UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

JOURNAL OF THE SENATE.

Tuesday, June 19, 2012.

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

Report.

A report from the Honorable Martin J. Benison, Comptroller, (under the provisions of Sections 1A and 1B of Chapter 68 of the Acts of 2011) submitting the comparison of Actual Revenue Collections to Budget for the third quarter of FY 2012 (received in the Office of the Clerk of the Senate on Monday, June 18, 2012, at twenty-five minutes past two o'clock P.M.),-- **was placed on file.**

Committees Discharged.

Ms. Spilka, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration
Of the Senate Bill promoting the development of small house nursing homes in Massachusetts (Senate, No. 272);

Of the Senate Order relative to authorizing the joint committee on Economic Development and Emerging Technologies to make an investigation and study of certain current Senate documents relative to economic development and emerging technologies (Senate, No. 2309); and

Of the Senate Order relative to authorizing the joint committee on Revenue to make an investigation and study of certain current Senate documents relative to the raising of revenue for the Commonwealth by means of taxation and certain matters relative to the local property tax (Senate, No. 2310);
And recommending that the same severally be referred to the committee on Ethics and Rules.
Under Senate Rule 36, the reports were considered forthwith and accepted.

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

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

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-
Resolutions (filed by Mr. Pacheco) "congratulating James Belbin on his elevation to the rank of Eagle Scout";
Resolutions (filed by Mr. Pacheco) "congratulating Benjamin Bonenfant on his elevation to the rank of Eagle Scout";
Resolutions (filed by Mr. Pacheco) "congratulating Dylan Marshall on his elevation to the rank of Eagle Scout";
Resolutions (filed by Mr. Pacheco) "congratulating Daniel Sheehan on his elevation to the rank of Eagle Scout" and
Resolutions (filed by Mr. Pacheco) "congratulating Alexander Silva on his elevation to the rank of Eagle Scout".

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 Richard T. Moore for legislation to establish a sick leave bank for Tina L. Sarty, an employee of the department of transitional assistance
The rules were suspended, on motion of Mr. Richard T. Moore, 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.
Sent to the House for concurrence.

PAPERS FROM THE HOUSE

The Senate Bill relative to the sale of alcoholic beverages in the town of Wenham (Senate, No. 2273, amended),-- **came from the House passed to be engrossed, in concurrence with an amendment in section 1, in line 4, by striking out the following words:"sections 15 and" and inserting in pace thereof the word "section".**
The rules were suspended, on motion of Mr. Tarr, and the House amendment was considered forthwith and adopted, in concurrence.

A petition (accompanied by bill, House, No. 4184) of Peter J. Durant and Richard T. Moore for legislation establishing a sick leave bank for Gloria Chisholm, an employee of the Massachusetts Department of Transportation,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Orders of the Day.

The Orders of the Day were considered as follows:

Bills
Relative to Tisbury water supply system (House, No. 566);
Authorizing the town of Tyringham to continue the employment of the chief of police, Peter Curtin (House, No. 3524, changed);
Authorizing the town of Tyringham to continue the employment of Rainsford Morehouse, a member of the police department (House, No. 3525, changed);
Establishing the Melpet Farm Stable Operations and Improvement Fund for the town of Dennis (House, No. 3845); and
Authorizing the town of Sudbury to establish a means tested senior citizen property tax exemption (House, No. 4062, amended);
Were severally read a second time and ordered to a third reading.

The House Bill relative to an accelerated transportation development and improvement program for the Commonwealth (House, No. 4174),-- **was read a second time.**
The amendment previously recommended by the committee on Ways and Means that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2308; by striking out the emergency preamble and inserting in place thereof the following emergency preamble:-- "Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for financing and reforms to the commonwealth's public transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and by striking out the title and inserting in place thereof the following title: "An Act relative to financing and reforming public transportation in the Commonwealth.",-- **was considered.**
Pending the question on adoption of the Ways and Means amendment, Ms. Jehlen moved that the bill be amended, by striking section 2.
The amendment was adopted.

