

## JOURNAL OF THE HOUSE.

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Tuesday, June 15, 2010.

Met according to adjournment, at eleven o'clock A.M., with 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).

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

Gracious God, at the opening of today's formal legislative session we pause for a moment of prayer of thanksgiving for all that You have given to us. Too often we take You and Your gifts for granted as we live our busy and stressful daily lives. We are grateful to You, also, for teaching us how to give meaning, direction and purpose to our daily routine and responsibilities. We look to You for the gift of knowledge when issues are unclear, wisdom when we make decisions and courage when we are timid. At all times may our hearts and minds be filled with joy, hope and enthusiasm. Today, we also thank the former and present members of the House, especially members who are leaving soon, for their friendship and dedication to the present and future well-being of the people of the Commonwealth.

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. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Statement of Representative Spellane of Worcester.*

A statement of Mr. Spellane of Worcester 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 will be unable to be present in the House Chamber for the remainder of today's sitting due to a previously scheduled family medical appointment. My missing of roll calls today is due entirely to the reason stated.

Statement of  
Mr. Spellane  
of Worcester.

### *Petition.*

Mr. DeLeo of Winthrop presented a petition (accompanied by bill, House, No. 4766) of Robert A. DeLeo (by vote of the town) that the town of Winthrop be authorized to grant certain easements for underground utility work; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Winthrop,—  
easements.

### *Recesses.*

At three minutes after eleven o'clock A.M., on motion of Mr. Smith of Everett (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-two minutes

Recesses.

Recesses.

after one o'clock the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on motion of Mr. Jones of North Reading, until a quarter before two o'clock; and at twenty-five minutes after two o'clock the House was called to order with Mr. Donato in the Chair.

#### *Quorum.*

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), 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. 415.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 134 members were recorded as being in attendance.

**[See Yea and Nay No. 415 in Supplement.]**

Therefore a quorum was present.

#### *Valedictory Addresses.*

Valedictory  
addresses.

During the session, the Speaker took the Chair and, there being no objection, former Representatives Marie P. St. Fleur of Boston and Richard J. Ross of Wrentham addressed the House regarding their departure from service in the House of Representatives.

#### *Special Recognition.*

United States  
Army.

During the session, Mr. Naughton of Clinton took the Chair and, there being no objection, addressed the House relative to the history of the United States Army upon the celebration of the two hundred and thirty-fifth anniversary of its inception.

#### *Guests of the House.*

Marcela  
Guerra and  
Mentor  
Tijerina.

During the session, the Chair (Mr. Donato of Medford) declared a brief recess, and introduced Congresswoman Marcela Guerra, a member of the National Congress of Mexico and her husband, Mr. Mentor Tijerina, renowned political consultant and professor of political science from the Mexican State of Nuevo Leon. They were the guests of Representatives Koutoujian of Waltham, Sánchez of Boston and Sannicandro of Ashland.

#### *Papers from the Senate.*

Methuen,—  
borrowing.

The House Bill authorizing the city of Methuen to repay the borrowing of certain monies for a period of up to 20 years (House, No. 4404) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1, in line 4, striking out the words "a final court judgment" and inserting in place thereof the following "the final court judgment in the matter of DiLeo v. City of Methuen, Essex County Superior Court Civil Action No. ESCV 2008-01372-C,".

Under suspension of Rule 35, on motion of Ms. Campbell of Methuen, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

A petition of Cynthia Stone Creem for legislation to enhance reporting requirements for candidates and committees, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Election Laws.

Candidate,—  
reporting  
requirements.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2489) was referred, in concurrence, to the committee on Election Laws.

#### *Reports of Committees.*

Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Public Service to make an investigation and study of certain House documents concerning active and retired public employees (House, No. 4694) reported, in part, asking to be discharged from further consideration:

Public  
employees,—  
study.

Of the petition (accompanied by bill, House, No. 595) of Martin J. Walsh relative to paid leave for civilian traffic supervisors;

Traffic  
supervisors.

Of the petition (accompanied by bill, House, No. 2637) of Martin J. Walsh relative to the disability pension allowance paid to Lawrence W. Finneran of Hanover, a former state police officer;

Lawrence W.  
Finneran.

Of the petition (accompanied by bill, House, No. 4196) of Anne M. Gobi and Stephen M. Brewer (by vote of the town) relative to health insurance and other benefits in the town of Phillipston; and

Phillipston,—  
benefits.

Of the petition (accompanied by bill, House, No. 4463) of Paul J. Donato relative to the classification of disabled fire fighters as "conditional employees" as a precondition of reinstatement as a fire department employee;

Fire  
fighters.

And recommending that the same severally be recommitted to the committee on Public Service.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Labor and Workforce Development to make an investigation and study of certain House documents concerning labor and workforce development issues (House, No. 4722) reported, in part, asking to be discharged from further consideration:

Labor and  
Workforce  
Development,—  
study.

