

HOUSE SESSION - MONDAY, JUNE 30, 2008

CONVENES: The House convened at 11:03 am with Rep. Donato presiding.

PRAYER / PLEDGE: Members and guests rose for a prayer from Father Quinn and remained standing to recite the Pledge of Allegiance.

GUESTS: The chair introduced two college students visiting the chamber.

Reps. Honan, Rushing, Walrath, Wolf, Flynn and DeMacedo were in the chamber. Housing Committee staff joined Honan on the rostrum.

WINCHESTER BEACH: The House enacted S 2475 designating a certain portion of beach in Winchester as the Charles Shannon Memorial Beach.

RESOLUTIONS: The House adopted a Rep. Turner resolution congratulating a judge on the occasion of his retirement.

ORDERS OF THE DAY: There was no objection to proceeding with the orders of the day.

CO-OP HOUSING ASSOCIATIONS: The House suspended rule 47 to take out of order H 1224 relative to the articles and by-laws of cooperative housing corporations.

The House accepted a Committee on Bills in Third Reading report recommending an amendment. There was no objection to dispensing with the reading of the report.

The House rejected Gov. Deval Patrick's amendment to the bill.

The House adopted a Rep. Honan amendment substituting a new text for H 1224 relative to the articles and by-laws of cooperative housing corporations.

RECESSES: The House recessed at 11:24 am, intending to return at 1 pm.

RETURNS: The House Returned at 1:40 pm with Rep. Petrolati presiding.

GUEST: The chair introduced Amanda Benoit, a guest of Rep. Paul Donato.

GUESTS: The House introduced the members of a foundation combating scoliosis, visiting to recognize June as Scoliosis Awareness Month.

The House entered into a prolonged recess while members gathered on the rostrum.

At 2:08 pm, the chair said the House was waiting for paperwork on a cigarette tax bill, a broadband access bill and a mental health parity bill.

GUEST: The chair introduced a teacher from Catholic Memorial High School, a guest and former teacher of Rep. Rush.

QUORUM CALL: At 2:26 pm, Rep. Donato doubted the presence of a quorum.

AT 2:37 PM, A QUORUM ROLL CALL INDICATED 144 MEMBERS PRESENT.

CIGARETTE TAX: Question came on accepting a conference committee report H 4899 relative to the cigarette tax excise.

The House suspended the rules to take up the matter out of order.

Rep. Peterson doubted the vote and asked that a vote be taken by a call of the yeas and nays. There was support.

BY A ROLL CALL VOTE OF 123-19, RULES SUSPENDED

Rep. Binienda said, What we are doing today is taking up a portion of the corporate tax loophole bill. The portion is the section of the bill that deals entirely with the cigarette tax. We are not taking up the check-the-box or the combined reporting factors. What we have is a bill that places a \$1 excise tax on every pack of cigarettes that is going to be sold in the commonwealth. We're hoping this additional dollar excise brings in about \$174 million. The good news about that is that we have placed in the bill to have this entire amount of money go into the Commonwealth Care Trust Fund. It will not go into the General Fund. Effective date of the bill remains the same as when we took it up a while back, July 1, 2008. Some of you had questions about minimum pricing. This bill does not

include that minimum pricing section.

Rep. Binienda requested that a vote be taken by a call of the yeas and nays. There was support.

Rep. DeMacedo said, I rise in opposition of this bill. I just want to make a point today. We are adding a dollar a pack to the cigarette tax and we are making effective July 1, 2008.

Rep. Petrolati gavelled the members quiet and asked them to pay due attention.

Rep. DeMacedo said, I want to, for the edification of the members, let them know what we are all doing today. This is going into effect July 1, 2008. By the time we pass this particular law in the House, maybe 3:30 pm, 4 o'clock, maybe 5 o'clock. It will go into effect at midnight tonight. I'm a small business owner. I own a convenience store in Plymouth. I know what my responsibility and requirement is to do today. It's to make sure I count every piece of inventory I have in my convenience store that is a cigarette and count that. There are thousands of small business owners who have absolutely no idea what is happening in this chamber. This is outrageous. How can we do something like this to the small business owners? They will be fined and penalized. By midnight tonight, they have to change all of the cigarette packs they are selling. I'm sure there's not a lot of sympathy for them or the smokers. The reality is the logistics of putting a law into effect that will go into effect four hours afterward. DOR has not put out any notices to that effect. It just doesn't make sense. It just points to how disconnected we are from the real world. I hope the law is not adopted and we readdress this and try to do it in a timely fashion.

