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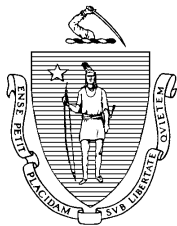
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The Commonwealth of Massachusetts

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**JOURNAL OF THE HOUSE.**



THURSDAY, APRIL 2, 2009.

[31]\*

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## JOURNAL OF THE HOUSE.

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Thursday, April 2, 2009.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, as we begin today's legislative session, we pause for a moment to focus our thoughts and attention on You and on spiritual values and realities. We believe that with Your guidance we will be empowered to select the right, reasonable and fair legislative options which are available to us. In these uneasy and uncertain times, teach us to be open to the intellectual insights and reasonable experiences of colleagues and constituents. If and when, as elected leaders and concerned citizens, we disagree on sensitive issues and controversial public policies, let us reason together in our search for truth, integrity and just solutions to current legislative challenges. Grant us the wisdom, confidence and goodwill to work together in building a stable, safe and ethical society in which the rights of all are recognized and respected. Prayer.

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

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

### *Statement Concerning Representative Koutoujian of Waltham.*

A statement of Mr. Mariano of Quincy concerning Mr. Koutoujian of Waltham 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, Mr. Koutoujian of Waltham, is unable to be present in the House Chamber for today's sitting due to attending to his wife, Elizabeth, who gave birth to their daughter yesterday. Had he been present for the taking of the yeas and nays on passing to be engrossed, in concurrence, the Senate Bill relative to an appeal process of insurance premium surcharges under managed competition (Senate, No. 2022, amended), he would have voted in the affirmative. Any roll calls that he may miss today will be due entirely to the reason stated. Statement Concerning Representative Koutoujian of Waltham.

### *Appointment to an Advisory Council.*

The Minority Leader announced that (under Section 33 of Chapter 215 of the Acts of 2008) he had appointed Ms. Victoria L. Griffin, the Early Childhood Coordinator at the RISE Preschool in the town of Reading, to serve as a member of the State Advisory Council on Early Education and Care. Early Education and Care advisors.

*Resolutions.*

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

Daniel J.  
Knight.

Resolutions (filed by Mr. Vallee of Franklin) recognizing Daniel J. Knight for his service to our community, state and the nation;

Brockton  
Public  
Library.

Resolutions (filed by Representatives Canavan of Brockton, Creedon of Brockton and Brady of Brockton) honoring the Brockton Public Library for their involvement in National Coin Week April 19-25, 2009;

Alexander  
Thomas  
Carll.

Resolutions (filed by Mr. deMacedo of Plymouth) congratulating Alexander Thomas Carll on receiving the Eagle Award of the Boy Scouts of America;

U2.

Resolutions (filed by Mr. Finegold of Andover and other members of the House) acknowledging the extraordinary contributions of the band U2 and its members to our country and state;

Caleb  
Butler  
Lodge.

Resolutions (filed by Mr. Hargraves of Groton) on the occasion of the one hundred and fiftieth anniversary of Caleb Butler Lodge, Ancient Free and Accepted Masons; and

New  
Marlborough.

Resolutions (filed by Mr. Pignatelli of Lenox) celebrating the two hundred and fiftieth anniversary of the town of New Marlborough;

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

*Petition.*

Geraldine  
Egan,—  
sick leave  
bank.

Ms. Richardson of Framingham presented a petition (subject to Joint Rule 12) of Pam Richardson and others for legislation to establish a sick leave bank for Geraldine Egan, an employee of the Department of Public Health; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Ms. Richardson, 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.

*Papers from the Senate.*

Municipal  
relief,—  
special  
commission.

A petition (accompanied by resolve) of Stanley C. Rosenberg and Paul J. Donato that provision be made to revive and continue the special commission relative to municipal relief, came from the Senate referred, under suspension of Joint Rules 12, the committee on Rules of the two branches, acting concurrently.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by resolve, Senate, No. 2027) was referred, in concurrence, to the committees on Rules of the two branches, acting concurrently.

