

SENATE DOCKET, NO. 01130

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SENATE No. 00156

The Commonwealth of Massachusetts

PRESENTED BY:

John Hart, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act providing for a certain exemption from the sales tax.

PETITION OF:

NAME:

John Hart, Jr.

DISTRICT/ADDRESS:

First Suffolk

SENATE No. 00156

By Mr. Hart, petition (accompanied by bill, Senate, No. 156) of Hart for legislation to establish a sales tax holiday in August 2011 [Joint Committee on Economic Development and Emerging Technologies].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act providing for a certain exemption from the sales tax.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law to the contrary, for the days of
2 August 13, 2011 and August 14, 2011, an excise shall not be imposed upon nonbusiness sales at
3 retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws.
4 For the purposes of this act, tangible personal property shall not include telecommunications,
5 tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam,
6 electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of
7 \$2,500.

8 SECTION 2. Notwithstanding any general or special law to the contrary, for the days of
9 August 13, 2011 and August 14, 2011, a vendor shall not add to the sales price or collect from a
10 nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in
11 section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a

12 vendor to collect and pay excise upon sales at retail of tangible personal property purchased on
13 August 13, 2011 and August 14, 2011. An excise erroneously or improperly collected during the
14 days of August 13, 2011 and August 14, 2011, shall be remitted to the department of revenue.
15 This section shall not apply to the sale of telecommunications, tobacco products subject to the
16 excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles,
17 motorboats, meals or a single item the price of which is in excess of \$2,500.

18 SECTION 3. Reporting requirements imposed upon vendors of tangible personal
19 property, by law or by regulation, including, but not limited to, the requirements for filing returns
20 required by chapter 62C of the General Laws, shall remain in effect for sales for the days of
21 August 13, 2011 and August 14, 2011.

22 SECTION 4. On or before December 31, 2011, the commissioner of revenue shall
23 certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from
24 personal and corporate income taxes and other sources, pursuant to this act. The commissioner
25 shall file a report with the joint committee on revenue and the house and senate committees on
26 ways and means detailing by fund the amounts under general and special laws governing the
27 distribution of revenues under chapter 64H of the General Laws which would have been
28 deposited in each fund, without this act.

29 SECTION 5. The commissioner of revenue shall issue instructions or forms, or
30 promulgate rules or regulations, necessary for the implementation of this act.

31 SECTION 6. Eligible sales at retail of tangible personal property under sections 1 and 2
32 are restricted to those transactions occurring on August 13, 2011 and August 14, 2011. Transfer

33 of possession of or payment in full for the property shall occur on 1 of those days, and prior sales

34 or layaway sales shall be ineligible.

JOURNAL OF THE HOUSE.

Wednesday, July 27, 2011.

Met according to adjournment, at eleven o'clock A.M., Mr. Donato of Medford 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. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag. Pledge of
allegiance.

Resolutions.

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

Resolutions (filed by Representatives Garlick of Needham and Winslow of Norfolk) congratulating Richard Desorger on his retirement from the Medfield public school system; and Richard
Desorger.

Resolutions (filed by Ms. Peake of Provincetown) honoring Robert L. Grant for his thirty four years of service to the United States federal government; Robert L.
Grant.

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. Pedone of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Mr. Michlewitz of Boston presented a petition (accompanied by bill, House, No. 3635) of Aaron Michlewitz (with the approval of the mayor and city council) relative to rent regulation in governmentally-involved housing in the city of Boston; and the same was referred to the committee on Housing. Sent to the Senate for concurrence. Boston,—
rent
regulation.

Mr. Durant of Spencer and Senator Moore presented a joint petition (subject to Joint Rule 12) of Peter J. Durnat and Richard T. Moore for legislation to establish a sick leave bank for Mark Denault, an employee of the Department of Transportation; and the same was referred, under Rule 24, to the committee on Rules. Mark
Denault,—
sick leave.

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. Walsh of Framingham, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Linsky of Natick, a petition (subject to Joint Rule 12) of David Paul Linsky relative to intimidation in the criminal justice system. Criminal
justice,—
intimidation.

Gold Star
license
plates.

By Mr. Scaccia of Boston, a petition (subject to Joint Rule 12) of Angelo M. Scaccia relative to the issuance of "Gold Star Family" registration plates.

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

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Elaine Strout-
Clement,—
sick leave.

Joint petition (accompanied by bill) of Sheila Harrington and James B. Eldridge for legislation to establish a sick leave bank for Elaine Strout-Clement, an employee of the Trial Court. To the committee on the Judiciary.

Grisel
Caraballo,—
sick leave.

Joint petition (accompanied by bill) of Steven M. Walsh and Thomas M. McGee for legislation to establish a sick leave bank for Grisel Caraballo, an employee of the Department of Revenue. To the committee on Public Service.

Wind electric
facilities,—
regulate
development.

Petition (accompanied by bill) of Demetrius J. Atsalis for legislation to prohibit the development of wind electric generation facilities detrimental to the operation of structures used for the transmission of radio or telecommunications. To the committee on Telecommunications, Utilities and Energy.

Under suspension of the rules, on motion of Mr. Walsh of Framingham, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Public
health
warnings.

By Mr. Sánchez of Boston, for the committee on Public Health, on a petition, a Bill relative to the issuance of public health warnings (House, No. 1474, changed in line 2 by inserting after the word "Virus" the words "and other mosquito-borne illnesses as deemed appropriate by the department of public health", and in line 3 by striking out the words "of public health").

Nursing
commission.

By the same member, for the same committee, on House, No. 1491, a Resolve establishing the Massachusetts commission on advanced practice nursing (House, No. 3627).

Workplace
violence,—
prevention.

By Mr. Naughton of Clinton, for the committee on Public Safety and Homeland Security, on a petition, a Bill requiring health care employers to develop and implement programs to prevent workplace violence (printed as Senate No. 1237).

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

Emergency Measure.

Nantucket,—
land.

The engrossed Bill authorizing the conveyance of a certain parcel of land by the county of Nantucket (see House, No. 568, 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 6 to 0. Sent to the Senate for concurrence.

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

Bill
enacted.

Engrossed Bill.

The engrossed Bill authorizing the board of selectman of the town of Clinton to delegate certain powers to the town administrator (see House, No. 2330) (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.

Orders of the Day.

The House Bill establishing a sick leave bank for Debra Callinan, an employee of the Soldiers' Home in Chelsea (House, No. 3616) was read a second time; and it was ordered to a third reading.

Second reading
bill engrossed.

Subsequently, under suspension of the rules, on motion of Mr. O'Flaherty of Chelsea, 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.

The Senate Bill exempting Joseph Walklett from the maximum age requirement for appointment as a firefighter in the city of Malden (Senate, No. 1924); and

Second
reading
bills.

The House Bill sick leave bank for Phyllis A. Rugnetta (House, No. 3589);

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

The Senate Bill relative to economic development in the North Point area of the city of Cambridge (Senate, No. 1955, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Cambridge,—
North Point.

Pending the question on passing the bill to be engrossed, Mr. Pedone of Worcester moved to amend it by striking out section 3 and inserting in place thereof the following section:

"SECTION 3. Notwithstanding any general or special law to the contrary, as the 'Request for Proposals for Long Term Lease of Surplus MassDOT Real Property', dated August 4, 2010, and issued by the Massachusetts Department of Transportation, contemplates an option to purchase said parcel by the tenant under a lease thereof upon proper authorization of such a purchase option, the department is hereby authorized to grant, in a lease of said parcel, an option for the tenant thereunder to purchase the fee interest in said parcel for a purchase price equal to the fair market value of such fee interest, subject to the lease and excluding improvements constructed by the lessee, as determined by an independent appraisal and approved by the secretary of transportation."

The amendment was adopted; and the bill (Senate, No. 1955, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the House amendments (striking out all after the

enacting clause and inserting in place thereof the text contained in House document numbered 3626, amended).

Recess.

At twenty-eight minutes after eleven o'clock A.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at seventeen minutes after one o'clock the House was called to order with Mr. Mariano of Quincy in the Chair.

Emergency Measure.

The engrossed Bill relative to the adult day health program (see House, No. 3579, 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 8 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be re-enacted, the sense of the House was taken by yeas and nays, at the request of Ms. Wolf of Cambridge; and on the roll call (the Speaker being in the Chair) 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 92 in Supplement.]

Therefore the bill (see House, No. 3579, amended) was passed to be re-enacted in its amended form; and it was signed by the Speaker and sent to the Senate.

Engrossed Bill.

The engrossed Bill relative to unclaimed property in the Commonwealth (see House, No. 2043) (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 Speaker and sent to the Senate.

Reports of Committees.

Prior to consideration of the matters in the Orders of the Day,—

By Mr. Wagner of Chicopee, for the committee on Economic Development and Emerging Technologies, on a petition, a Bill to establish a sales tax holiday August 2011 (printed as Senate, No. 156), which was read.

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.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of Mr. Wagner, the bill (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 a certain exemption from the sales tax."