Rep. Straus said, I rise in support of accepting this partial conference report. We are obviously here on June 30, 2008. The fiscal year begins tomorrow. This represents an important part of the revenue estimates that comprised our debate on the fiscal year 2009 budget. Each day is critical. Time is important. To speak to the point raised by the gentleman from Plymouth, it's fair to say that among those who sell cigarettes - convenience stores, retailers - this has been an issue that has been the talk, so to speak, in the industry for many, many weeks now. It is well-known within the trade associations, the retailers associations. If successful in the Senate now, I want to assure the members that there is no unknown event that is about to happen. Let's be clear what the revenue numbers are. We're predicting based on DOR analysis of past and current sales numbers, in the first year we're talking about \$174 million. It's not going into the general fund. This \$174 million estimate on the revenues to be received is dedicated to the Commonwealth Care Trust Fund. In the targeted way this revenue is slated, if we do not pass this, there will be a big hole in that program.

Rep. Peterson said, Can you hear that sound? Can you hear it? That's that big sucking sound as people travel over the borders to buy their cigarettes.

Members hissed and made sucking noises.

Rep. Peterson said, That's the sound. It also moves us from 17th to 5th in who has the most tax on cigarettes. When we debated this bill a few weeks ago, it was interesting to watch what the state of New Hampshire did. They came out and said, 'we need about \$50 million in revenue.' They figured they can do that for about 25 cents a pack. Instead of passing that increase, they said thank you Massachusetts. We anticipate \$48 to \$50 million without putting once cent of increase on our cigarette tax. They anticipate to generate raising our tax \$1 additional sales that will generate \$50 million in new revenue. We knew that July 1 was coming. Why didn't we report this out in part a week or two weeks ago so it could have been debated in a timely fashion for those small business people up and down the borders, so they can maybe figure out what their inventory is? I debated against this bill strongly for several different reasons. I was a smoker for many, many years. I know how difficult it is to give it up. Some people say it's almost as difficult as heroin. I don't know. But I know it's extremely difficult. I know people say this dollar tax will have a whole lot of people quitting. Maybe. Most of them won't because they're addicted. They're going to continue to smoke and we know that. That's why we raise this a dollar a pack. I think it's another \$15 million sitting in the stores this afternoon which will be arriving in DOR's pocket by the end of the week. I urge the members to vote against the conference committee report.

Rep. Frost said, I urge the members to vote against this today. I don't understand why we're going down this path to help the economy and taxpayers of New Hampshire. This is a huge vacation week for many, if not all of our residents in the commonwealth. Many will vacation in Massachusetts, but many will go to New Hampshire. \$15 a carton can be saved just on taxes alone in New Hampshire. They're going to say, 'I can pick up my cigarettes now' while they're there. In New Hampshire, a carton of cigarettes will be \$10 and 8 cents. Ultimately, the benefits that we're trying to get out of this tax won't be there. Mr. Speaker, I do hope that this conference committee report is voted in the negative.

Rep. Hargraves said, I don't know how many of you live near the border of New Hampshire. But I do. I have three towns out of five. They have a readymade store over the border where you can come across the border and buy cigarettes and other things. This tax is damn stupid. I lost my brother to smoking, but this is not going to do the job. This is going to hurt jobs, it's going to hurt business. I see it. It's like prohibition. This is not good legislation. They're going to go over the border. It's not going to stop cancer. I hope you'll rethink this. I doubt it, but taxes are not the answer, or lowering the price so you can fill in the tax. I hope that some people will smarten up on it. I don't like listening to myself talk. People can come up here and they can sell themselves. This particular thing on cigarettes is stupid. Now that I've said my piece, thank you. No one is going to listen.

BY A ROLL CALL VOTE OF 93-52, REPORT ACCEPTED

EXTENSION ORDER: The House adopted an order concurred with a Senate order extending the deadline for the Committee on Bonding, Capital Expenditures and State Assets to report on certain bills. There was no objection to dispensing with the reading of the order.

ORDERS OF THE DAY: There was no objection to proceeding with the orders of the day.

SOMERVILLE DETAILS: The House engrossed S 2170 authorizing increased fees for special details performed by public employees in the city of Somerville.

INTERMUNICIPAL AGREEMENTS: The House engrossed S 2401 further regulating intermunicipal agreements

WALPOLE RESTRICTION: The House adopted a Bills in Third reading report amending H 4491 authorizing the town of Walpole to release a certain restriction.

The House adopted a Rep. Kafka amendment substituting a new text.

The substitute bill was engrossed.

PLACEMENT OF TWINS: The House engrossed H 469 relative to classroom placement of twins.

ROUTE 116: The House engrossed H 3550 designating Route 116 as a scenic byway corridor.

OSCILLATING LIGHTS: The House engrossed H 3615 relative to red and blue flashing, rotating or oscillating lights.