Subsequently said Resolve reviving and continuing the special commission relative to municipal relief (Senate, No. 2027) came from the Senate with the endorsement that it had been passed to be engrossed by said branch. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mr. Donato of Medford, the resolve was read a second and (having been reported by the committee on Bills in the Third Reading to be correctly drawn) a third time; and it was passed to be engrossed, in concurrence.

A Bill providing responsible reforms in the pension system (Senate, No. 2026) (on Senate bill No. 2025, amended), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means. The following notice was received from the Senate, to wit:—

Retirement system,— reforms.

March 31, 2009.

Honorable Robert A. DeLeo  
*Speaker of the House of Representatives*  
Room 356, State House  
Boston, MA 02133

Dear Mr. Speaker:

I have the honor to inform you that the Honorable Therese Murray, President of the Senate, has made the following appointments:

Senator Gale D. Candaras as the Massachusetts Senate appointee to the Massachusetts Birth to School-Age Task Force; and

Birth to School-Age Task Force.

Senators Thomas M. McGee and Kenneth J. Donnelly to the Special Commission established (pursuant to Section 111 of Chapter 182 of the Acts of 2008) to study the Massachusetts Contributory Retirement Systems (Senator McGee replaced Senator Frederick E. Berry, who was previously appointed, and Senator Donnelly replaced Senator Panagiotakos, who was previously appointed).

Contributory Retirement Systems.

Respectfully submitted,

WILLIAM F. WELCH,  
*Clerk of the Senate.*

*Reports of Committees.*

By Mr. Cabral of New Bedford, for the committee on Bonding, Capital Expenditures and State Assets, asking to be discharged from further consideration of the Bill modernizing the transportation systems of the Commonwealth (Senate, No. 2024),— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted.

Transportation improvements.

Affordable housing.

By Ms. Malia of Boston, for the committee on Mental Health and Substance Abuse, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 739) of James B. Eldridge, Susan C. Fargo, Jennifer L. Callahan and Karen E. Spilka for legislation relative to affordable housing community planning,— and recommending that the same be referred to the committee on Housing. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

*Engrossed Bill.*

Bill enacted.

The engrossed Bill relative to the town clerk of the town of Weston (see House, No. 3472) (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.

*Recess.*

Recess.

Mr. Donato of Medford being in the Chair,—  
At thirteen minutes before twelve o'clock noon, on motion of Mr. Hill of Ipswich, the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with the Speaker in the Chair.

*Quorum.*

Quorum.

Mr. Smith of Everett thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—  
yea and nay  
No. 46.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

**[See Yea and Nay No. 46 in Supplement.]**

Therefore a quorum was present.

Subsequently a statement of Ms. Fox of Boston was spread upon the records of the House, as follows:

Statement of  
Ms. Fox of  
Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not recorded on the previous roll call due to being on official business in another part of the State House.

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

Statement of  
Mr. Madden of  
Nantucket.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not recorded on the previous roll call due to being on official business in another part of the State House.

*Reports of Committees.*

Mr. Petrolati of Ludlow being in the Chair,—

Transportation reform bill,—  
procedures.

Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the Senate Bill modernizing the transportation systems of the Commonwealth (Senate, No. 2024) (for order, see House, No. 4046).

Pending the question on adoption of the order, Messrs. DeLeo of Winthrop and Jones of North Reading moved to amend it in line 7 by inserting after the word “Means” the following:— “; provided however, that such recommended new text for Senate, No. 2024, shall be available to the members of the House of Representatives no later than six o’clock P.M. on Friday, April 3, 2009”.

After debate the amendment was adopted.

The order (House, No. 4046, amended) then also was adopted.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill relative to an appeal process of insurance premium surcharges under managed competition (Senate, No. 2022, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Insurance  
premium  
surcharges.

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

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

Subsequently, under suspension of the rules, on motion of Mr. Murphy of Weymouth, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill to be engrossed, in concurrence, Mr. Patrick of Falmouth asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow) stated that a quorum was present.

Quorum.