Mr. Keenan moved that the bill be amended in section 9 in the second paragraph by inserting after the words "during that period" as they appear in line 119 the following:- "provided such an assessment shall include an analysis of the current formula set forth in section 9 of chapter 161A and contain at least two recommended alternatives".
The amendment was rejected.
Mr. Keenan moved that the bill be amended by adding the following new section:-
"SECTION XX: The authority shall conduct a study on the costs and benefits of retrofitting authority-owned buses that currently consume diesel fuels with engines fueled by compressed natural gas. The study shall take into consideration the costs of replacing the engines, projected prices for diesel fuel and compressed natural gas, any environmental impacts, whether there are state, federal, or private grant opportunities to help defray the cost of the work, and any other relevant factors. The authority shall forward the report to the Joint Committee on Transportation, the Joint Committee on the Environment, Natural Resources and Agriculture, the House Committee on Ways and Means and the Senate Committee on Ways and Means no later than Dec. 31, 2012."
The amendment was rejected.
Mr. Keenan moved that the bill be amended by adding the following new section:-
"SECTION XX: Section 11 of Chapter 161A of the General Laws is hereby amended by adding the following new paragraph:-
The authority shall annually analyze the average cost of commuting into the City of Boston from each of its fare zones, the

purpose of which shall be to determine whether fares are competitive enough to encourage commuters to utilize mass transit. The analysis shall consider various modes of transportation including personal vehicles, light rail, subway, commuter rail, authority-operated or private-carrier buses, and ferries. The analysis shall look at the average costs both with and without the cost of parking at authority lots or private lots in the City of Boston factored in. In determining the average cost per zone, the analysis shall use at least five diverse geographical points per zone. The analysis may include factors such as wear-and-tear on personal vehicles, lost productivity due to roadway congestion, average miles per gallon efficiency for different vehicles, and any other factor it considers important so long as the analysis clearly states the financial impact the additional factors have on the final average cost. The report shall conclude whether fares are competitive enough to encourage commuters to utilize mass transit, and if not, what steps should be taken to make fares more competitive. The report shall be made public and posted in a conspicuous location on the authority website no later than April 1 of each year."

After remarks, the amendment was rejected.

Mr. Keenan moved that the bill be amended by adding the following new section:-

"SECTION XX: There shall be a pilot program examining the impact of reduced daily rates at authority-owned parking facilities on ridership rates. The pilot program shall include parking facilities at both commuter rail and subway stations. The pilot program shall also monitor parking activity at nearby non-participating parking facilities to determine whether the pilot program resulted in a net gain or loss of riders. Thirty days prior to the lower rates taking affect, the authority shall launch a promotional campaign to publicize the reduced rates and encourage utilization of mass transit. The Secretary of Administration & Finance shall transfer the sum of $5,000,000 from the Commonwealth Stabilization Fund into the Massachusetts Bay Transportation Authority State and Local Contribution Fund for the purposes of supporting the pilot program."

The amendment was rejected.

Ms. Fargo moved that the bill be amended by inserting, after the word "transportation" in line 146 the following words:- "The plan shall also ensure that transportation policies and infrastructure decisions affirmatively include a commitment to promote and/or enhance multiple modes of transportation including pedestrian, bicycle, and forms of public transportation and other transportation-related contributions that increase active lifestyles that improve public health and decrease childhood and adult obesity."; and by inserting, after section __, the following new section:-

"SECTION XX. (a) Notwithstanding any general or special law to the contrary, all local, regional and state roadway construction, reconstruction, and maintenance projects receiving state or federal transportation funding shall meet the guiding principle of the state roadway design guidelines, The Project Development and Design Guide, which states that roadways of the Commonwealth must safely accommodate all users of the public right-of-way including: pedestrians, (including people requiring mobility aids); bicyclists; drivers and passengers of transit vehicles, trucks, automobiles and motorcycles. The guidelines further state that designers and decision-makers are encouraged to fully consider these modes of transportation throughout the planning, design, and construction phases of projects.

(b) The secretary shall take actions to include a voting representative from the Executive Office of Health and Human Services on the board of the Boston Region Metropolitan Planning Organization and on other regional planning organizations.

(c) All transportation and parking projects using state funds or requiring review under the Massachusetts Environmental Policy Act will include routine accommodations for non-motorized modes, such as bicycles, including parking and connections.

(d) Any transportation project using state funds or requiring review under the Massachusetts Environmental Policy Act that expands roadway capacity shall include plans and projects to specifically increase non-motor vehicle use in the communities to the same degree that roadway capacity is increased."

After remarks, the amendment was rejected.

Mr. Timilty moved that the bill be amended by adding at the end thereof the following new section:-

"Section X. Notwithstanding any general or special law to the contrary, no pass purchased as part of a multi-ride pass for use on the commuter rail shall expire less than 1 calendar year from the date it is purchased. No pass purchased for a single ride shall expire fewer than 90 days from the date it is purchased."

The amendment was rejected.