Pending the question on passing the bill to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it by striking out sections 1 to 16, inclusive, and inserting in place thereof the following section:

"SECTION 1. Chapter 64H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding, after section 6, the following:—

Section 6A. The commissioner of revenue is hereby authorized and directed to annually designate, by July 15 of each calendar year, a two-day weekend in August during which no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of this chapter, but for the purposes of this section, tangible personal property shall not include telecommunications, gas; steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

For the days designated by the commissioner pursuant to the provisions of this section, a vendor in the commonwealth shall not add to the sales price or collect from any non-business purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of this chapter. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of tangible personal property purchased on said designated days. Any excise erroneously or improperly collected during the designated days shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500.

When choosing the designated days, the commissioner shall take into consideration the observance of any religious and secular days of observation occurring therein; provided further, that the commissioner shall designate such days so as to maximize the economic benefit to the commonwealth.

Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days designated by the commissioner.

On or before December 31 of each year, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, because of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under this chapter which would have been deposited in each fund, without this act.

The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act."

Point of
order.

Mr. Pedone of Worcester thereupon raised a point of order that the amendment offered by the gentleman from North Reading, et als, was improperly before the House for the reason that it went beyond the scope of the pending bill.

In answer to the point of order, the Speaker ruled that an examination of the amendment showed that it was in fact beyond the scope of the pending bill; and the amendment was laid aside accordingly.

Mr. Peterson of Grafton thereupon appealed from the decision of the Chair, and the appeal was seconded by Mr. Jones of North Reading.

The question was then put "Shall the decision of the Chair stand as the judgment of the House?"

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 121 members voted in the affirmative and 32 in the negative.

[See Yea and Nay No. 93 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

"SECTION 1. Section 2 of chapter 64H of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words '6.25 per cent' and inserting in place thereof the following words:— 5.625 per cent.

SECTION 2. Section 2 of said chapter 64H of the General Laws, as so appearing, is hereby amended by striking out the words '5.625 per cent' and inserting in place thereof the following words:— 5 per cent.

SECTION 3. Section 30A of chapter 64H, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out, in each instance in which it appears, the word '6.25' and inserting in place thereof, in each instance, the following figure:— 5.625.

SECTION 4. Section 30A of said chapter 64H, as so appearing, is hereby amended by striking out, in each instance in which it appears, the word '5.625' and inserting in place thereof, in each instance, the following figure:— 5.

SECTION 5. Section 2 of chapter 64I of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words '6.25 per cent' and inserting in place thereof the following words:— 5.625 per cent.

SECTION 6. Section 2 of said chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the words '5.625 per cent' and inserting in place thereof the following words:— 5 per cent.

SECTION 7. Section 31A of chapter 64I, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out, in each instance in which it appears, the word '6.25' and inserting in place thereof, in each instance, the following figure:— 5.625.

SECTION 8. Section 31A of said chapter 64I, as so appearing, is hereby amended by striking out, in each instance in which it appears, the word '5.625' and inserting in place thereof, in each instance, the following figure:— 5.

SECTION 9. Notwithstanding any general or special law to the contrary, for the days of August 13, 2011 and August 14, 2011, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 10. Notwithstanding any general or special law to the contrary, for the days of August 13, 2011 and August 14, 2011, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 13, 2011 and August 14, 2011. An excise erroneously or improperly collected during the days of August 13, 2011 and August 14, 2011, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 11. Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 13, 2011 and August 14, 2011.

SECTION 12. On or before December 31, 2011, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means 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, without this act.

SECTION 13. The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.

SECTION 14. Eligible sales at retail of tangible personal property under sections 1 and 2 are restricted to those transactions occurring on August 13, 2011 and August 14, 2011. Transfer of possession of or payment in full for the property shall occur on 1 of those days, and prior sales or layaway sales shall be ineligible.

SECTION 15. Sections 1, 3, 5, and 7, inclusive, of this act shall be effective on July 1, 2012.

SECTION 16. Sections 2, 4, 6, and 8, inclusive, of this act shall be effective on July 1, 2013."

Mr. Pedone of Worcester thereupon raised a point of order that the amendment offered by the gentleman from North Reading, et als, was improperly before the House for the reason that it went beyond the scope of the pending bill.

Point of
order.

Division of
Chair
sustained,—
yea and nay
No. 93.

Sales tax holiday.

Division of Chair sustained, — yes and nay No. 94.

Bill passed to be engrossed, — yes and nay No. 95.

Recess.

General Appropriation Bill.

In answer to the point of order, the Speaker ruled that an examination of the amendment showed that it was in fact beyond the scope of the pending bill; and the amendment was laid aside accordingly.

Mr. Jones of North Reading thereupon appealed from the decision of the Chair, and the appeal was seconded by Mr. Peterson of Grafton.

The question was then put "Shall the decision of the Chair stand as the judgment of the House?"

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 118 members voted in the affirmative and 35 in the negative.

[See Yeas and Nays No. 94 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Pedone of Worcester then moved to amend the bill by inserting before the enacting clause the following emerging preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for a sales tax free day, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

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. Jones of North Reading; and on the roll call (Mr. Mariano of Quincy being in the Chair) 131 members voted in the affirmative and 23 in the negative.

[See Yeas and Nays No. 95 in Supplement.]

Therefore the bill (printed as Senate, No. 156, amended) was passed to be engrossed. Sent to the Senate for concurrence.

At twenty-one minutes after two o'clock P.M., the Chair (Mr. Mariano of Quincy) declared a recess until half past two o'clock; and at twenty minutes before three o'clock the House was called to order with Mr. Mariano in the Chair.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 3581), returning with his disapproval of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3535), reported, in part, that sections 107, 108, 109 and 218 stand (as passed by the General Court). Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee reported, in each instance, that the matters be scheduled for consideration by the House. Under suspension of Rule 7A, in each instance, on motion of Mr. Dempsey, the reports were considered forthwith.

Section 107 (DOI review of small group insurance rates), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 144 members voted in the affirmative and 9 in the negative.

[See Yeas and Nays No. 96 in Supplement.]

Therefore section 107 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 108 (DOI review of small group insurance rates), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 143 members voted in the affirmative and 9 in the negative.

[See Yeas and Nays No. 97 in Supplement.]

Therefore section 108 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 109 (DOI review of small group insurance rates), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 146 members voted in the affirmative and 7 in the negative.

[See Yeas and Nays No. 98 in Supplement.]

Therefore section 109 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 218 (DOI review of small group insurance rates effective date), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 151 members voted in the affirmative and 1 in the negative.

[See Yeas and Nays No. 99 in Supplement.]

Therefore section 218 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

By Ms. Gobi of Spencer, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill regarding water commissioners in the town of Freetown (House, No. 1164) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

DOI review of small group insurance rates section 107 stands, — yes and nay No. 96.

DOI review of small group insurance rates section 108 stands, — yes and nay No. 97.

DOI review of small group insurance rates section 109 stands, — yes and nay No. 98.

DOI review of small group insurance rates effective date section 218 stands, — yes and nay No. 99.

Freetown, — water commissioners.

Freetown,—
water
commissioners.

Mr. Kafka of Stoughton for said committee reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Sullivan of Fall River, the bill was read a second time forthwith; and it was ordered to a third reading.

Acushnet,—
civil service
exemption.

By Mr. Scibak of South Hadley, for the committee of Public Service, on a petition, a Bill exempting employees of the school department in the town of Acushnet and town of Acushnet clerical and janitorial employees from the civil service law (House, No. 1618) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton for said committee reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Koczera of New Bedford, the bill was read a second time forthwith; and it was ordered to a third reading.

Orders of the Day.

Third
reading
bill.

The Senate Bill amending the city of Gloucester charter (Senate, No. 1059, 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.

Third
reading
bill.

House bills
Relative to the markings of lobster buoys (House, No. 1851) (its title having been changed by the committee on Bills in the Third Reading);

Designating certain pavilions in the city of Revere as the Peter E. McCauley III Memorial Pavilion and the Norman Gautreau Memorial Pavilion (House, No. 2022) (its title having been changed by the committee on Bills in the Third Reading; and

Relative to the appointment of a town manager in the town Wilmington (House, No. 3455);

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.

Scrap metal
dealers.

The House Bill relative to scrap metal dealers (House, No. 87), was read a third time.

The committee on Bills in the Third Reading reported asking to be discharged from further consideration of the bill; and the report was accepted.

Pending the question on passing the bill to be engrossed, it was referred to the committee on Rules, on motion of Mr. Pedone of Worcester.

Recess.

Recess.

At twenty-four minutes after three o'clock P.M., on motion of Mr. DeLeo of Winthrop (Mr. Mariano of Quincy being in the Chair), the House recessed until the following day at one o'clock P.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Thursday, July 28, 2011 (at 1:00 o'clock P.M.).

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

Pledge of
allegiance.

Statement of Mr. Boldyga of Southwick.

A statement of Representative Boldyga of Southwick 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 due to previously scheduled personal obligations, I was unable to attend the unexpectedly called formal session of Monday, July 11. Had I been in attendance on that day, I would have voted in favor of the proposed amendments to the municipal health care legislation. My missing of roll calls on July 11 was due entirely to the reason stated.

Statement of
Mr. Boldyga
of Southwick.

Statement Concerning Representative Markey of Dartmouth.