After further debate on the question on passing the bill to be engrossed, in concurrence (Mrs. Haddad of Somerset being in the Chair), Ms. Clark of Melrose moved to amend it in lines 16, 17 and 18 by striking out the words “or merit rating plan was not in accordance with those standards and provisions, it shall order the insurer to make the appropriate premium adjustment and it shall notify the merit rating board to remove the insured’s corresponding surcharge points” and inserting in place thereof the words “, merit rating plan or determination of fault was not in accordance with said standards and provisions, it shall order the insurer to make the appropriate premium adjustment and the insurer shall notify the merit rating board and any other data collection agency the insurer reported the surcharge or at fault accident to, to remove the insured’s surcharge points and at fault determination”.

After remarks the amendment was adopted.

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

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (the Speaker being in the Chair) 149 members were recorded as being in attendance.

Quorum,—  
yea and nay  
No. 47.

**[See Yea and Nay No. 47 in Supplement.]**

Therefore a quorum was present.

Bill passed to  
be engrossed,—  
yea and nay  
No. 48.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays at the request of Mr. Rosa of Leominster; and on the roll call (Mrs. Haddad of Somerset being in the Chair) 158 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 48 in Supplement.]**

Therefore the bill (Senate, No. 2022, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

*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.

Next  
sitting.

Representatives Walsh of Boston and St. Fleur of Boston then moved that as a mark of respect to the memory of Richard F. Finnigan, a member of the House from Boston from 1973 to 1978, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-three minutes after three o'clock P.M., on motion of Mr. Walsh of Boston (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.

Yea and Nay Supplement  
**JOURNAL OF THE HOUSE.**

Thursday, April 2, 2009.

**Yea and Nay No. 46**

Quorum roll call.

Y	Mr. Speaker	Y	Driscoll	Y	Linsky	Y	Spiliotis
Y	Vallee	Y	Dwyer	Y	L'Italien	Y	Spellane
Y	Mariano	Y	Dykema	X	Madden	Y	Speranzo
Y	Haddad	Y	Ehrlich	Y	Malia	Y	Spiliotis
Y	Petrolati	Y	Fagan	Y	McCarthy	Y	Stanley, H.L.
Y	Aguiar	X	Fallon	Y	McMurtry	Y	Stanley, T.M.
X	Alicea	Y	Falzone	Y	Miceli	Y	St. Fleur
Y	Allen	Y	Fennell	Y	Moran	Y	Story
Y	Arciero	X	Fernandes	Y	Murphy, C.A.	Y	Straus
Y	Ashe	Y	Ferrante	Y	Murphy, J.	Y	Sullivan
Y	Atkins	Y	Finegold	Y	Murphy, K.J.	Y	Swan
X	Atsalis	X	Flynn	Y	Nangle	Y	Timilty
Y	Ayers	Y	Forry	X	Naughton	Y	Tobin
Y	Balser	X	Fox	Y	Nyman	Y	Toomey
Y	Basile	Y	Fresolo	Y	O'Day	Y	Torrisi
Y	Benson	Y	Galvin	Y	O'Flaherty	Y	Turner
Y	Binienda	Y	Garballey	Y	Patrick	Y	Wagner
X	Bosley	X	Garry	Y	Peake	Y	Wallace
Y	Bowles	Y	Gobi	Y	Pedone	Y	Walsh, M.J.
Y	Bradley	Y	Golden	Y	Peisch	Y	Walsh, S.
Y	Brady	Y	Grant	X	Pignatelli	Y	Walz
Y	Brownsberger	Y	Greene	Y	Provost	Y	Welch
Y	Cabral	Y	Gregoire	Y	Puppolo	Y	Wolf
Y	Callahan	Y	Guyer	Y	Quinn	Y	Jones
Y	Calter	Y	Harkins	Y	Reinstein	Y	Peterson
Y	Campbell	Y	Hecht	Y	Rice	Y	Hill
Y	Canavan	Y	Hogan	Y	Richardson	Y	Poirier
Y	Canessa	Y	Honan	Y	Rodrigues	Y	Barrows
Y	Cantwell	Y	Kafka	Y	Rogers	Y	deMacedo
Y	Clark	Y	Kane	Y	Rosa	Y	Evangelidis
Y	Coakley-Rivera	Y	Kaufman	Y	Rush	Y	Frost
Y	Conroy	Y	Keenan	Y	Rushing	Y	Gifford
Y	Costello	Y	Khan	Y	Sanchez	Y	Hargraves
Y	Creedon	Y	Kocot	Y	Sandlin	Y	Humason
Y	Curran	Y	Koczera	Y	Sannicandro	Y	Perry
Y	D'Amico	X	Koutoujian	Y	Scaccia	Y	Polito
Y	Dempsey	Y	Kujawski	Y	Scibak	Y	Ross
Y	DiNatale	Y	Kulik	Y	Sciortino	Y	Smola
Y	Donato	Y	Lantigua	Y	Smith	Y	Webster
Y	Donelan	Y	Lewis	Y	Smizik		