MITOCHONDRIAL DISEASE AWARENESS: The House engrossed H 3246 designating Mitochondrial Disease Awareness Week.

CAMBRIDGE ABATEMENT: The House engrossed H 4081 authorizing the city of Cambridge to abate fiscal year 2003 real property taxes.

SICK LEAVE BANK: The House adopted a Rep. O'Day amendment to H 4868 sick leave bank for Mary Mercurio, an employee of the Department of Social Services. The bill was engrossed.

SICK LEAVE BANK: The House engrossed H 4882 establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services

LODGING HOUSES: The House ordered to third reading H 1271 relative to lodging houses.

ALLOWANCE INCREASES: The House ordered to third reading H 2641 relative to allowance increases for retired members of regional retirement systems

VOTING BY SEX OFFENDERS: The House ordered to third reading H 4546 relative to voting by sex offenders.

PUBLIC RECORDS: The House ordered to third reading H 3225 relative to public records.

CLARIFYING WAREHOUSING: The House ordered to third reading H 1488 clarifying warehousing.

MILK COUPONS: The House ordered to third reading H 780 relative to coupon use for the purchase of milk.

SAFE SYRINGES: The House ordered to third reading H 1526 relative to public safety officers and safe hypodermic syringes.

HARBORMASTER TRAINING: The House adopted a Ways and Means amendment to S 509 relative to harbormaster training certification. The bill was ordered to a third reading.

MENTAL HEALTH PARITY: Question came on engrossing H 4423 relative to mental health parity.

Rep. Balser said, I rise in support of H 4423, an act relative to mental health parity. This legislation is both health care legislation and civil rights legislation. It is an important next step in Massachusetts's commitment to health care reform. Last session we ensured everyone would have health insurance. With House 4423, we'll make sure that not only does everyone have insurance, but it will work with full parity for all mental health conditions. Once and for all, we will eliminate the stigma associated with mental illness

and substance abuse disorders. They will get the treatment they deserve. We know that the treatment works. We will save the commonwealth money, money that's now being spent on substance abuse disorders. This has important public safety implications. When people get treatment, they are less likely to get involved in the criminal justice system. It is so important we get this signed this year. It's the same year that Congress is considering an analogous bill. That bill will cover all federally regulated plans. When Sen. Kennedy's national parity bill and when H 4423 is signed into law, every person in the commonwealth will have full access to mental health services.

Rep. Balsler requested a vote by a call of the yeas and nays. There was support.

BY A ROLL CALL VOTE OF 119-26, BILL ENGROSSED

BROADBAND EXPANSION: Question came on engrossed H 4864 establishing and funding the Massachusetts Broadband Institute.

BOSLEY AMENDMENT: Rep. Bosley offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was adopted.

BOSLEY AMENDMENT #2: Rep. Bosley offered an amendment. The amendment was adopted.

GUYER AMENDMENT: Rep. Guyer offered an amendment. There was no objection to dispensing with the reading of the amendment.

Rep. Guyer said, This amendment would bring the bill up from \$25 million to \$40 million. It would serve underserved communities. You're either in an underserved community, an unserved community, or you're in a duopoly, which means you have more than one service provider. There are over 30 communities that have no broadband at all. Our businesses are at a disadvantage, our residents are at a disadvantage. I've had business owners from Manhattan who say they love the Berkshires and want to open an office here but they won't because they need broadband. Whether it's an architect, whether it's a lawyer, whatever it is, they can't use current technology in Massachusetts. This will bring these communities into the 21st century. This is like providing electricity to our residents. The government mandated it, but that hasn't been done with broadband. It simply hasn't happened quickly enough. I hope that my colleagues will support this amendment.

The amendment was adopted.

BOSLEY AMENDMENT #3: Rep. Bosley offered an amendment. The amendment was adopted.

ENGROSSMENT: Question came on engrossing H 4864 establishing and funding the Massachusetts Broadband Institute.

Rep. Bosley said, I hope this bill is engrossed. Some of us have been battling this for a longtime. I've been here longer than most and in 1989 I took the phone company to court for better phone service. We worked to get something called Berkshire Connect Together. In 2006, the Legislature created a broadband office under the economic stimulus bill. This bill before us goes further. This would help take advantage of federal resources. It creates a broadband institute and uses existing resources so we're not creating a new bureaucracy. As the gentleman from Dalton just said, many communities have no broadband at all. We have some reps here today. One not here today, the gentleman from Worthington, has fought long and hard but is out of the state on business. In some communities, we have established private programs for laptops. Without broadband, some communities can't take advantage of that. We just authorized \$1 billion for life sciences. We saw that the second most requested skill set for life sciences was IT. You cannot do that if you don't have adequate broadband services. Our high-tech industries are strong. We have the largest fuel cell cluster in the United States. Every one of these relies on access to high-speed internet. Today we start to address this. We give people hope that some small towns may be about to enter the 21st century. While the federal government takes no action, we can take pride that our efforts led to this today. France, Japan and Korea have faster internet service than we do. We in Massachusetts today are saying we can do better and we will do better.

