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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, February 12, 2013.

Met at according to adjournment at two o'clock P.M. (Mr. Richard T. Moore in the Chair).

Qualification of a Senator.

The Honorable Thomas M. McGee did, at eleven minutes past twelve o'clock noon, on Tuesday, February 12, 2013, take and subscribe the oath of office as State Senator from the Third Essex District before the Governor and the Executive Council.

Communication.

A communication from the Honorable Gale D. Candaras, in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Tuesday, February 12, 2013 at twenty-five minutes before seven o'clock P.M.),-- **was placed on file.**

There being no objection, at one minute past two o'clock P.M., the Chair (Mr. Richard T. Moore) declared a recess subject to the call of the Chair; and, at a twenty-one minutes before three 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.

Motion to Reconsider.

On motion of Mr. Rosenberg, the Senate reconsidered the vote, by which, at the previous session, it had accepted the report of the special committee of the Senate on the arrangement of seats in the Senate; and, there being no objection, the motion prevailed.

The recurring question on accepting the report of the special committee was considered; and the report was again accepted.

The seating arrangement of the Senate is as follows, to wit:

Honorable Therese Murray, *President of the Senate.*

On the President's Left.

1. Hon. Stanley C. Rosenberg
2. Hon. Harriette L. Chandler

On the President's Right.

1. Hon. Richard T. Moore
2. Hon. Cynthia Stone Creem

3. Hon. Karen E. Spilka	3. Hon. Richard J. Ross
4. Hon. Stephen M. Brewer	4. Hon. Michael R. Knapik
5. Hon. Jennifer L. Flanagan	5. Hon. Bruce E. Tarr
6. Hon. Mark C. Montigny	6. Hon. Robert L. Hedlund
7. Hon. Sal N. DiDomenico	7. Hon. John F. Keenan
8. Hon. Brian A. Joyce	8. Hon. Michael O. Moore
9. Hon. Michael J. Barrett	9. Hon. Patricia D. Jehlen
10. Vacant	10. Hon. Kenneth J. Donnelly
11. Hon. James B. Eldridge	11. Hon. Eileen M. Donoghue
12. Hon. Katherine M. Clark	12. Hon. Kathleen O'Connor Ives
13. Hon. Anthony W. Petrucci	13. Hon. Barry R. Finegold
14. Hon. Benjamin B. Downing	14. Hon. Gale D. Candaras
15. Hon. James T. Welch	15. Hon. Michael J. Rodrigues
16. Hon. Thomas M. McGee	16. Hon. Sonia Chang-Diaz
17. Hon. Daniel A. Wolf	17. Hon. Joan B. Lovely
18. Hon. James E. Timilty	18. Hon. Marc R. Pacheco
19. Hon. Michael F. Rush	19. Hon. William N. Brownsberger
20. Hon. Thomas P. Kennedy	20. Vacant

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill making appropriations for the fiscal year 2013 to provide for supplementing certain existing appropriations and for certain other activities and projects,-- was read a second time.

Pending the question on ordering the bill to third reading, Mr. Downing moved that the bill be amended by inserting after item 0321-1520, the following item:

“0340-1102.. For costs associated with the expansion of the Berkshire district attorney’s office and relocation of the state police detective unit..... \$53,813”.

The amendment was *rejected*.

Messrs. Hedlund, Tarr, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“Section XX. Notwithstanding any special or general law to the contrary, responsibility for all fraud prevention and detection efforts performed by the department of transitional assistance shall be forthwith transferred to the office of the inspector general, including but not limited to, the fraud hotline, program integrity unit, investigation of program violations, hearings for program violations, and Fraud and/or Overpayment Referral Screening. The budget of the department shall be decreased by the amount currently appropriated to fund all fraud prevention and detection efforts; provided that the budget of the office of the inspector general shall be increased by said amount. This section shall take effect within 60 days of passage.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at nineteen minutes past three o'clock P.M., on motion of Mr. Tarr, as follows to wit (*yeas 5 — nays 32*) **[Yeas and Nays No. 11]:**

YEAS

Hedlund, Robert L. Ross, Richard J.
Knapik, Michael R. Tarr, Bruce E.— **5**.
O'Connor Ives,
Kathleen

NAYS

Barrett, Michael J. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Brownsberger, William N. Lovely, Joan B.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone Pacheco, Marc R.
DiDomenico, Sal N. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Timilty, James E.
Jehlen, Patricia D. Welch, James T.
Joyce, Brian A Wolf, Daniel A. — **32**.

ABSENT OR NOT VOTING

Donnelly, Kenneth
J.— **1**.