Messrs. Timilty and Hedlund moved that the bill be amended by adding at the end thereof the following new section:-

"Section X. Section 9 of chapter 6C of the General Laws is hereby amended by adding the following subsection:-

(e) The director shall submit an annual report of the unit's activities in the preceding calendar year, including but not limited to findings referred to the inspector general for investigation, to the Joint Committee on Transportation and to the House and Senate Committees on Ways and Means no later than March 15 of each year."

After remarks the amendment was adopted.

Mr. Tarr moved that the bill be amended by inserting after section__, the following new section:-

"SECTION__. Section 6 shall not take effect until such time as the apportionment for the construction and reconstruction of town and county ways as described in clause (b) of section 4 of chapter 6C of the General Laws, commonly known as Chapter 90 program, for the 2012 calendar year is authorized by the General Court and approved by the Governor."

After remarks, the amendment was rejected.

Mr. Timilty moved that the bill be amended in line 144, after the words "chapter 6C.", by adding the following:- "The plan shall also consider the implementation of the Charlie Card system for use on the Massachusetts Bay Commuter Rail."

The amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new Section:-

"SECTION_. The Massachusetts Bay Transportation Authority shall conduct an investigation and study and issue a report on the issue of fare evasion and the failure to collect fares on authority services. The authority shall examine, report and make

recommendations on topics including, but not limited to: (1) the extent to which fares are not collected; (2) the steps that have been taken to ensure that fares are collected; (3) estimates of the amount of fare revenue that is lost due to inadequate fare collection; and (4) recommendations to ensure that revenue collection is maximized.
The report and recommendations shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means and with the joint committee on transportation. Said report shall be filed annually until December 31, 2016, with the first such report issued not later than December 31, 2012."
The amendment was rejected.
Mr. Tarr moved that the bill be amended by inserting after section 8 the following section:-
"SECTION 8A. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall submit a report to the house and senate committees on ways and means and the joint committee on transportation not later than August 31, 2012 on the impact of prohibiting fares higher than the fare charged for an advanced purchase single ride ticket for a rider who boards the commuter rail at a station where the opportunity to purchase a fare ticket before boarding is not available.".
After remarks, the amendment was adopted.
Mr. Rush moved that the bill be amended by inserting at the end thereof the following section:-
"Section XX. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall submit a report to the house and senate committees on ways and means and the joint committee on transportation not later than August 31, 2012, which shall include the number of vehicles used at the Massachusetts Bay Transportation Authority for administrative functions and the cost of maintenance, insurance, and fuel associated with such vehicles. The report shall also include the cost savings associated with the potential elimination of all administrative vehicles at the Authority."
The amendment was rejected.
Messrs. Tarr and Finegold moved that the bill be amended by inserting after section 2 the following section:-
"SECTION 2A. Section 10 of said chapter 161A, as so appearing, is hereby amended by inserting after the word 'chapter', in line 4, the following words:- ; provided, however, that notification of any formal communications attempting to secure federal assistance, together with the contents of said communications, shall be simultaneously transmitted to the house and senate committees on ways and means."
After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at six minutes past three o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 38 — nays 0) [Yeas and Nays No. 230]:
YEAS
Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. 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 Moore, Richard T.
DiDomenico, Sal N. Murray, Therese
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.
Hart, John A., Jr. Tarr, Bruce E.
Hedlund, Robert L. Timilty, James E
Jehlen, Patricia D. Welch, James T.
Joyce, Brian A. Wolf, Daniel A. — 38.
NAYS — 0.
ABSENT OR NOT VOTING
Berry, Frederick E. —1.

The yeas and nays having been completed at ten minutes past three o'clock P.M., the amendment was adopted.

Mr. Timilty moved that the bill be amended in line 144, after the words "chapter 6C.", by inserting the following:- "The plan shall also consider the implementation of a tiered pricing system based on zones for use on Massachusetts Bay Transit Authority subway system, including but not limited to increases at exit based on line transfer or length of travel on the subway system."
The amendment was rejected.
Mr. Tarr moved that the bill be amended by inserting after section__, the following new section:-
"Section _. Chapter 161A of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following section:-
Section 49. (a) The authority shall develop and operate, on its website, a searchable database accessible by the public at no cost

