as so appearing, is hereby amended by adding the following 2 paragraphs:—

Federal write-in absentee ballots from absent uniformed services voters and overseas voters as defined in section 107 of said Uniformed and Overseas Citizens Absentee Voting Act that are transmitted by e-mail or facsimile as permitted by this section, shall be counted for federal, state, city, town, county or district offices at any preliminary, primary or general election or any ballot question so long as received by the city or town clerk before the hour fixed for closing the polls as provided in section 93, but only if no valid state

ballot has been received from the same voter; provided, however, that section 99 shall apply to federal write-in absentee ballots sent by mail; and provided, that a federal write-in absentee ballot shall be counted even if the voter has not applied for a state absent voter ballot or if the voter's application was received after the thirtieth day before the election. Said ballots shall be processed in the office of the registrars after the hour of the closing of the polls and said registrars shall amend each precinct tally sheet to include the counted federal write-in absentee ballots.

Uniformed services voters and overseas voters shall be allowed to mail, e-mail or send via facsimile, a completed federal write-in absentee ballot directly to local election officials or use transmission services provided and administered through the Federal Voting Assistance Program, or any successor program. E-mail or facsimile transmissions of a federal write-in absentee ballot shall include a completed form approved by the Federal Voting Assistance Program, or any successor program, declaring that the voter voluntarily waives the right to a secret ballot"; and by adding the following section:

"SECTION 27. The state secretary shall immediately notify the program director or his designee of the Federal Voting Assistance Program or any successor program of all changes effecting uniformed services voters and overseas voters provided for in sections 14 and 15 of this act."

After remarks the amendments were adopted.

Mr. Murphy of Burlington then moved to amend the bill by adding the following section:

"SECTION 28. Notwithstanding any general or special law, rule or regulation to the contrary, active service members of the armed forces who otherwise meet the eligibility requirements of 108 C.M.R. 11.01 to receive a bonus for participation in operations Desert Shield or Desert Storm, shall be permitted to receive said bonus; provided, however, that sufficient funds are available in the relevant account."

After remarks the amendment was adopted.

After debate 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. Naughton of Clinton; and on the roll call 155 members voted in the affirmative and 1 in the negative.

**[See Yea and Nay No. 246 in Supplement.]**

Therefore the bill (House, No. 4310, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill authorizing a special meeting of the town council of the city known as the town of Randolph for the purpose of selecting a town manager (printed in House, No. 4299). 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 the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Bill passed to  
be engrossed,—  
yea and nay  
No. 246.

Randolph,—  
town  
meeting.

*Engrossed Bill — Land Taking.*

Norton,—  
land transfer.  
The engrossed bill authorizing the town of Norton to transfer certain park land (see House, No. 4136) (which originated in the House), 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. 247.  
On the 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. Donato of Medford being in the Chair) 156 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 247 in Supplement.]**

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

*Orders of the Day.*

Third reading bill.  
The Senate Bill exempting the office of chief of police in the town of Sandwich from the civil service laws (Senate, No. 2076, amended) 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, in concurrence.

House bills

Third reading bills.  
Establishing authorizing the lease of a certain parcel of land to the town of Milton (House, No. 846);

Relative to concurrent jurisdiction over the former Devens Military base (House, No. 1996); and

Establishing a sick leave bank for Deborah Katarba, an employee of the Trial Court (House, No. 4269);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Second reading bills.  
The Senate Bill establishing a sick leave bank for Richard Donati, an employee of the Department of Correction (Senate, No. 2157);

House bills

Prohibiting devocalization of dogs and cats (House, No. 344);  
Relative to technical corrections regarding the further protection of children (House, No. 1589);

Designating a certain bridge in the town of Danvers as the Danversport Miracle Bridge (House, No. 3335, changed);

Designating Route 20 in the town of Northborough as the John Davis Highway (House, No. 4030);

Authorizing the city of Newton retirement board to grant a superannualization retirement allowance to Frank Albano (House, No. 4117);

Validating the acts and proceedings of the 2009 spring annual town meeting and the 2009 spring special town meeting of the town of Westminster (printed in House, No. 4179);

Establishing a sick leave bank for John “Jack” Bevelaqua an employee of the Department of Energy Resources (House, No. 4263); and

Establishing sick leave banks for certain members of the department of corrections (House, No. 4273).

Severally were read a second time; and they were ordered to a third reading.

The House Bill authorizing the town of Harwich to convey certain recreational land (House, No. 4208), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Third reading bill amended.

Pending the question on passing the bill to be engrossed, Ms. Peake of Provincetown moved to amend it by substitution of a bill with the same title (House, No. 4314), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. 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 tomorrow at eleven o'clock A.M.

Next sitting.

At twenty minutes before four o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.