A statement of Mr. Mariano of Quincy concerning Mr. Markey of Dartmouth 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 Markey of Dartmouth, is unable to be present in the House Chamber for today's sitting due to family obligations. His missing of roll calls today is due entirely to the reason stated.

Statement
concerning
Mr. Markey of
Dartmouth.

Statement of Mr. Rogers of Norwood.

A statement of Representative Rogers of Norwood 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 a portion of today's sitting due to official business in another part of the State House. If I had been present for the taking of yea and nay Nos. 100 and 101, I would have voted, in each instance, in the affirmative.

Statement of
Mr. Rogers
of Norwood.

Recess.

At one minute after one o'clock P.M. (Thursday, July 28), on motion of Mr. Wagner of Chicopee (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at twenty-four minutes after one o'clock the House was called to order with Mr. Wagner in the Chair.

Recess.

Petitions.

Mr. Torrisi of North Andover presented a petition (subject to Joint Rule 12) of David M. Torrisi, James J. Lyons, Jr. and Bruce E. Tarr for legislation to authorize the appointment of group insurance committees within the cities and towns of the Commonwealth for the purpose of making changes in the design and composition of group health insurance policies for public employees; and the same was referred, under Rule 24, to the committee on Rules.

Cities and
towns,—
group health
insurance.

Cities and towns group health insurance.

UMass, retirement.

Lawrence, housing stock.

Holden, charter.

Firearms and ammunition, licensing.

Missing child.

Workers' compensation, penalties.

Michael Jordan, sick leave.

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. Mariano of Quincy, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Mrs. Ferguson of Holden presented a petition (subject Joint Rule 12) of Paula Makovitch relative to retirement benefits and UMass Memorial Health Care, Inc.; and the same was referred, under Rule 24 to the committee on Rules.

Papers from the Senate.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 1983) of Barry R. Finegold (with the approval of the mayor and city council) for legislation to protect certain housing stock in the city of Lawrence. To the committee on Housing.

Petition (accompanied by bill, Senate, No. 1984) of Harriette L. Chandler and Kimberly Ferguson (by vote of the town) for legislation relative to the charter of the town of Holden. To the committee on Municipalities and Regional Government.

A petition (accompanied by bill) of Richard T. Moore and George N. Peterson for legislation relative to the surrender of the firearms and ammunition to licensing authorities, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Safety and Homeland Security.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1992) was referred, in concurrence, to the committee on Public Safety and Homeland Security.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Donald F. Humason, Jr., Colleen M. Garry and others relative to reporting of a missing child; and

Petition (accompanied by bill) of Cleon H. Turner and Denise Provost for legislation to establish penalties for employers falsely asserting to have an active workers' compensation insurance policy; severally to the committee on the Judiciary.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a joint petition, a Bill establishing a sick leave bank for Michael Jordan, an employee of the department of the Trial Court (House,

No. 3446). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mr. Stanley of Waltham, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill establishing a sick leave bank for Gina Rossi, an employee of Parole Board (House, No. 3574). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mr. Boldyga of Southwick, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a joint petition, a Bill establishing a sick leave bank for Kevin R. Byrne, Sr., an employee of the Trial Court (House, No. 3586). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mr. Ashe of Longmeadow, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Arcelia Williams-Sullivan an employee of the Massachusetts Rehabilitation Commission (House, No. 3588). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mr. Timilty of Milton, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Costello of Newburyport, for the committee on Financial Services, asking to be discharged from further consideration:

So much of the recommendations of the Commission on Uniform State Laws (House, No. 22) as relates to making amendments to the uniform commercial code covering general provisions, documents of title and secured transactions (House, No. 25),— and recommending that the same be referred to the committee on Economic Development and Emerging Technologies.

Of the petition (accompanied by bill, House, No. 2767) of Paul McMurtry (by vote of the town) for legislation to establish a group insurance liability fund in the town of Westwood,— and recommending that the same be referred to the committee on Public Service.

Gina Rossi, sick leave.

Kevin R. Byrne, Sr., sick leave.

Arcelia Williams-Sullivan, sick leave.

Uniform Commercial Code.

Westwood, insurance liability fund.

Business
corporations.

Of the petition (accompanied by bill, House, No. 2773) of Angelo M. Scaccia and William F. Galvin relative to certain business entity procedures,— and recommending that the same be referred to the committee on State Administration and Regulatory Oversight.

Property
improvements,—
trust fund.

By Mr. Honan of Boston, for the committee on Housing, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2787) of Demetrius J. Atsalis for legislation to establish construction trust funds and regulating the use of such funds for improvements to property,— and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

Fund
distributions,—
education.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, asking to be discharged from further consideration:

Of the petition (accompanied by bill, House, No. 1821) of Bradford Hill, Joyce A. Spiliotis and Lori A. Ehrlich relative to total amounts distributed to cities and towns for the purpose of education,— and recommending that the same be referred to the committee on Education.

Publishing of
local aid.

Of the petition (accompanied by bill, House, No. 3101) of James Arciero and Carolyn C. Dykema that the General Court determine and publish local aid to cities and towns no later than the first day of March of each year;

Municipalities,—
funding.

Of the petition (accompanied by bill, House, No. 3102) of Antonio F. D. Cabral and others for legislation to assure fair and adequate municipal gap funding for municipalities; and

Municipal aid
formulas,—
reform.

Of the petition (accompanied by bill, House, No. 3103) of Peter V. Kocot for the establishment of a special working group (including members of the General Court) to investigate and make recommendations relative to reforming municipal aid formulas;

And recommending that the same severally be referred to the committee on Municipalities and Regional Government.

Suffolk county
Sheriff,—
collective
bargaining.

Of the petition (accompanied by bill, House, No. 3218) of Martin J. Walsh for legislation to fully fund the collective bargaining agreement in the Sheriff's Department of Suffolk County,— and recommending that the same be referred to the committee on Public Service.

Stabilization
fund.

Of the petition (accompanied by bill, House, No. 3309) of John H. Rogers and others relative to the revenue to the stabilization fund;

Tobacco
settlement
funds.

Of the petition (accompanied by bill, House, No. 3384) of Thomas P. Conroy and others relative to the disbursement of tobacco settlement funds; and

Stabilization
fund,—
vote
requirement.

Of the petition (accompanied by bill, House, No. 3426) of Bradley H. Jones, Jr. and others for legislation to require a two-thirds vote of the Senate and the House of Representatives prior to making appropriations from the Stabilization Fund;

And recommending that the same severally be referred to the committee on Revenue.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence in the reference to the joint committees.

By Mr. Spiliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill relative to third party training and background checks for violent history for security staff at bars and clubs (House, No. 1833). Read; and referred, under Rule 33, to the committee on Ways and Means.

Security
staff,—
bars and
clubs.

By Mr. Spiliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill clarifying the continuing education requirements for real estate brokers and sales persons (House, No. 123, changed, in line 3 by striking the figures "2011" and inserting in place thereof the figures "2013", and in line 4 by striking the words "is later.").

Real estate
brokers.

By the same member, for the same committee, on a joint petition, a Bill authorizing the board of selectmen in the town of West Tisbury to issue licenses for the sale of beer and wine in restaurants, inns and hotels and to issue one day liquor licenses for events (House, No. 3454) [Local Approval Received].

West Tisbury,—
alcoholic
beverages.

By the same member, for the same committee, on House, No. 3500, a Bill relative to the issuance of an all alcohol beverage license in the city of Easthampton (House, No. 3639) [Local Approval Received].

Easthampton,—
alcoholic
beverages.

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

Engrossed Bill.

The engrossed Bill amending the city of Gloucester Charter (see Senate, No. 1059, amended) (which originated in the Senate), 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.*Reports of Committees.*

Mr. Donato of Medford being in the Chair,—

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 3581), returning with his disapproval of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3535), reported, in part, that section 81 stand (as passed by the General Court). Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

General
Appropriation
Bill.

Mr. Kafka of Stoughton, for said committee reported that the matter be scheduled for consideration by the House. Under suspension of Rule 7A, on motion of Mr. Dempsey, the report was considered forthwith.

Section 81 (prescription drug waste), which had been disapproved by the Governor, then was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Con-

Prescription
drug waste
section 81
stands,—

yea and nay
No. 100.

stitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 100 in Supplement.]

Therefore section 81 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Emergency Measure.

Mr. Wagner of Chicopee being in the Chair,—

The engrossed Bill relative to economic development in the North Point area of the city of Cambridge (see Senate, No. 1955, 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 25 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was put upon its final passage.

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) 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 101 in Supplement.]

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

Reports of Committees.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 3581), returning with his disapproval of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3535), reported, in part, that sections 178, 207 and 216 stand (as passed by the General Court). Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee reported, in each instance, that the matters be scheduled for consideration by the House. Under suspension of Rule 7A, in each instance, on motion of Mr. Dempsey, the reports were considered forthwith.

Section 207 (head injury regulations delay), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas

and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 102 in Supplement.]

Therefore section 207 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 216 (prescription drug waste-effective date), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 103 in Supplement.]

Therefore section 216 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 178 (prescription drug waste), which had been disapproved by the Governor, was considered.

On the question on passing said section, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 104 in Supplement.]

Therefore section 178 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Orders of the Day.