that includes:
a complete accounting of all capital assets under the control of the authority, including the investment needed to maintain said assets in a state of good repair and an estimate of which fiscal year the asset will be placed on the capital investment program;
operating expenses;
monthly ridership data aggregated by each mode of transit provided by the authority;
the fare recovery ratios for each mode of transit provided by the authority; provided however, that such ratios shall be further aggregated for each commuter rail line; and
the financial plans, proposed by the authority, for any proposed expansion projects, which shall include but not be limited to, the development, conceptual planning, design and construction of any effort to expand the scope of MBTA services.
(b) The searchable database shall allow users to search electronically by field in a single search, aggregate the data, download information yielded by a search and, where possible, contain graphical representations of the data and a hyperlink to the actual grants issued.
(c) The searchable database shall include and retain information for each fiscal year for not less than 10 fiscal years.
(d) The authority shall update the searchable database as new data becomes available; provided that all applicable data must be updated at the close of each fiscal year.”.
After debate, the question on adoption of 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 Mr. Tarr, as follows to wit (yeas 12 — nays 25) [Yeas and Nays No. 231]:
YEAS
Candaras, Gale D. Moore, Richard T.
Donoghue, Eileen M. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Hedlund, Robert L. Tarr, Bruce E.
Knapik, Michael R. Timilty, James E.
Moore, Michael O. Welch, James T.— 12.
NAYS
Brewer, Stephen M. Hart, John A., Jr.
Brownsberger, William N. Joyce, Brian A.
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. Pacheco, Marc R.
Donnelly, Kenneth J. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Fargo, Susan C. Rosenberg, Stanley C.
Eldridge, James B. Spilka, Karen E.
Flanagan, Jennifer L. Wolf, Daniel A. — 25.
Jehlen, Patricia D.
ABSENT OR NOT VOTING
Berry, Frederick E.—1.

The yeas and nays having been completed at twenty-nine minutes past three o'clock P.M., the amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting, after section__, the following new section:-
“SECTION__. The attorney general shall investigate and issue a report on federal laws or other legal commitments binding upon the Massachusetts Bay Transportation Authority resulting in proposed or contemplated service expansion. The report shall include an analysis of legally or contractually obligated service expansion, including but not limited to, the specific source of the obligation, the legal authority demanding fulfillment of the expansion, legal defenses that could reduce or eliminate the obligations, and the financial burdens of breaching the obligation. The report and recommendations shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means and with the joint committee on transportation not later than December 31, 2012.”
The amendment was rejected.
Mr. Tarr moved that the bill be amended by inserting, after section__, the following new section:-
“SECTION__. The Massachusetts Bay Transportation Authority shall issue a report on revenues collected through the use of sponsorship agreements. The report shall include, but not be limited to, an analysis of revenues collected, offers to sponsor which have been declined, and attempts to increase and promote sponsorship opportunities. The report and recommendations shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means and with the joint committee on transportation. Said report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means and with the joint committee on transportation not later than December 31, 2012.”.
The amendment was adopted.
Ms. Spilka moved that the bill be amended in the first paragraph of section 9, by adding the following sentence:- “The plan shall be developed after holding at least 6 public hearings in the various regions of the commonwealth.”; and in said section 9, in the

second paragraph, by striking out the fourth sentence and inserting in place thereof the following sentence: "The baseline assessment shall project capital spending for the maintenance of the existing system to achieve a state of good repair, the completion of all expansion projects the commonwealth is legally bound to complete and capital improvements and projects included in the fiscally-constrained long-range transportation plans mandated by federal law.".

The amendment was adopted.

Messrs. Rush and Ross moved that the bill be amended in section 8 by adding, in line 110, after the word "Rail", the following words:- "and the Needham Line"; and by striking in line 110 the word "service" and inserting in place thereof the following word:- "services"; and by striking in line 111 the word "service" and inserting in place thereof the following word:- "services".

The amendment was adopted.

Mr. Brownsberger and Ms. Clark moved that the bill be amended by adding the following section:

"SECTION XX. There shall be a study of the impact of the MBTA fare increases effective July 1, 2012 on seniors and persons with disabilities. The study shall include, but not be limited to, the impact of the fare increases on their finances, employment, and quality of life. The study shall also examine and propose possible ways of mitigating these impacts. The study shall be conducted jointly by the Executive Office of Elder Affairs and the Office of Disability. The MBTA shall cooperate and provide all information necessary to prepare the report. The report, together with any recommendations for legislative or administrative action, shall be submitted by January 1, 2013 to the joint committee on transportation, the Senate and House committees on Ways and Means and the MBTA."

The amendment was adopted.

Mr. Timilty moved that the bill be amended in line 81, by striking the figure "49,000,000" and inserting in place thereof the following figure:-"45,000,000"; and in line 86, by striking the figure "2,000,000" and inserting in place thereof the following figure:- "6,000,000".