YEAS: 147

NAYS: 0

N-V: 12

P=PRESENT

X=NOT VOTING

\*=AFTER VOTE

Yea and Nay Supplement  
**JOURNAL OF THE HOUSE.**

Thursday, April 2, 2009.

**Yea and Nay No. 47**

Quorum roll call.

Y	Mr. Speaker	Y	Driscoll	Y	Linsky	Y	Spiliotis
Y	Vallee	Y	Dwyer	Y	L'Italien	Y	Spellane
X	Mariano	Y	Dykema	Y	Madden	Y	Speranzo
Y	Haddad	Y	Ehrlich	Y	Malia	Y	Spiliotis
Y	Petrolati	Y	Fagan	Y	McCarthy	Y	Stanley, H.L.
Y	Aguiar	Y	Fallon	Y	McMurtry	Y	Stanley, T.M.
Y	Alicea	Y	Falzone	Y	Miceli	Y	St. Fleur
X	Allen	Y	Fennell	Y	Moran	Y	Story
Y	Arciero	Y	Fernandes	Y	Murphy, C.A.	Y	Straus
Y	Ashe	Y	Ferrante	Y	Murphy, J.	Y	Sullivan
Y	Atkins	Y	Finegold	Y	Murphy, K.J.	Y	Swan
X	Atsalis	Y	Flynn	Y	Nangle	Y	Timilty
Y	Ayers	Y	Forry	Y	Naughton	X	Tobin
Y	Balser	Y	Fox	Y	Nyman	Y	Toomey
Y	Basile	Y	Fresolo	Y	O'Day	Y	Torrisi
Y	Benson	Y	Galvin	Y	O'Flaherty	Y	Turner
Y	Binienda	Y	Garballey	Y	Patrick	X	Wagner
Y	Bosley	Y	Garry	Y	Peake	Y	Wallace
Y	Bowles	Y	Gobi	Y	Pedone	Y	Walsh, M.J.
Y	Bradley	Y	Golden	X	Peisch	Y	Walsh, S.
Y	Brady	Y	Grant	Y	Pignatelli	Y	Walz
Y	Brownsberger	Y	Greene	Y	Provost	Y	Welch
Y	Cabral	Y	Gregoire	Y	Puppolo	Y	Wolf
Y	Callahan	Y	Guyer	Y	Quinn	Y	Jones
Y	Calter	Y	Harkins	Y	Reinstein	Y	Peterson
Y	Campbell	Y	Hecht	Y	Rice	Y	Hill
Y	Canavan	Y	Hogan	Y	Richardson	Y	Poirier
Y	Canessa	Y	Honan	Y	Rodrigues	Y	Barrows
Y	Cantwell	Y	Kafka	Y	Rogers	Y	deMacedo
Y	Clark	Y	Kane	Y	Rosa	Y	Evangelidis
Y	Coakley-Rivera	X	Kaufman	Y	Rush	Y	Frost
Y	Conroy	Y	Keenan	X	Rushing	Y	Gifford
Y	Costello	Y	Khan	Y	Sanchez	Y	Hargraves
Y	Creedon	Y	Kocot	Y	Sandlin	Y	Humason
Y	Curran	Y	Koczera	Y	Sannicandro	Y	Perry
Y	D'Amico	X	Koutoujian	Y	Scaccia	Y	Polito
Y	Dempsey	Y	Kujawski	Y	Scibak	Y	Ross
Y	DiNatale	Y	Kulik	X	Sciortino	Y	Smola
Y	Donato	Y	Lantigua	Y	Smith	Y	Webster
Y	Donelan	Y	Lewis	Y	Smizik		

YEAS: 149

NAYS: 0

N-V: 10

P=PRESENT

X=NOT VOTING

\*=AFTER VOTE

Yea and Nay Supplement  
**JOURNAL OF THE HOUSE.**

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Thursday, April 2, 2009.