The House Bill establishing a sick leave bank for Grace A. Rugnetta, an employee of the Executive Office of Health and Human Services (House, No. 3589) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly, was read a third time, under suspension of the rules, on motion of Mr. Michlewitz.

Pending the question on passing the bill to be engrossed, Mr. Pedone of Worcester moved to amend it by substitution of a bill with the same title (House, No. 3640), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

Recesses.

At twenty-seven minutes after two o'clock P.M. (Thursday, July 28), on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed until the hour of four o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

section 207
stands,—
yea and nay
No. 102.

Prescription
drug waste
effective date
section 216
stands,—
yea and nay
No. 103.

Prescription
drug waste
section 178
stands,—
yea and nay
No. 104.

Grace A.
Rugnetta,—
sick leave.

Recesses.

Cambridge,—
North Point
area economic
development.

Bill enacted
and taken,—
yea and nay
No. 101.

General
Appropriation
Bill.

Delay DPH
bond injury
regulations

Recesses.

The House thereupon took a further recess, on motion of Mr. Mariano of Quincy, until the hour of five o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on motion of Mr. Humason of Westfield, until the following day at eleven o'clock A.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Friday, July 29, 2011 (at 11:00 o'clock A.M.).

Pledge of allegiance.

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

*Guests of the House.***Matthew Huggins.**

During the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced Matthew Huggins and his father Michael Ananis, both of the town of Andover. The Chair, on behalf of the membership of the House, congratulated Matthew on his remarkable accomplishments in spite of overwhelming challenges. They were the guests of Mr. Lyons of Andover.

*Communication.***M.C.I. Cedar Junction,—
corrective actions.**

A communication from the Department of Public Health submitting a report of corrective actions taken in response to a report filed (under the provisions of sections 5, 20 and 21 of Chapter 111 of the General Laws) relative to an inspection of M.C.I. Cedar Junction in the town of Walpole, was placed on file.

*Papers from the Senate.**Senate bills***Barnstable,—
sewer fund.**

Authorizing the establishment of a sewer construction fund for the town of Barnstable (Senate, No. 1065, amended in section 2 (as printed), in line 7, by striking out the following: "section two A of chapter sixty-four L" and inserting in place thereof the following: "section 2 of chapter 64L") (on a petition) [Local Approval Received];

**Dam safety,
repair and
removal.**

Further regulating dam safety, repair and removal (Senate, No. 1985, amended in section 1, in lines 33 to 41, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

"Section 66. The department of conservation and recreation shall review and approve projects to receive loan funds from the Dam Repair and Revolving Loan Fund established under section 2CCCC of chapter 29. The department of conservation and recreation shall promulgate regulations, in consultation with the secretary for administration and finance, identifying the application process and the terms and conditions of approving such loans. Loans shall be made available to private dam owners and cities and towns to inspect, repair and remove dams. Priority in the approval of projects shall be given to: (i) cities, towns and charitable, tax exempt organizations; and (ii) projects to repair or remove high hazard and significant hazard dams, as

defined by department of conservation and recreation regulations."; and by striking out section 3 and inserting in place thereof the following two sections:

"SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section 2BBBB the following section:—

Section 2CCCC. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Dam Repair and Removal Revolving Loan Fund, into which shall be deposited amounts credited to the fund in accordance with section 19 of chapter 29C. The fund shall be administered in accordance with said section 19 of said chapter 29C by the board of trustees of the water pollution abatement trust created thereunder and shall be held in trust exclusively for the purposes and the beneficiaries described therein. The state treasurer shall be the custodian of the fund and its moneys and securities.

SECTION 3A. Chapter 29C of the General Laws is hereby amended by adding the following section:—

Section 19. (a) In addition to the powers and duties of the board otherwise provided in this chapter, the trust shall be the instrumentality of the commonwealth to establish and administer the Dam Repair and Removal Revolving Loan Fund established in section 2CCCC of chapter 29. The board shall apply monies in the fund to provide financial assistance through a program of low-interest, long-term loans to eligible borrowers for projects approved by the department of conservation and recreation under section 66 of chapter 21.

(b) The board shall receive in trust, hold, administer and disburse, without further appropriation or allotment by the commonwealth in and from the fund the following monies: (i) amounts appropriated by the commonwealth to the trust for purposes of the fund; (ii) notwithstanding any general or special law to the contrary and upon approval by the board of trustees, any amounts transferred to the trust by the state treasurer in accordance with paragraphs (a) and (c) of section 16 of chapter 275 of the acts of 1989, for the Water Pollution Abatement and Drinking Water Projects Administration Fund, and applied by the trust to make loans to local governmental units in accordance with section 26 of chapter 203 of the acts of 1992, including repayments on such loans and any investment earnings thereon; (iii) proceeds of bonds of the trust to the extent required by the board's resolution for issuance of such bonds or any applicable trust agreement; (iv) investment earnings on monies in the fund; and (v) any other amounts required to be credited to the fund by any law or by any resolution, loan agreement or trust agreement of the board or which the board shall otherwise determine to deposit therein.

(c) In the implementation of this section and administration of the Dam Repair and Removal Revolving Loan Fund, the trust shall have all powers to make loans, require and receive security therefor and collect loan repayments applicable to the Water Pollution Abatement Revolving Fund and the Drinking Water Revolving Fund or as necessary for the prudent administration of the Dam Repair and Removal Revolving Loan Fund.

(d) The trust, after consultation with the commissioner of conservation and recreation and the secretary of administration and finance,

shall promulgate regulations to implement and administer this section." (on Senate bill No. 367);

Authorizing the sale of land by the Wakefield Housing Authority (Senate, No. 1986) (on Senate bill No. 585); and

Relative to an exclusive and perpetual easement within Monroe State Forest (Senate, No. 1988, amended in section 1, in line 16, by striking out the following: "VE-106-108" and inserting in place thereof the following: "VE-103-108") (on Senate bill No. 1899, changed);

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

The Senate Bill validating a certain vote taken by the town of Tewksbury (Senate, No. 1909) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A petition (accompanied by bill, Senate, No. 1990) of Katherine M. Clark, Paul J. Donato, Christopher G. Fallon and Stephen Stat Smith (with the approval of the mayor and city council) for legislation relative to the administrative organization of financial officers in the city of Malden, was referred, in concurrence, to the committee on Municipalities and Regional Government.

A petition of Katherine M. Clark and Paul Brodeur for legislation to establish a sick leave bank for JoAnne Pierce, an employee of the Executive Office of Health and Human Services, 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. 1993) was referred, in concurrence, to the committee on Public Service.

Report of a Committee.

By Mr. O'Flaherty of Chelsea, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments of the House Bill relative to the reorganization of the judicial system of the Commonwealth (House, No. 3395, amended), recommending the passage of a bill with the same title (House, No. 3644) (Note: An errata signed by all of the conferees was submitted prior to a vote on acceptance of the conference report. The errata appears after section 138 of House, No. 3644).

Under suspension of the rules, on motion of the same member, the report (having been approved by the committees on Bills in the Third Reading of each branch) was considered forthwith; and it was accepted. The report then was sent to the Senate for concurrence.

By Mr. Kane of Holyoke, for the committee on Municipalities and Regional Government, on a joint petition, a Bill authorizing the town of Groton, acting by and through its board of selectmen and board of

water commissioners, to convey a conservation restriction on certain parcels of land to the Division of Fisheries and Wildlife by its Department of Fish and Game (House, No. 3335) [Local Approval Received]. Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Kane of Holyoke, for the committee on Municipalities and Regional Government, on a joint petition, a Bill authorizing the town of Norton to grant easements and restrictions over certain town-owned land (House, No. 3431) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill relative to the geographic limits of fire district two in the town of South Hadley (House, No. 3485) [Local Approval Received].

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

Emergency Measure.

The engrossed Bill providing for a certain exemption from the sales tax (see house bill printed as Senate, No. 156, 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 8 to 0. Sent to the Senate for concurrence.

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

Engrossed Bill.

The engrossed Bill relative to the reorganization of the judicial system of the Commonwealth (see House, No. 3644) (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.

Orders of the Day.

The House Bill establishing a business and economic development special revenue fund in the city of Marlborough (House, No. 1452), 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.

Order.

On motion of Mr. DeLeo of Winthrop,—
Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Wakefield
Housing
Authority.
Monroe
State
Forest.

Tewksbury,
validate
vote.

Revere,
office of
mayor.

JoAnne
Pierce,
sick leave.

Judicial
system,
reorganization.

Groton,
land.

Norton,
land.

South
Hadley,
fire
district.

Sales tax
holiday.

Bill
enacted.

Judicial
system,
reorganization.

Third
reading
bill.

Next
sitting.

JOURNAL OF THE HOUSE,

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at one minute before one o'clock P.M. (Friday, July 29), on motion of Mr. Wong of Saugus (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.

NOTICE: - While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has not been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, July 28, 2011.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

Distinguished Guest.

There being no objection, the President handed the gavel to Ms. Jehlen for the purpose of an introduction. Ms. Jehlen then introduced, in the rear of the Chamber, Laura Herlihy from Winchester. Laura is an intern in House Counsel and is a student at St. Michael's College. The Senate welcomed her with applause and she withdrew from the Chamber.