The amendment was rejected.

Mr. Tarr moved that the bill be amended by striking Section 6 in its entirety and inserting in place thereof the following section:-

"SECTION 6. Notwithstanding any general or special law or rule or regulation to the contrary, the registrar of motor vehicles shall loan $51,000,000 from the Motor Vehicle Inspection Trust Fund to the Massachusetts Transportation Trust Fund; provided, that this loan shall be made under a schedule to be developed by the comptroller, after consulting with the secretary of transportation and the secretary of administration and finance. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of each fund and all transfers under the schedule shall be completed not later than June 30, 2013. Not later than 7 days after the schedules receive final approval by the comptroller, they shall be reported to the house and senate committees on ways and means. In fiscal year 2013 the secretary of transportation shall, upon certification by the comptroller that sufficient funds exist in the Massachusetts Transportation Trust Fund, transfer $49,000,000, in the aggregate, from the Massachusetts Transportation Trust Fund to the Massachusetts Bay Transportation Authority or any fund controlled by the authority; provided further, that $2,000,000, in the aggregate, shall be transferred from the Massachusetts Transportation Trust Fund to the regional transit authorities organized under chapter 161B of the General Laws; provided, however, that: (i) notwithstanding section 23 of said chapter 161B, the $2,000,000 shall be distributed to each regional transit authority as supplemental assistance pro rata based upon the percentage of funds received by each regional transit authority from the total amount of state contract assistance distributed to the regional transit authorities in fiscal year 2012; (ii) such funds shall only be used to reimburse the authorities for the prior fiscal year's "preventative maintenance expenses" of the vehicle fleet, as that term is defined within the federal national transit database definitions; and (iii) any regional transit authorities not required to file with the national transit database shall file with the Massachusetts Department of Transportation the same information required by the national transit database with respect to preventative maintenance expenses. The Authority shall repay the loan on a schedule proposed and approved by the secretary for administration and finance. Any such repayment schedule shall begin in fiscal year 2016. The Authority shall repay the entire balance of amounts loaned pursuant to this section no later than June 30, 2020. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed to the Authority shall result in an equally commensurate reduction in so called "contract assistance" payments established under Chapter 131 of the Acts of 2010, to the Authority in fiscal year 2021. The repayments shall be deposited in the commonwealth's General Fund. Any amounts loaned to the Authority from funds made available in this section shall be repaid to the commonwealth regardless of any actions taken by any trustees appointed on behalf of the Authority pursuant to chapter 9 of Title 11 of the United States Code."

After remarks, the amendment was rejected.

Ms. Creem moved that the bill be amended be amended by adding the following section:-

"Section XX. Section 7A of chapter 161A of the General Laws is hereby amended by adding the following paragraph:- The advisory board may apply for, accept and receive grants from any private foundation or corporation or any governmental body or agency."

The amendment was adopted.

Mr. Finegold moves to amend the bill by inserting, in line 75, after the word "finance" the following:-"; provided, however, that such funds may not be transferred until the Massachusetts Bay Transportation Authority revises the schedule of the Haverhill/Reading commuter rail line to extend service for all trains currently terminating in Reading to Haverhill at the completion of the double tracking project funded by the American Recovery and Reinvestment Act of 2009."

The amendment was rejected.

Ms. Chang-Díaz, Ms. Jehlen and Mr. Eldridge moved that the bill be amended by adding at the end thereof the following section:-

"Section XX. Notwithstanding any general or special law to the contrary, neither the Massachusetts Bay Transportation Authority nor the regional Transit Authorities organized under 161B of the General Laws shall increase fares for paratransit services or fares for seniors, persons with disabilities, or elementary, junior high or high school students; provided however, such fares may be increased simultaneously with fares for other passengers on the Authority's bus, subway, commuter rail, parking, or ferry services but only in an amount no greater than the average percentage increase in all fares. For convenience of collection, such increase may be rounded to the nearest nickel. This prohibition shall be in effect until such time as the legislature reforms the transit funding structure."

After debate, the amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting at the end thereof the following section:-

"SECTION _. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall submit a report to the house and senate committees on ways and means and the joint committee on transportation not later than August 31, 2012 on the impact of extending the date for which multi-ride passes expire on the commuter rail, specifically addressing the feasibility of preventing multi-ride passes from expiring within 90 days from the date of purchase and the impact of such a change on fare evasion.".