Of the petition (accompanied by bill, House, No. 1853) of John W. Scibak and Robert M. Koczera relative to the competitive determination of workers' compensation insurance rates; and

Workers'  
compensation.

Of the petition (accompanied by bill, House, No. 1864) of David M. Torrisi, John W. Scibak and Linda Dean Campbell relative to the competitive determination of workers' compensation insurance rates;

Id.

And recommending that the same severally be recommitted to the committee on Labor and Workforce Development.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Labor and Workforce Development to make an investigation and study of certain House documents concerning labor and workforce development issues (House, No. 4746) reported, in part, asking to be discharged from

Collective  
bargaining.

Collective bargaining.

further consideration of the petition (accompanied by bill, House, No. 607) of Martin J. Walsh relative to collective bargaining rights,—and recommending that the same be recommitted to the committee on Labor and Workforce Development. Under Rule 42, the report was considered forthwith; and it was accepted.

Bristol County Agricultural High School.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on House, No. 4700, a Bill authorizing the Bristol County commissioners to borrow money for the repair of sewer extension facilities at the Bristol County Agricultural High School (House, No. 4763). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the bill was read a second time forthwith; and it was ordered to a third reading.

Gun,—access.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, ought not to pass, on a message from His Excellency the Governor recommending legislation relative to reducing firearm violence (House, No. 4102) was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Under suspension of Rule 7A, on motion of Mr. O'Flaherty, the report was considered forthwith.

Pending the question on acceptance of the report, the same member moved that the message be recommitted to the committee on the Judiciary.

Message recommitted,—yea and nay No. 416.

After debate on the motion to recommit, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 111 members voted in the affirmative and 32 in the negative.

**[See Yea and Nay No. 416 in Supplement.]**

Therefore the message was recommitted to the committee on the Judiciary.

Mr. Koutoujian of Waltham, for the committee on Financial Services, asking to be discharged from further consideration

Autism,—Insurance.

Of the petition (accompanied by bill Senate, No. 478) of Brian A. Joyce for legislation to provide health care coverage for autism spectrum disorders;

Id.

Of the petition (accompanied by bill Senate, No. 501) of Michael W. Morrissey for legislation relative to benefits for autism;

Id.

Of the petition (accompanied by bill House, No. 923) of Patricia A. Haddad, James J. O'Day and others relative to insurance coverage for certain pervasive developmental disorders; and

Id.

Of the petition (accompanied by bill House, No. 3809) of Barbara A. L'Italien, Frederick E. Berry and others relative to insurance coverage for autism;

And recommending that the same severally be referred to the committee on Ways and Means.

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

By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to create a cranberry nutrient management study commission (House, No. 3445). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Cranberry nutrients,—study.

By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on Senate, No. 426 and House, No. 704, a Bill relative to the Mosquito Borne Disease Control Board (House, No. 704).

Mosquito Control Board.

By the same member, for the same committee, on a petition, a Bill to modify agricultural lands preservation committee representation (House, No. 777).

Agricultural preservation.

By the same member, for the same committee, on House, No. 3439, a Bill relative to abandoned vessels (House, No. 4762).

Abandoned vessels.

By Mr. Koutoujian of Waltham, for the committee on Financial Services, on House, No. 970, a Bill relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks (House, No. 4760).

Money transmission,—regulation.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill authorizing the town of Westford, acting by and through its conservation commission, to lease a certain parcel of land for camp purposes (House, No. 4662) [Local Approval Received].

Westford,—camp facilities.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Boston parks and recreation commission to lease certain real property under its control and owned by the city of Boston (House, No. 4663) [Local Approval Received].

Boston,—historic property.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Gardner to convey certain land under the control of the Gardner Conservation Commission (House, No. 4679) [Local Approval Received].

Gardner,—land conveyance.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Southbridge to match debt repayment for school projects to the retirement of other outstanding debt (House, No. 4695) [Local Approval Received].

Southbridge,—debt repayment.

By the same member, for the same committee, on a petition, a Bill establishing a linkage extraction program in the city of Everett (House, No. 4696) [Local Approval Received].

Everett,—linkage extraction.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Everett to create an inspectional services department in the city of Everett (House, No. 4697) [Local Approval Received].

Everett,—inspections department.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Sudbury to enter into or to extend wireless facility contracts or leases for periods in excess of twenty years (House, No. 4715) [Local Approval Received].

Sudbury,—wireless contracts.

Sudbury,—  
power  
agreements.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Sudbury to enter into long-term energy related leases/contracts including power purchase agreements (House, No. 4718) [Local Approval Received].

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

*Motions to Discharge Certain Matters  
in the Orders of the Day.*

Public  
charities.

The Senate Bill further regulating public charities (Senate, No. 2117, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day and read a third time forthwith, under suspension of Rule 47, on motion of Ms. Walz of Boston.