Communications.

Several communications were received and placed on file:

Communication from the Honorable Cynthia Stone Creem in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at twenty-seven minutes past twelve o'clock noon);

Communication from the Honorable Steven A. Baddour, in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at three o'clock P.M.);

Communication from the Honorable Harriette L. Chandler, in compliance with Massachusetts General Laws

Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at three o'clock P.M.);

Communication from the Honorable Eileen M. Donoghue, in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at three o'clock P.M.);

Communication from the Honorable Thomas M. McGee, in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at three o'clock P.M.); and

Communication from the Honorable Anthony W. Petrucci, in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Thursday, July 28, 2011, at three o'clock P.M.).

Petition.

Ms. Clark presented a petition (accompanied by bill, Senate No.1990) of Katherine M. Clark, Paul J. Donato, Christopher G. Fallon and Stephen Stat Smith (with the approval of the mayor and city council) for legislation relative to the administrative organization of financial officers [Local approval received];
Referred, under Senate Rule 20, to the committee on Municipalities and Regional Government.
Sent to House for concurrence.

Reports of Committees.

By Ms. Jehlen, for the committee on Elder Affairs, on petition, a Bill relative to psychotropic medications (Senate, No. 262);

Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Ms. Clark, for the committee on Public Service, on petition, a Bill to authorize the town of Foxborough to establish an age limit for original appointment to the position of police officer (Senate, No. 1887) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill exempting the position of police chief in the town of Marblehead from civil service law (Senate, No. 1929) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill exempting certain positions in the town of Shrewsbury from civil service law (Senate, No. 1937) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill relative to the civil service requirement for Antonio F. Dinis (Senate, No. 1942) [Local approval received];

Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

PAPERS FROM THE HOUSE

A petition (accompanied by bill, House, No. 3635) of Aaron Michlewitz (with the approval of the mayor and city council) for legislation relative to rent regulation in governmentally-involved housing in the city of Boston,--
was referred, in concurrence, to the committee on Housing.

A Bill establishing a sick leave bank for Debra Callinan, an employee of the Soldiers' Home in Chelsea (Senate, No. 3616,-- on petition);- was read and, under Senate Rule 27, referred to the committee on Ways and Means.

Bills

Relative to the markings of lobster buoys (House, No. 1851,-- on petition); and Designating certain pavilions in the city of Revere as the Peter E. McCauley III memorial pavilion and the Norman Gautreau memorial pavilion (House, No. 2022,-- on petition); Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

A Bill relative to the appointment of a town manager in the town of Wilmington (House, No. 3455,-- on petition) [Local approval received],-- was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Recess.

There being no objection, at one minute past one o'clock P.M. the Chair (Mr. Rosenberg) declared a recess, subject to the call of the Chair; and, at twenty-six minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill relative to economic development in the North Point area of the city of Cambridge (see Senate, No. 1955, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 15 to 0.

The bill was signed by the President and sent to the House for enactment.

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered, as follows:

The Senate Bill validating a certain vote taken by the town of Tewksbury (Senate, No. 1909),-- was read a second time, ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill authorizing the town of Norwood to grant an additional license for the sale of wines and malt beverages (House, No. 973),-- was read a second time and ordered to a third reading.

The Senate Bills

Authorizing the establishment of a sewer construction fund for the town of Barnstable (Senate, No. 1065, amended) (its title having been changed by the committee on Bills in the Third Reading); and
Authorizing the sale of land by the Wakefield Housing Authority (Senate, No. 1986);
Were severally read a third time and passed to be engrossed.
Severally sent to the House for concurrence.

There being no objection, one matter was considered out of order in the Orders of the Day, the Senate Bill relative to an exclusive and perpetual easement within Monroe State Forest (Senate, No. 1988),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Downing moved that the bill be amended in section 1, by striking out, in line 14, the word "VE-106 - 108" and inserting in place thereof the following word:- "VE-103 - 108".

The amendment was adopted.

The bill (Senate, No. 1988, amended) was then passed to be engrossed.
Sent to the House for concurrence.

The Senate Bill further regulating dam safety, repair and removal (Senate, No. 1985),-- **was read a third time.**

After debate and pending the question on passing the bill to be engrossed, Mr. Tarr moved that the bill be amended in section 4, in proposed section 61, by adding the following paragraph:-

"Notwithstanding section 48B of chapter 253 or any other general or special law to the contrary, no city or town that acquires by gift, purchase, eminent domain under chapter 79, or otherwise, a dam, as defined in section 44 of chapter 253, located within the city or town, including any real property appurtenant thereto, for the purposes of removing, repairing, reconstructing or making improvements to the dam, shall be liable for the damages resulting from any breach or collapse of a dam that results from a structural defect that pre-existed the city or town acquiring the dam or from remedial actions undertaken by the city or town to correct such defects; provided, however, that the maintenance, removal, reconstruction or improvements made to the dam shall be performed in accordance with applicable laws and permits; and provided further, that no city or town shall be exempt from liability if the damage results from an act or omission resulting from willful conduct or gross negligence."

After further debate, the amendment was *rejected*.

Messrs. Hedlund and Tarr moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following new text:-

"SECTION 1. Chapter 29C of the General Laws is hereby amended by adding the following section:-

Section 18A. (a) In addition to the powers and duties of the board otherwise provided in this chapter, the trust shall be the instrumentality of the commonwealth to establish and administer the Public Safety Infrastructure Revolving Fund, established pursuant to this section. The board shall apply monies in the fund for the purpose of providing financial assistance to local governmental units and other eligible borrowers as provided herein, as beneficiaries of the fund, to finance or refinance costs of eligible coastal and shorefront infrastructure projects including, but not limited to seawalls and jetties, and inland infrastructure projects including, but not limited to, dams and other means of flood control pending the approval by the department of environmental protection.

(b) The board shall receive in trust, hold, administer and disburse, without further appropriation or allotment by

the commonwealth in and from the fund, exclusively for the benefit of the beneficiaries thereof the following monies: (i) amounts appropriated by the commonwealth to the trust for purposes of the fund; (ii) proceeds of bonds of the trust to the extent required by the board's resolution for issuance of such bonds or any applicable trust agreement; (iii) investment earnings on monies in the fund; and (iv) any other amounts required to be credited to the fund by law or by any resolution, loan agreement or trust agreement of the board or which the board shall otherwise determine to deposit therein.

(c) In the implementation of this section and the administration of the fund, all provisions of this chapter and subsections (a), (c), (e) and (f) of section 27A of chapter 21 applicable to the Water Pollution Abatement Revolving Fund and the provision of financial assistance by the trust to local governmental units and other eligible borrowers for costs of inland flood control and coastal protection projects shall be equally applicable, to the extent consistent with this section, to the Public Safety Infrastructure Revolving Fund and to the provision of financial assistance for costs of inland flood control and coastal protection projects; provided, however, that the board and the department shall have the power and shall be subject to the applicable limitations provided in this chapter and said subsections (a), (c), (e) and (f) of said section 27A of said chapter 21 to carry out this section. Without limiting the generality of the foregoing, the board may apply and disburse monies and revenues of the Public Safety Infrastructure Revolving Fund: (i) to make and enter into binding commitments to make, loans and other forms of financial assistance authorized by the board to local governmental units and other eligible borrowers for the purpose of financing or refinancing costs of inland flood control and coastal protection projects or portions thereof which have been approved by the department, including approval of the costs of such projects or portions thereof eligible to receive financial assistance as provided in this section, and completed, as determined by the department, after the promulgation date of the department's regulations implementing its powers under this section and to provide for all or any part of the debt service costs on loans and other forms of financial assistance made by the trust during the construction of such projects and for such period thereafter as the board shall determine; (ii) to provide reserves for or otherwise secure bonds of the trust and to provide insurance and letters or lines of credit or other credit enhancement which it deems reasonable and appropriate for bonds; (iii) to provide and enter into binding commitments to provide a subsidy for, or to otherwise assist local governmental units and other eligible borrowers in the payment of, debt service costs on loans and other forms of financial assistance made by the trust pursuant to this section and to provide any other subsidization authorized by the board in addition to the subsidy or other assistance authorized by this section; (iv) to provide reserves for, or to otherwise secure, amounts payable by local governmental units and other eligible borrowers on, loans and other forms of financial assistance made by the trust pursuant to this section; and (v) to provide payment from any available source for reasonable and necessary professional and financial services incident to the conduct of the programs of the trust, including costs of issuance of its bonds.

(d) The department and the board shall establish standards, guidelines, criteria and other rules and regulations for the administration and implementation of their powers under this section including, without limitation, a priority system and priority list for the approval of projects, the determination of eligible borrowers and eligible costs of projects and the terms and conditions of loans by the trust.

(e) In addition to the authority provided in section 9, the board may provide by resolution for the issuance from time to time of bonds of the trust to carry out the purposes of this section. The holders of such bonds shall also be beneficiaries of the Public Safety Infrastructure Revolving Fund to the extent provided in any trust agreement entered into by the trust with such holders. Except where otherwise prohibited, the board may secure bonds of the trust by pledging monies held in or otherwise allocable to either or both the Water Pollution Abatement Revolving Fund or the Public Safety Infrastructure Revolving Fund, where the board determines that doing so

will reasonably promote the purposes of either or both funds.