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty minutes before five o'clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 37 — nays 0) [Yeas and Nays No. 232]:

YEAS

Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. 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 Moore, Richard T.
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E
Hedlund, Robert L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 37.
Joyce, Brian A.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. —1.

The yeas and nays having been completed at seventeen minutes before five o'clock P.M., the amendment was adopted.

Recess.

There being no objection, at sixteen minutes before five o'clock P.M., at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at seventeen minutes before six o'clock P.M., the Senate reassembled, the President in the Chair.

At sixteen minutes before six o'clock P.M., Mr. Tarr doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

Orders of the Day.

The Orders of the Day were further considered as follows:

The House Bill relative to an accelerated transportation development and improvement program for the Commonwealth (House, No. 4174),-- was read a second time.

Ms. Candaras and Messrs. Welch, Tarr, Timilty and Ross move to amend the bill (Senate, No. 2308) by striking out SECTION 6 and inserting in its place thereof the new section:-

SECTION 6. Notwithstanding any general or special law or rule or regulation to the contrary, the registrar of motor vehicles shall transfer $2,000,000 from the Motor Vehicle Inspection Trust Fund to the Massachusetts Transportation Trust Fund; provided, that this transfer shall be made under a transfer schedule to be developed by the comptroller, after consulting with the secretary of transportation and the secretary of administration and finance. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of each fund and all transfers under the schedule shall be completed not later than June 30, 2013. Not later than 7 days after the schedules receive final approval by the comptroller, they shall be reported to the house and senate committees on ways and means. In fiscal year 2013 the secretary of transportation shall, upon certification by the comptroller that sufficient funds exist in the Massachusetts Transportation Trust Fund, transfer $2,000,000, in the aggregate, from the Massachusetts Transportation Trust Fund to the regional transit authorities organized under chapter 161B of the General Laws; provided, however, that: (i) notwithstanding section 23 of said chapter 161B, the $2,000,000 shall be distributed to each regional transit authority as supplemental assistance pro rata based upon the percentage of funds received by each regional transit authority from the total amount of state contract assistance distributed to the regional transit authorities in fiscal year 2012; (ii) such funds shall only be used to reimburse the authorities for the prior fiscal year's "preventative maintenance expenses" of the vehicle fleet, as that term is defined within the federal national transit database definitions; and (iii) any regional transit authorities not required to file with the national transit database shall file with the Massachusetts Department of Transportation the same information required by the national transit database with respect to preventative maintenance expenses.; and by inserting the following sections:-

SECTION X. Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the MBTA Fiscal Recovery Trust Fund, in this act called the fund, the sole purpose of which shall be to provide interest free loans to the MBTA. Effective June 30, 2012, the comptroller shall transfer to the fund $51,000,000 from the General Fund to the fund. The fund shall be established as a separate trust fund, subject to the control of the secretary for administration and finance, who shall serve as the trustee and who may approve without further appropriation interest-free loans from the fund to the MBTA. The loan shall be disbursed to the MBTA from time to time in such amounts and upon terms and conditions determined by the finance control board and approved by the secretary for administration and finance. These terms and conditions may provide that payment of money on account of tax receivables be paid over to the commonwealth to reduce any loan balance. The MBTA shall repay the loan on a schedule proposed by the finance control board and approved by the secretary for administration and finance. Any such repayment schedule proposed by the finance control board and approved by the secretary for administration and finance shall begin in fiscal year 2016. The MBTA shall repay the entire balance of amounts loaned pursuant to this section no later than June 30, 2020. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed from the fund to the MBTA shall result in an equally commensurate reduction in so called "contract assistance" payments established under Chapter 131 of the Acts of 2010, to the MBTA in fiscal year 2021. The repayments shall be deposited in the commonwealth's General Fund. Loan amounts from the fund may be expended for the 3-year operating expenses of the MBTA finance control board established in section 2, subject to the approval of the secretary for administration and finance. The secretary shall report quarterly to the house and senate committees on ways and means on expenditures made from the fund, including the amounts and purposes of expenditures for personnel costs, contracted personnel costs or consultant fees. Any amounts loaned to the MBTA from funds made available in this section shall be repaid to the commonwealth regardless of any actions taken by any trustees appointed on behalf of the MBTA pursuant to chapter 9 of Title 11 of the United States Code. The secretary shall report quarterly to the house and senate committees on ways and means on the amounts and purposes of expenditures made from the fund. The fund shall expire on June 30, 2021.