Rep. Bosley asked that a vote be taken by a call of the yeas and nays. There was support.

BY A ROLL CALL VOTE OF 144-0, BILL ENGROSSED

GUESTS: The chair recognized members of Rep. McCarthy's family, including his newborn son, who were in the public gallery.

BANKING LAWS: The House moved to reconsider H 1044 clarifying certain banking laws.

Rep. Mariano offered an amendment, substituting a new text. The amendment was adopted

The substitute bill was engrossed. Time was 4:08 pm.

RECESSES: At 4:39 pm, with Rep. Harkins in the chair, the House recessed to return at 5:15 pm. The chair said the House was awaiting the return of papers from the Senate.

RETURNS: The House returned at 5:24 pm, Rep. Paul Donato presiding.

POWERS BRIDGE: The House enacted H 4809 designating a certain bridge in Scituate and Marshfield as the Francis R. Powers.

SOMERVILLE DETAILS: The House enacted S 2170 authorizing increased fees for special details in Somerville.

INTERMUNICIPAL AGREEMENTS: The House adopted an emergency preamble to S 2401 further regulating intermunicipal agreements.

LIFE SCIENCES BOND BILL TERMS: The House referred to the Committee on Bonding, Capital Expenditures and State Assets a message from the governor recommending legislation providing for the terms of certain bonds regarding life sciences investments, which had been filed with the clerk at 4:26 pm.

EXTENSION ORDER: The House adopted a Senate extension order for the Committee on Consumer Protection.

SUPPLEMENTAL BUDGET: The House accepted a Bills in Third Reading Committee report on H 4857 supplemental appropriations, which had been returned by the lieutenant governor acting as governor with changes. The House adopted the amendment.

PLAINFIELD LAND: The House engrossed H 4474 conveying land from the Town of Plainfield to the Plainfield Congregational Church.

SPECIAL DEVELOPMENT DISTRICTS: The House voice-voted not to reject the adverse report from the Committee on Bonding, Capital Expenditures and State Assets on H 159 relative to special development districts. The time for reporting had expired. The House adopted a Flynn motion to recommit the bill.

CIGARETTE EXCISE: The House on a standing vote adopted an emergency preamble to H 4899 relative to cigarette excise and health care funding. Rep. Peterson doubted the vote and requested a roll call. There was support.

BY A ROLL CALL VOTE OF 106-35, EMERGENCY PREAMBLE WAS ADOPTED.

ONE MORE ENACTMENT VOTE: At 5:54 pm, the chair announced one more enactment vote before adjournment.

HYNES: The House concurred with the Senate referral to the Committee on State Administration and Regulatory Oversight of a Wilkerson petition regarding the Hynes Convention Center.

SPECIAL DEVELOPMENT DISTRICTS: There was no objection to hearing no action on H 159, which had been recommitted moments before to the Committee on Bonding, Capital Expenditures and State Assets.

SICK LEAVE BANK: The House concurred with a Senate amendment to H 4843 relative to establishing a sick leave bank for Tracey Albrecht, an employee of the Trial Court. The bill, as amended, was then ordered to third reading.

CORPORATE TAX BILL, CHILD ABUSE CONFERENCE REPORTS TUESDAY: The chair said the House was anticipating momentarily a bill back from the Senate, and that there would be a full formal session Tuesday at 11 am, with roll calls expected at 1 pm. Matters of debate would be the corporate tax code conference report and the child abuse and neglect conference report.

CIGARETTE TAX: The House on a voice vote enacted H 4899 relative to the cigarette excise and health care funding.

INTERMUNICIPAL AGREEMENTS: The House enacted S 2401 further regulating intermunicipal agreements.

ADJOURNS: The House adjourned at 6:15 pm to meet next on Tuesday at 11 am in a full formal session.

- END -

DISCLAIMER: Bill texts and histories are available at [www.state.ma.us/legis/legis.htm](http://www.state.ma.us/legis/legis.htm). All votes are voice votes, unless otherwise noted. Bills ordered to third reading have been given initial approval. To engross a bill is to pass it and send it to the other branch. The last of three votes taken on bills that reach the governor's desk is the vote on enactment. So, it's third reading (initial approval), engrossment (passage) and enactment. The News Service coverage of legislative debate is an accurate summary of remarks, not a

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