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**Yea and Nay No. 48**

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On passing to be engrossed, in concurrence, as amended, the Senate Bill relative to an appeal process of insurance premium surcharges under managed competition (Senate, No. 2022, amended).

Y	Mr. Speaker	Y	Driscoll	Y	Linsky	Y	Spiliotis
Y	Vallee	Y	Dwyer	Y	L'Italien	Y	Spellane
Y	Mariano	Y	Dykema	Y	Madden	Y	Speranzo
Y	Haddad	Y	Ehrlich	Y	Malia	Y	Spiliotis
Y	Petrolati	Y	Fagan	Y	McCarthy	Y	Stanley, H.L.
Y	Aguiar	Y	Fallon	Y	McMurtry	Y	Stanley, T.M.
Y	Alicea	Y	Falzone	Y	Miceli	Y	St. Fleur
Y	Allen	Y	Fennell	Y	Moran	Y	Story
Y	Arciero	Y	Fernandes	Y	Murphy, C.A.	Y	Straus
Y	Ashe	Y	Ferrante	Y	Murphy, J.	Y	Sullivan
Y	Atkins	Y	Finegold	Y	Murphy, K.J.	Y	Swan
Y	Atsalis	Y	Flynn	Y	Nangle	Y	Timilty
Y	Ayers	Y	Forry	Y	Naughton	Y	Tobin
Y	Balser	Y	Fox	Y	Nyman	Y	Toomey
Y	Basile	Y	Fresolo	Y	O'Day	Y	Torrisi
Y	Benson	Y	Galvin	Y	O'Flaherty	Y	Turner
Y	Binienda	Y	Garballey	Y	Patrick	Y	Wagner
Y	Bosley	Y	Garry	Y	Peake	Y	Wallace
Y	Bowles	Y	Gobi	Y	Pedone	Y	Walsh, M.J.
Y	Bradley	Y	Golden	Y	Peisch	Y	Walsh, S.
Y	Brady	Y	Grant	Y	Pignatelli	Y	Walz
Y	Brownsberger	Y	Greene	Y	Provost	Y	Welch
Y	Cabral	Y	Gregoire	Y	Puppolo	Y	Wolf
Y	Callahan	Y	Guyer	Y	Quinn	Y	Jones
Y	Calter	Y	*Harkins	Y	Reinstein	Y	Peterson
Y	Campbell	Y	Hecht	Y	Rice	Y	Hill
Y	Canavan	Y	Hogan	Y	Richardson	Y	Poirier
Y	Canessa	Y	Honan	Y	Rodrigues	Y	Barrows
Y	Cantwell	Y	Kafka	Y	Rogers	Y	deMacedo
Y	Clark	Y	Kane	Y	Rosa	Y	Evangelidis
Y	Coakley-Rivera	Y	Kaufman	Y	Rush	Y	Frost
Y	Conroy	Y	Keenan	Y	Rushing	Y	Gifford
Y	Costello	Y	Khan	Y	Sanchez	Y	Hargraves
Y	Creedon	Y	Kocot	Y	Sandlin	Y	Humason
Y	Curran	Y	Koczera	Y	Sannicandro	Y	Perry
Y	D'Amico	X	Koutoujian	Y	Scaccia	Y	Polito
Y	Dempsey	Y	Kujawski	Y	Scibak	Y	Ross
Y	DiNatale	Y	Kulik	Y	Sciortino	Y	Smola
Y	Donato	Y	Lantigua	Y	Smith	Y	Webster
Y	Donelan	Y	Lewis	Y	Smizik		

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YEAS: 158

NAYS: 0

N-V: 1

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P=PRESENT

X=NOT VOTING

\*=AFTER VOTE