SECTION X. If the comptroller or the secretary for administration and finance determine that there are not sufficient funds in the General Fund to make the transfer pursuant to the previous section, the registrar of motor vehicles shall transfer $49,000,000 from the Motor Vehicle Inspection Trust Fund to the General Fund; provided, that this transfer shall be made under a transfer schedule to be developed by the comptroller, after consulting with the secretary of administration and finance.

SECTION X. (a) There shall be a MBTA a finance control board, in this act called the board, which shall consist of 5 members: 3 designees of the secretary of administration and finance all of who reside outside the MBTA service area, the Chair of the MBTA Board of Directors, and the Secretary of Transportation. The board shall act by a majority vote of all its members. The secretary for administration and finance, in this act called the secretary, may fix stipends to be paid to members of the board other than the Chair of the MBTA Board of Directors and Secretary of Transportation, which stipends shall be paid from directly from the trust established in section 1. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the MBTA, and shall continue in existence until June 30, 2015, and thereafter for such period as the members may vote to continue its existence, provided however that the secretary of administration and finance may at any time abolish the board. The board shall be a state agency for the purpose of chapter 268A of the General Laws.

(b) Action by the board under the authority of this act shall in all respects constitute action by the MBTA for all purposes under the General Laws and under any special law.

(c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer, or other spending authority shall take effect until approved by the board. The board shall approve all appropriations, borrowing authorizations, transfers, or any other spending authorizations, in whole or part.

(d) In addition to the authority and powers conferred elsewhere in this act, and notwithstanding any MBTA provision, or local ordinance to the contrary, the board shall have the following powers:

(1) to amend the annual or supplemental budgets of the MBTA including the establishment, increase or decrease of any appropriations and spending authority for all aspects of the MBTA;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to amend, formulate and execute capital budgets, including to amend any borrowing authorization, or finance or refinance any debt in accordance with law;

(4) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(5) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the MBTA;

(6) to review and approve or disapprove all proposed contracts for goods or services;

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other activity, otherwise within the authority of the MBTA;

(8) notwithstanding any MBTA ordinance to the contrary, to appoint, remove, supervise and control all MBTA employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions

of employment held by other employees or officers of the MBTA, whether or not elected; the board shall have the authority to exercise all powers otherwise available to the MBTA Board of Directors regarding contractual obligations during a fiscal emergency; and no MBTA employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary;
(9) to alter the compensation of officials of the MBTA to reflect the fiscal emergency and changes in the responsibilities of the officials as provided by this act;
(10) to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out its responsibilities, with the approval of the secretary. The board, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of its own staff. The compensation of personnel hired pursuant to this subsection shall be determined and fixed by the board and paid directly from the trust established in section 1. Staff hired under this subsection shall be deemed employees of the commonwealth, except such employees as the board formally designates independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such employees.
(11) to reorganize, consolidate or abolish departments, commissions, boards, offices or functions of the MBTA, in whole or in part, and to establish such new departments, commissions, boards, offices or functions as it deems necessary, and to transfer the duties, powers, functions and appropriations of a department, commission, board or other unit to another;
(12) to appoint in consultation with the secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to the board;
(13) to sell, lease, or otherwise transfer real property and other assets of the MBTA with the approval of the secretary;
(14) to purchase, lease, or otherwise acquire property or other assets on behalf of the MBTA with the approval of the secretary;
(15) to promulgate rules and regulations governing the operation and administration of the MBTA;
(16) to alter or rescind any action or decision of any, employee, board or commission within 14 days after receipt of notice of such action or decision;
(17) to suspend in consultation with the secretary such rules and regulations of the MBTA and to promulgate rules and regulations necessary to carry out this act; and
(18) to exercise all powers under the General Laws and this or any other special act, any provision or ordinance that any official of the MBTA may exercise, acting separately or jointly. With respect to any such exercise of powers by the board, the officials of the MBTA shall not rescind or take any action contrary to such action by the board so long as the board continues to exist; and
(19) to develop a long range plan for MBTA financial and structural sustainability, included but not limited to an analysis of debt and contemplated expansion, specifically identifying expansion which is strictly necessary as a result of a legally binding agreements and other proposals that may not be financially viable.
SECTION X. Within 30 days after the appointment of the board, but no later than September 1, 2012, the board shall make a preliminary report to the secretary of administration and finance and to the chairpersons of the house and senate committees on ways and means. The report shall present a preliminary analysis of the fiscal crisis of the MBTA and the board's preliminary finance and management plans to address the MBTA's operating and structural deficits.
SECTION X. Within 30 days after the appointment of the board, but no later than September 1, 2012, the board shall establish a liaison to the Office of the Attorney General. Such liaison shall be responsible for, but not limited to, providing the Attorney General with any concern that, in the opinion of the board, warrants further investigation.
SECTION X. (a) If the board established by section 2 concludes that its powers are insufficient to restore fiscal stability to the MBTA, it shall so notify the secretary for administration and finance, and shall forward to him a statement of the reasons why it has been unable to restore fiscal stability to the MBTA. Upon receipt of such statement, the secretary for administration and finance may terminate the existence of the board, notwithstanding section 2, and may appoint a receiver for the MBTA for a period as he may determine. The secretary may at any time and without cause remove the receiver and appoint a successor, or terminate the receivership. The secretary shall determine the salary of the receiver, which salary shall be payable by the MBTA.
(b) The receiver shall have the following powers:-
(1) all powers of the finance control board under section 2. Such powers shall continue in the receiver and shall remain through the period of any receivership;
(2) the power to exercise any function or power of any officer or employee, whether elected or otherwise, specifically including the following powers:
(A) to order the reduction of service within the MBTA;
(B) to regulate the construction of buildings;
(3) the power to file a petition in the name of the MBTA under Chapter 9 of Title 11 of the United States Code, and to act on the MBTA's behalf in any such proceeding.
(c) Upon the appointment of a receiver, the Board of Directors shall be abolished, and the receiver shall exercise all the powers of the Board of Directors under the General Laws, special laws, the MBTA charter and ordinances.
SECTION X. (a) The board shall submit reports to the house and senate committees on ways and means not later than October 1, January 1, April 1, and July 1 of each year, which shall provide a detailed accounting of all loan funds expended pursuant to section 2. The accounting shall itemize by recipient the amount of any stipends paid pursuant to section 4.
(b) The board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any no-bid contract to any private person or entity. This report shall disclose: (1) the terms of the anticipated contract, including but not limited to all monetary compensation; (2) the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract; (3) a specific finding by the board that not using a competitive bidding