(f) Any local governmental unit and any other eligible borrowers may apply to the trust for a loan or other financial assistance authorized by the board to assist in financing or refinancing the cost of a drinking water project approved by the department. For entering into a loan or other financial assistance for financing or refinancing a public safety infrastructure project and establishing the authorized terms and conditions thereof and for issuing any local governmental obligations to secure the same, a local governmental unit shall be deemed to have all of the same powers expressly granted to local governmental units by this chapter with respect to loans or other financial assistance for financing or refinancing public safety infrastructure projects and the powers granted to any such local governmental unit in any bond act applicable to it specifically or as a member of a class of governmental instrumentalities.

(g) In addition to the purposes set forth in subsection (c), the board shall apply and disburse monies in the fund, including contract assistance as provided in this subsection, or shall otherwise structure the debt service costs on loans and other forms of financial assistance made by the trust, to provide a grant or subsidy or other assistance to local governmental units and other eligible borrowers in the payment of debt service costs on all permanent loans and other forms of financial assistance made by the trust pursuant to this section.”

Mr. Tolman in the Chair, after debate, the amendment was *rejected*.

Mr. Brewer moved to amend the bill in section 1, by striking out proposed section 66 and inserting in place thereof the following section:-

“Section 66. The department of conservation and recreation shall review and approve projects to receive loan funds from the Dam Repair and Revolving Loan Fund established under section 2CCCC of chapter 29. The department of conservation and recreation shall promulgate regulations, in consultation with the secretary for administration and finance, identifying the application process and the terms and conditions of approving such loans. Loans shall be made available to private dam owners and cities and towns to inspect, repair and remove dams. Priority in the approval of projects shall be given to: (i) cities, towns and charitable, tax exempt organizations; and (ii) projects to repair or remove high hazard and significant hazard dams, as defined by department of conservation and recreation regulations.”; and by striking out section 3 and inserting in place thereof the following 2 sections:-

“SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section 2BBBB the following section:-

Section 2CCCC. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Dam Repair and Removal Revolving Loan Fund, into which shall be deposited amounts credited to the fund in accordance with section 19 of chapter 29C. The fund shall be administered in accordance with said section 19 of said chapter 29C by the board of trustees of the water pollution abatement trust created thereunder and shall be held in trust exclusively for the purposes and the beneficiaries described therein. The state treasurer shall be the custodian of the fund and its moneys and securities.

SECTION 3A. Chapter 29C of the General Laws is hereby amended by adding the following section:-

Section 19. (a) In addition to the powers and duties of the board otherwise provided in this chapter, the trust shall be the instrumentality of the commonwealth to establish and administer the Dam Repair and Removal Revolving Loan Fund established in section 2CCCC of chapter 29. The board shall apply monies in the fund to

provide financial assistance through a program of low-interest, long-term loans to eligible borrowers for projects approved by the department of conservation and recreation under section 66 of chapter 21.

(b) The board shall receive in trust, hold, administer and disburse, without further appropriation or allotment by the commonwealth in and from the fund the following monies: (i) amounts appropriated by the commonwealth to the trust for purposes of the fund; (ii) notwithstanding any general or special law to the contrary and upon approval by the board of trustees, any amounts transferred to the trust by the state treasurer in accordance with paragraphs (a) and (c) of section 16 of chapter 275 of the acts of 1989, for the Water Pollution Abatement and Drinking Water Projects Administration Fund, and applied by the trust to make loans to local governmental units in accordance with section 26 of chapter 203 of the acts of 1992, including repayments on such loans and any investment earnings thereon; (iii) proceeds of bonds of the trust to the extent required by the board's resolution for issuance of such bonds or any applicable trust agreement; (iv) investment earnings on monies in the fund; and (v) any other amounts required to be credited to the fund by any law or by any resolution, loan agreement or trust agreement of the board or which the board shall otherwise determine to deposit therein.

(c) In the implementation of this section and administration of the Dam Repair and Removal Revolving Loan Fund, the trust shall have all powers to make loans, require and receive security therefor and collect loan repayments applicable to the Water Pollution Abatement Revolving Fund and the Drinking Water Revolving Fund or as necessary for the prudent administration of the Dam Repair and Removal Revolving Loan Fund.

(d) The trust, after consultation with the commissioner of conservation and recreation and the secretary of administration and finance, shall promulgate regulations to implement and administer this section."

The amendment was adopted.

The question on passing the bill to be engrossed, was determined by a call of the yeas and nays, at thirteen minutes before three o'clock P.M., on motion of Mr. Pacheco, as follows to wit (*yeas 37 - nays 0*) [**Yeas and Nays No. 56**]:

YEAS

Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Finegold, Barry R.	Timilty, James E.

Flanagan, Jennifer L. Tolman, Steven A.
 Hart, John A., Jr. Welch, James T.
 Hedlund, Robert L. Wolf, Daniel A. — 37.
 Jehlen, Patricia D.

NAYS — 0.

ABSENT OR NOT VOTING

Moore, Richard T. Rush, Michael F. — 2.

The President in the Chair, the yeas and nays having been completed at eight minutes before three o'clock P.M., the bill (Senate, No. 1985, amended) was passed to be engrossed. Sent to the House for concurrence.

The House Bill reforming alimony in the Commonwealth (House, No. 3617, amended) was read a third time. After remarks and pending the question on passing the bill to be engrossed, in concurrence, with the amendment, Ms. Candaras moved that the bill be amended in section 4, in subsection (b) by striking out the second paragraph and inserting in place thereof the following paragraph:-

“Existing alimony awards shall be deemed general term alimony. Existing alimony awards which exceed the durational limits established in said section 49 of said chapter 208 shall be modified upon a complaint for modification without additional material change of circumstance, unless the court finds that deviation from the durational limits is warranted.”

The amendment was adopted.

The question on passing the bill to be engrossed, in concurrence, with the amendment, was determined by a call of the yeas and nays, at twenty-four minutes past three o'clock P.M., on motion of Ms. Candaras, as follows to wit (*yeas 36 - nays 0*) [Yeas and Nays No. 57]:

YEAS

Baddour, Steven A.	Jehlen, Patricia D.
Berry, Frederick E.	Joyce, Brian A.
Brewer, Stephen M.	Keenan, John F.
Candaras, Gale D.	Kennedy, Thomas P.
Chandler, Harriette L.	Knapik, Michael R.
Chang-Diaz, Sonia	McGee, Thomas M.
Clark, Katherine M.	Montigny, Mark C.
Creem, Cynthia Stone	Moore, Michael O.

DiDomenico, Sal N.

Pacheco,

Marc R.

Donnelly, Kenneth J.

Petrucelli,

Anthony

Donoghue, Eileen M.

Rodrigues,

Michael J.

Downing, Benjamin B.

Rosenberg,

Stanley C.

Eldridge, James B

Spilka,

Karen E.

Fargo, Susan C.

Tarr,

Bruce E.

Finegold, Barry R.

Timilty,

James E

Flanagan, Jennifer L.

Tolman,

Steven A.

Hart, John A., Jr.

Wekch,

James T.

Hedlund, Robert L.

Wolf,

Daniel A.

— 36.

NAYS — 0.

ANSWERED "PRESENT".

Ross, Richard J. —1.

ABSENT OR NOT VOTING

Moore, Richard T.

Rush,

Michael

F.— 2.

The yeas and nays having been completed at twenty-eight minutes past three o'clock P.M., the bill, as amended, was passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate, as amended.

Sent to the House for concurrence in the amendment.

The Senate Bill providing access to forensic and scientific analysis (Senate, No. 1987),-- was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Tarr moved that the bill be amended by striking out, in line 168, the words "endeavor to".

The amendment was adopted.

Mr. Tarr moved that the bill be amended in section 1, in clause (3) of section 10 of proposed chapter 278A, by striking out the words "by the moving party as an extra fee or cost in an amount the court deems equitable" and inserting in place thereof the following words: "by the moving party to the maximum feasible amount possible given the financial resources of the moving party as the court deems equitable".

The amendment was adopted.

Mr. Tarr moved that the bill be amended by striking out proposed section 15 of chapter 278A of the General Laws.

The amendment was *rejected*.

Ms. Creem moved that the bill be amended by striking out proposed subsection (e) of section 3 of chapter 278A of the General Laws and inserting in place thereof the following subsection:-

“(e) The court shall expeditiously review all motions filed and shall dismiss, without prejudice, any such motion without a hearing if the court determines, based on the information contained in the motion, that the motion does not meet the requirements set forth in this section. The prosecuting attorney may provide a response to the motion, to assist the court in considering whether the motion meets the requirement under this section. The court shall notify the moving party and the prosecuting attorney as to whether the motion is sufficient to proceed under this chapter or is dismissed.”

The amendment was adopted.

Ms. Creem moved to amend the bill by striking out proposed clause (iv) of paragraph (5) of subsection (b) of section 3 of chapter 278A of the General Laws and inserting in place thereof the following clause:-

“(iv) the moving party’s attorney in the underlying case was aware at the time of the conviction of the existence of the evidence or biological material, the results of the requested analysis were admissible as evidence in courts of the commonwealth, a reasonably effective attorney would have sought the analysis and either the moving party’s attorney failed to seek the analysis or the judge denied the request; or”.