After remarks on the question on passing the bill, as previously amended, to be engrossed, in concurrence, Mr. deMacedo of Plymouth moved to amend it by adding the following section:

"SECTION 13. Chapter 266 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, after section 59, the following section:—

Section 59A. For the purposes of this section the following words shall have the following meanings:—

(a) 'Nonprofit association', an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of the commonwealth or the United States or any entity which is authorized to do business in the commonwealth as a nonprofit corporation or unincorporated association under the laws of the commonwealth.

'Charitable organization', any person or entity whose purposes or actual operation are charitable in nature or one holding himself out to be a charitable organization in whole or in part, including any person or entity who in any manner employs a charitable appeal as the basis of any solicitation.

(b) Whoever steals or with intent to defraud obtains by a false pretense, or whoever unlawfully, and with intent to steal or embezzle, converts, or secretes with intent to convert, the money, goods or property of a nonprofit association or charitable organization, whether such property is or is not in his possession at the time of such conversion or secreting, shall be guilty of larceny, and shall, (1) if the value of the money, goods or property exceeds \$250 and does not exceed \$10,000, be punished by imprisonment in the state prison for no less than 30 days; (2) if the value of the money, goods or property exceeds \$10,000 and does not exceed \$50,000, be punished by imprisonment in the state prison for no less than 6 months; (3) if the value of the money, goods or property exceeds \$50,000, be punished by imprisonment in the state for no less than 2 years. Upon release, an individual sentenced to a term of incarceration under this section shall be subject to a 2-year term of probation.

A person found guilty of violating this section shall, in addition to any other punishment, be ordered to make full restitution to the nonprofit association or charitable organization for the financial loss sustained as a result of the commission of the crime except as hereinafter provided. Restitution shall be imposed in addition to incar-

ceration. The court shall order the defendant to make restitution within a reasonable period of time, provided that full restitution shall be made within 2 years from the date of conviction.

If a defendant who is required to make restitution defaults in any payment of restitution or installment thereof, the court may hold him in contempt unless said defendant has made a good faith effort to make restitution. If the defendant has made such good faith effort, the court may, upon motion of the defendant, modify the order requiring restitution by:

- (a) providing for additional time to make any payment in restitution;
- (b) providing a payment plan.

If the defendant has failed to make a good faith effort to pay restitution, the court may seize and liquidate properties and other assets owned by the defendant. Restitution shall not be authorized to a party whom the court determines to be aggrieved, without such party's consent."

The amendment was rejected.

On the question on passing the bill, as previously amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Ms. Walz of Boston; and on the roll call 139 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 417 in Supplement.]**

Therefore the bill (Senate, No. 2117, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

Bill passed to  
be engrossed,—  
yea and nay  
No. 417.

The House Bill relative to the Commonwealth Zoological Corporation (House, No. 4707) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time, under suspension of Rule 47, on motion of Mr. Lewis of Winchester; and after remarks it was passed to be engrossed. Sent to the Senate for concurrence.

Zoological  
Corporation.

*Orders of the Day.*

The Senate Bill authorizing the Department of Fish and Game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol (Senate, No. 2451, 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. Sent to the Senate for concurrence in the amendment previously adopted by the House.

Third  
reading  
bill.

The Senate Bill relative to the Essex North Shore Agricultural and Technical School (Senate, No. 2392), 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.

Id.

The House Bill relative to trusts for the care of animals (House, No. 1467), 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.

Id.

House bills

Second reading bills. Making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions and including technical changes (House, No. 89);  
 Relative to the sale of alcoholic beverages (House, No. 250);  
 Prohibiting funeral homes from selling lists (House, No. 263);  
 Relative to the protection of customers (House, No. 287);  
 Relative to check cashing fees (House, No. 296);  
 Relative to the storage fee for towing (House, No. 299);  
 For equity for school principals (House, No. 371, changed);  
 Relative to the definition of a pharmacy (House, No. 2071);  
 Authorizing the city of Boston retirement board to grant creditable service to certain nurses (House, No. 2518);  
 Relative to nurse anesthetists (House, No. 4593);  
 Providing for members of the Southeastern Regional School District to reallocate the sum of their local contributions to the district by a majority vote of boards of selectmen and a municipal council (House, No. 4676); and  
 Making a corrective change relative to the town of Millbury and payment of a certain bill (printed in House, No. 4684).  
 Severally were read a second time; and they were ordered to a third reading.

Second reading bill amended. The House Bill improving emergency access to mental health services (House, No. 3465) was read a second time.  
 The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 4681),— was adopted.  
 The substituted bill then was ordered to a third reading.

*Order.*

Next sitting. On motion of Mr. DeLeo of Winthrop,—  
*Ordered*, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

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Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-eight minutes after four o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.