process under the circumstances is necessary to ensure the provision of essential services to the MBTA; and (4) a certification by the board that it engaged in arms-length negotiations with the contractor and that the terms of the contract represent the best possible arrangement for the MBTA under the circumstances.
(c) The finance control board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any contract if, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance served as an employee, member or general or limited partner of the contractor, its owners or affiliates. The report shall also disclose whether, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance was required to file a statement pursuant to the Securities Exchange Act of 1934 as beneficial owner of more than 10 per cent of a class of the contractor's equity securities. This report shall disclose the terms of the anticipated contract, including but not limited to all monetary compensation, and the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract.
SECTION X. This act shall be effective notwithstanding any enabling statute provision or ordinance to the contrary.
After debate, the amendment was rejected.
Mr. Brewer moved that the bill be amended in section 9, by striking out, in line 158, the words “December 31, 2012” and inserting place thereof the following words:- “January 23, 2013”.
The amendment was adopted.
The Ways and Means amendment was then adopted, as amended.
The bill, as amended was then ordered to a third reading and read a third time.
After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at a half past six o’clock P.M., on motion of Mr. Tarr, as follows to wit (yeas 26 — nays 9) [Yeas and Nays No. 233]:
YEAS
Brewer, Stephen M. Hart, John A., Jr.
Brownsberger, William N. Hedlund, Robert L.
Chandler, Harriette L. Jehlen, Patricia D.
Chang-Diaz, Sonia Joyce, Brian A.
Clark, Katherine M. Keenan, John F.
Creem, Cynthia Stone Kennedy, Thomas P.
DiDomenico, Sal N. McGee, Thomas M.
Donnelly, Kenneth J. Montigny, Mark C.
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Wolf, Daniel A. — 26.
NAYS
Candaras, Gale D. Ross, Richard J.
Finegold, Barry R. Tarr, Bruce E.
Knapik, Michael R. Timilty, James E
Moore, Michael O. Welch, James T. — 9.
Moore, Richard T.
PAIRED.
YEAS. NAYS.
Pacheco, Marc R. Rodrigues, Michael J. (present) — 2.
ABSENT OR NOT VOTING
Berry, Frederick E. — 1.

The yeas and nays having been completed at twenty-seven minutes before seven o’clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment [For text of Senate amendment, see Senate, No. 2317].
Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow 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 twenty-six minutes before seven o’clock P.M., the Senate adjourned to meet again tomorrow at eleven o’clock AM.