The amendment was adopted.

Subsequently, the question on passing the bill to be engrossed, was determined by a call of the yeas and nays, at seven minutes before four o’clock P.M., on motion of Ms. Creem, as follows to wit (*yeas 37 - nays 0*) [**Yeas and Nays No. 59**]:

YEAS

Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.

Finegold, Barry R.	Timilty, James E.
Flanagan, Jennifer L.	Tolman, Steven A.
Hart, John A., Jr.	Welch, James T.
Hedlund, Robert L.	Wolf, Daniel A. — 37.
Jehlen, Patricia D.	

NAYS — 0.

ABSENT OR NOT VOTING:

Moore, Richard T.	Rush, Michael F. — 2.
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The yeas and nays having been completed at three minutes before four o'clock P.M., the bill (Senate, No. 1987, amended) was passed to be engrossed.

Sent to the House for concurrence.

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Katherine M Clark and Paul Brodeur for legislation to establish a sick leave bank for JoAnne Pierce, an employee of the Executive Office of Health and Human Services.

The rules were suspended, on motion of Mr. Hart, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael J. Rodrigues, Michael Moore, Michael Knapik, William "Smitty" Pignatelli and other members of the General Court for legislation relative to the use of off-highway and recreation vehicles.

The rules were suspended, on motion of Mr. Hart, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation.

Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 3641) of Robert M. Koczera and Mark C. Montigny for legislation relative to health insurance coverage for Devic's disease;

Under suspension of Joint Rule 12, to the committee on Financial Services.

Petition (accompanied by bill, House, No. 3642) of Peter J. Durant and Richard T. Moore for legislation to establish a sick leave bank for Mark Denault, an employee of the Department of Transportation;

Under suspension of Joint Rule 12, to the committee on Public Service.

Petition (accompanied by bill, House, No. 3643) of David B. Sullivan, Michael J. Rodrigues and another (with the approval of the mayor and city council) for legislation that the city of Fall River be authorized to take control of a portion of Davol Street in said city;

Under suspension of Joint Rule 12, to the committee on Transportation.

Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill relative to economic development in the North Point area of the city of Cambridge (see Senate, No. 1955, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at sixteen minutes before four o'clock P.M., as follows, to wit (*yeas 36 - nays 1*) [Yeas and Nays No. 58]:

YEAS

Baddour, Steven A.	Jehlen, Patricia D.
Berry, Frederick E.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Candaras, Gale D.	Knapik, Michael R.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Finegold, Barry R.	Timilty, James E.
Flanagan, Jennifer L.	Tolman, Steven A.
Hart, John A., Jr.	Welch, James T.
Hedlund, Robert L.	Wolf, Daniel A. — 36.

NAYS — 0.

Joyce, Brian A. — 1.

ABSENT OR NOT VOTING

Moore, Richard T. Rush, Michael F. — 2 .

The yeas and nays having been completed at thirteen minutes before four o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

The House Bill providing for a certain exemption from the sales tax (printed as Senate, No. 156, amended,-- on petition),-- was read.

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time.

After debate and pending the question on ordering the bill to a third reading, Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new section:

"SECTION . Chapter 64H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding, after section 6, the following:-

Section 6A. The commissioner of revenue is hereby authorized and directed to annually designate, by July 15 of each calendar year, a two-day weekend in August during which no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of this chapter, but for the purposes of this section, tangible personal property shall not include telecommunications, gas, steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

For the days designated by the commissioner pursuant to the provisions of this section, a vendor in the commonwealth shall not add to the sales price or collect from any non-business purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of this chapter. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of tangible personal property purchased on said designated days. Any excise erroneously or improperly collected during the designated days shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500.

When choosing the designated days, the commissioner shall take into consideration the observance of any religious and secular days of observation occurring therein; provided further, that the commissioner shall designate such days so as to maximize the economic benefit to the commonwealth.

Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days designated by the commissioner.

On or before December 31 of each year, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, because of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under this chapter which would have been deposited in each fund, without this act.

The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes before six o'clock P.M., on motion of Mr. Tarr, as follows to wit (*yeas 4 - nays 32*) [*Yeas and Nays No. 60*]:

YEAS

Knapik, Michael R.

Ross, Richard J.

Tarr, Bruce E.

Timilty, James E —4.

NAYS

Baddour, Steven A.

Hedlund, Robert L.

Brewer, Stephen M.	Jehlen, Patricia D.
Chandler, Harriette L.	Keenan, John F.
Chang-Diaz, Sonia	Kennedy, Thomas P.
Clark, Katherine M.	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tolman, Steven A.
Flanagan, Jennifer L.	Welch, James T.
Hart, John A., Jr.	Wolf, Daniel A. — 32.

ABSENT OR NOT VOTING

Berry, Frederick E.	Rush, Michael F. — 3.
Moore, Richard T.	

The yeas and nays having been completed at eighteen minutes before six o'clock P.M., the amendment was *rejected*.

Mr. Tarr moved that the bill be amended by striking all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 2 of chapter 64H of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words ‘6.25 per cent’ and inserting in place thereof the following words:- 5.625 per cent.

SECTION 2. Section 2 of said chapter 64H of the General Laws, as so appearing, is hereby amended by striking out the words ‘5.625 per cent’ and inserting in place thereof the following words:- 5 per cent.

SECTION 3. Section 30A of chapter 64H, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out, in each instance in which it appears, the word ‘6.25’ and inserting in place thereof, in each instance, the following figure:- 5.625.

SECTION 4. Section 30A of said chapter 64H, as so appearing, is hereby amended by striking out, in each instance in which it appears, the word ‘5.625’ and inserting in place thereof, in each instance, the following figure:- 5.

SECTION 5. Section 2 of chapter 64I of the General Laws, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out the words ‘6.25 per cent’ and inserting in place thereof the following words:- 5.625 per cent.

SECTION 6. Section 2 of said chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the words ‘5.625 per cent’ and inserting in place thereof the following words:- 5 per cent.

SECTION 7. Section 31A of chapter 64I, as most recently amended by section 53 of chapter 27 of the Acts of 2009, is hereby amended by striking out, in each instance in which it appears, the word '6.25' and inserting in place thereof, in each instance, the following figure:- 5.625.

SECTION 8. Section 31A of said chapter 64I, as so appearing, is hereby amended by striking out, in each instance in which it appears, the word '5.625' and inserting in place thereof, in each instance, the following figure:- 5.

SECTION 9. Notwithstanding any general or special law to the contrary, for the days of August 13, 2011 and August 14, 2011, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 10. Notwithstanding any general or special law to the contrary, for the days of August 13, 2011 and August 14, 2011, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 13, 2011 and August 14, 2011. An excise erroneously or improperly collected during the days of August 13, 2011 and August 14, 2011, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 11. Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 13, 2011 and August 14, 2011.

SECTION 12. On or before December 31, 2011, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means 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, without this act.

SECTION 13. The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.

SECTION 14. Eligible sales at retail of tangible personal property under sections 1 and 2 are restricted to those transactions occurring on August 13, 2011 and August 14, 2011. Transfer of possession of or payment in full for the property shall occur on 1 of those days, and prior sales or layaway sales shall be ineligible.

SECTION 15. Sections 1, 3, 5, and 7, inclusive, of this act shall be effective on July 1, 2012.

SECTION 16. Sections 2, 4, 6, and 8, inclusive, of this act shall be effective on July 1, 2013."

Pending the question on adoption of the amendment, Mr. Brewer rose to a point of order, which, being stated, was that the amendment was beyond the scope of the legislation.

The President ruled that the amendment was beyond the scope of the limited subject matter of the legislation, and as such, the point of order was well-taken.

Mr. Tarr doubted the ruling of the Chair and this motion was seconded; by Mr. Knapik.

After debate, the question on should the ruling of the Chair stand was determined by a call of the yeas and nays at eight minutes before six o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 33 – nays 4*) [**Yeas and Nays No. 61**]:

YEAS

Baddour, Steven A.	Jehlen, Patricia D.
Berry, Frederick E.	Joyce, Brian A.
Brewer, Stephen M.	Keenan, John F.
Candaras, Gale D.	Kennedy, Thomas P.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Eldridge, James B.	Timilty, James E.
Fargo, Susan C.	Tolman, Steven A.
Finegold, Barry R.	Welch, James T.
Flanagan, Jennifer L.	Wolf, Daniel A. — 33.
Hart, John A., Jr.	

NAYS

Hedlund, Robert L.	Ross, Richard J.
Knapik, Michael R.	Tarr, Bruce E. — 4.

ABSENT OR NOT VOTING

Moore, Richard T.	Rush, Michael F. — 2.
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The yeas and nays having been completed at five minutes before six o'clock P.M., the ruling of the Chair stood and the amendment was laid aside.

After debate, the question on passing the bill to be engrossed, was determined by a call of the yeas and nays, at four minutes before six o'clock P.M., on motion of Ms. Chang-Diaz, as follows to wit (*yeas 28 – nays 9*) [**Yeas and Nays No. 62**]:

YEAS

Baddour, Steven A.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.

Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Clark, Katherine M.	Moore, Michael O.
DiDomenico, Sal N.	Murray, Therese
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Joyce, Brian A.	Tolman, Steven A.
Keenan, John F.	Welch, James T.—28.

NAYS

Chang-Diaz, Sonia	Hedlund, Robert L.
Creem, Cynthia Stone	Jehlen, Patricia D.
Donnelly, Kenneth J.	Pacheco, Marc R.
Eldridge, James B.	Wolf, Daniel A. — 9.
Fargo, Susan C.	

ABSENT OR NOT VOTING

Berry, Frederick E.	Rush, Michael F.— 3.
Moore, Richard T.	

The yeas and nays having been completed at two minutes before six o'clock P.M., the bill was passed to be engrossed, in concurrence.

Engrossed Bill.

An engrossed Bill amending the city of Gloucester charter (see Senate, No. 1059, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

Order Adopted.

Messrs. Tarr, Hedlund, Knapik and Ross offered the following:-

Ordered, That the Senate shall not consider or act upon any bill authorizing any form of gaming not currently permitted in the Commonwealth, including a bill which authorizes one or more casinos, the placement and operation of slot machines, so-called, or any similar activity until 10 calendar days following the filing of the report of said bill by the senate committee on ways and means with the clerk of the senate.

Under the rules, referred to the committee on Ethics and Rules.

Subsequently, Mr. Berry, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Brewer, and the order was considered forthwith and,

after remarks, was adopted.

Recess in Memory of Michael Mekonnen

The Senator from Middlesex, Suffolk and Essex, Mr. DiDomenico, moved that when the Senate recesses today, it recess in memory of Chelsea City Councilor Michael Mekonnen.

Chelsea City Councilor Mike McKonnen, passed away June 30th following a heroic fight against a lengthy illness. Councilor McKonnen based his existence on hard work, public life, and family. Since his arrival in 1967 from Ethiopia, he was deeply involved in the community and worked tirelessly to improve the quality of life for Chelsea residents. As any Chelsea resident will tell you, Mike was a real voice for those seeking a better Chelsea and he was not afraid of anyone in his pursuit of what he believed to be right. Mike was also the founder of NAB – Neighbors Against Blight, when he lived in the Orange Street area of the city. As the head of NAB, he was out day and night in his automobile with a two way radio calling the police when he discovered something that wasn't right. That is the type of Chelsea resident Mike was.

Councilor Mekonnen also served on the Drug Task Force of Chelsea. He was the founder of the County Road, Basset Street, and Reynolds Avenue Homeowners' Associations in Chelsea and he was also the founder of the Chelsea Homeowners' Association. Mr. Mekonnen served on the board of directors of Chelsea Main Streets, and was a member of the local NAACP. Mike came to America as a young man with the clothes on his back and a few dollars in his pocket and he made a great success out of himself and for the residents of Chelsea. He is survived by his wife Ernestine and his son Alexander. Councilor Mike McKonnen will be missed.

Accordingly, as a mark of respect to the memory of Michael Mekonnen, at six minutes past six o'clock P.M., on motion of Mr. DiDomenico, the Senate recessed to meet again tomorrow at eleven o'clock A.M.

Friday, July 29, 2011.

[being the legislative session of Thursday, July 28, 2011.]

Met at six minutes past eleven o'clock A.M. (Mr. Tolman in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Tolman), members, guests and employees then recited the pledge of allegiance to the flag.

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

July 29, 2011

Mr. William F. Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

During the formal session held on Thursday, July 28, 2011, I was absent from the chamber while serving in my capacity as President of the National Conference of State Legislatures.

Consequently, I was not recorded on several roll call votes relative to dam safety repair and removal, alimony reform, forensic analysis, and a sales tax holiday, in addition to other important local matters. Had I been present, I would have voted in the following manner:

S 1985 – An Act further regulating dam safety, repair and removal – Yes

H 3617 – An Act reforming alimony in the Commonwealth – Yes

S 1955 – An Act relative to economic development in the North Point area of Cambridge – Yes

S 1987 – An Act providing access to forensic and scientific analysis – Yes

S 156 – An Act establishing a sales tax holiday

Amendment – Permanent Sales Tax Holiday – No

Ruling of the Chair – Yes

Engrossment – Yes

I respectfully request that a copy of this letter be printed in the Journal of the Senate. Thank you in advance for your assistance.

Sincerely,

RICHARD T. MOORE

State Senator

Worcester & Norfolk District

On motion of Mr. Tarr, the above communication was ordered printed in the Journal of the Senate.

PAPERS FROM THE HOUSE

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill providing for a certain exemption from the sales tax (see Senate Bill, printed as Senate, No. 156, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 3 to 0.

The bill was signed by the Acting President, (Mr. Tolman) and sent to the House for enactment. Subsequently, the bill, which originated in the Senate, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Tolman) and laid before the Governor for his approbation.

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill relative to the reorganization of the judicial system of the Commonwealth (House, No. 3395, amended) (amended by the Senate by striking out all after the enacting clause and inserting in

place thereof the text contained in Senate document numbered 1911), reports a new draft (House, No. 3644) -- **came from the House, and was read.**

The rules were suspended, on motion of Mr. Tarr, and the report was considered forthwith.

Pending the question on accepting the report of the conference committee, there being no objection, the Clerk read the following communication relative to the conference committee report:

July 29, 2011

The following language was incorrectly reported in the final conference committee report for an act relative to the reorganization of the judicial system of the commonwealth. The conferees respectfully request that the following amendments be made to the conference committee report:

in line 128, by inserting after the word "justices" the following words:- "including the chief justice,"; and

by striking out lines 394 to 420; and

by striking out, in line 508, the numeral "(xx)" and inserting in place thereof the following numeral:- (xxi); and

by striking out, in line 516, the numeral "(xxi)" and inserting in place thereof the following numeral:- (xxii); and

by striking out, in line 522, the numeral "(xxii)" and inserting in place thereof the following numeral:- (xxiii); and
by striking out line 521; and

in line 655 by striking out the words "the authority to" and inserting in place thereof the following words:-
"the court administrator shall annually"; and

by striking out in lines 660 to 664 the words "To achieve sound operation of their department, they shall have the following powers, authority and responsibilities, and shall allocate between themselves primary responsibility for each in a manner on which they agree and that is approved by the chief justice of the trial court and the court administrator" and inserting in place thereof the following words:-

"To achieve sound operation of their department they shall have the following powers, authority and responsibilities, and shall allocate between themselves and the deputy court administrator primary responsibility for each in a manner that conforms to the division of responsibilities between the chief justice of the trial court and the court administrator under sections 9 and 9A of chapter 211B"; and

by striking out, in lines 947 and 948 the words "the chief justice for administration and management" and inserting in place thereof the following words:- "the court administrator"; and

by striking out, in lines 987 and 988 the words "the chief justice for administration and management" and inserting in place thereof the following words:- "the court administrator"; and

by striking out section 57 and inserting in place thereof the following section:-

"SECTION 57. Said section 12 of said chapter 211B, as amended by section 56, is hereby further amended by striking out the word "may" the first time it appears and inserting in place thereof the following word:- "shall"; and
by striking out, in line 1135, the words "SECTION 78." the second time they appear; and

in line 1213, by inserting the following 2 sentences:- "A chief justice shall hold said office for a term of 5 years, and shall be eligible to be reappointed for additional 5 year terms. A chief justice, so appointed may be removed from that office prior to the expiration of his term provided, however, that any such removal is not for arbitrary or capricious reasons."; and

by striking out lines 1222 to 1235; and

in line 1456, by striking out the words "section 120" and inserting in place thereof the following words:- "section 119"; and

by striking out, in line 1720, the words "SECTION 127" and inserting in place thereof the following words:- "SECTION 127A"; and

by inserting the following section:- "SECTION 132. Sections 55A, 57, 120, 124B, 130 and 131 of this act shall be effective upon the appointment of a court administrator under section 12 of chapter 211B."; and

by inserting the following section:-

"SECTION 133. Sections 55, 119 and 124A of this act shall be repealed upon the appointment of a court administrator under section 12 of chapter 211B."; and

by striking out section 136 and inserting in place thereof the following section:-

"SECTION 136. Section 56 of this act shall expire on July 1, 2012."; and

by striking out section 137 and inserting in place thereof the following section:-

"SECTION 137. Sections 2 to 7, inclusive, 10 to 54, inclusive, 57 to 117, inclusive, 122, 123, 124, 125 and 127A shall take effect on July 1, 2012."; and

by striking out section 138 and inserting in place thereof the following section:-

"SECTION 138. Except as otherwise provided in this act, this act shall be effective as of July 1, 2011.".

Cynthia Stone Creem	Eugene O'Flaherty
Brian A. Joyce	Brian Dempsey
Bruce E. Tarr	Daniel A. Winslow

After remarks, the report was further considered and accepted, in concurrence.

Engrossed Bill.

An engrossed Bill relative to the reorganization of the judicial system of the Commonwealth (see House, No. 3644) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Mr. Tolman) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of the same Senator, at one minute before one o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.