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

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

“SECTION XX. Chapter 94C of the General Laws, as so appearing, is hereby amended by adding after section 32E the following section:-

Section 32E½. (a) As used in this section, the following term shall have the following meaning:

‘Drug trafficker’ means a person who has been convicted of a violation of Chapter 94C section 32 subsection (a), or Chapter 94C section 32E subsection (b), or Chapter 94C section 32E subsection (c).

(b) There shall be, in the Massachusetts bureau of investigation, a drug trafficking registry for the purpose of identifying drug traffickers and making that information available to law enforcement and the general public. Said registry shall be supervised and maintained by said bureau in conjunction with the department of public health. For every person convicted of Chapter 94C section 32 subsection (a), or Chapter 94C section 32E subsection (b), or Chapter 94C section 32E subsection (c) on or after the

effective date of this Act, the drug trafficking registry shall contain information relating to each drug trafficker. The information shall include the drug trafficker's name, date of birth, photograph, offense or offenses requiring inclusion in the drug trafficking registry, the conviction date and county of each such offense, and such other identifying information as the Massachusetts bureau of investigation and department of public health deem necessary to identify the drug trafficker, but shall not include the social security number of the drug trafficker.

(c) The Massachusetts bureau of investigation shall make the information contained in the statewide drug trafficking registry accessible on the Internet by means of a hyperlink labeled "Drug Trafficking Registry" on the department of public safety's World Wide Web home page. The Massachusetts bureau of investigation shall update that information as it deems necessary.

(d) The Massachusetts bureau of investigation shall promulgate rules and regulations setting forth the procedures and methods for implementing this section and those rules and regulations must include procedures to ensure that the information in the registry is accurate, and that the information in the registry reflects any changes based on the reversal of a conviction for an offense requiring inclusion in the drug trafficking registry, or a court order requiring the sealing or expungement of records relating to the offense. A certified copy of such an order shall be deemed prima facie true and correct and, shall be sufficient to require the immediate amendment or removal of any person's information from the drug trafficking registry by the Massachusetts bureau of investigation.

(e) Within 60 days after the effective date of this Act, the court clerks shall forward monthly to the Massachusetts bureau of investigation a copy of the judgment for each and all persons convicted of an offense within the definition of drug trafficker, as defined in subsection (a) during the previous month.

(f) Within 120 days after the effective date of this Act, the department of corrections shall forward to the Massachusetts bureau of investigation a list of all persons incarcerated or on mandatory supervised release, who have been convicted of an offense within the definition of drug trafficker, as defined in subsection (a).

(g) Police officials and other public employees acting in good faith shall not be liable in a civil or criminal proceeding for any publication on the Internet under subsection (c) or other dissemination of drug trafficking registry information.

(h) The Massachusetts bureau of investigation shall remove from the registry the name and other identifying information of persons who are convicted of a violation of the offenses described in subsection (b) seven (7) years after the date of the most recent judgment."

After remarks, the amendment was *rejected*.

Mr. Ross moved that the bill be amended by inserting after section 8 the following new section:-

"SECTION 8A. Section 2 of chapter 111M of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 33, after the word 'penalty;' the following words:- provided, however, if during the course of a taxable year a taxpayer becomes unemployed and, as a result, loses health care coverage for the duration of that unemployed period, and that unemployed period is longer than 63 days, the taxpayer shall be exempt from the penalty for the duration of that unemployed period."

After remarks, the amendment was *rejected*.

Mr. Knapik moved that the bill be amended by inserting after section 32 the following new section:-

"SECTION 33. Notwithstanding any general or special law to the contrary, the Commonwealth shall provide a one-time state supplement of \$20,000,000 for the federal Low Income Home Energy Assistance Program described in line item 7004-1000, for the purposes of assisting low-income elders, working families and other households with the purchase of heating oil, propane, and natural gas and electricity and other primary or secondary heating sources; provided, that the expenditure of the supplemental funds shall only be used to provided additional assistance to households that have exceeded the maximum benefit pursuant to the state plan submitted by the department of housing and community development in accordance with the federal program."

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION __. Within 60 days of the passage of this act, the undersecretary of public safety for forensic sciences shall file a report with the clerks of the senate and house of representatives and the chairs and ranking minority members of the joint committee on public safety and homeland security certifying that all commonwealth facilities engaged in forensic services in criminal investigations are actively accredited with the American Society of Crime Laboratory Directors/Laboratory Accreditation Board and compliant with standards promulgated by the International Organization for Standardization (ISO). Said report shall be posted on the official website of the General Court. In conjunction with the filing of said report, the undersecretary of public safety for forensic sciences shall establish a system for receiving anonymous complaints of employee or facility misfeasance or deviation from accreditation standards at any of the commonwealth facilities engaged in forensic services for criminal investigations and shall promptly refer any suspected or potential criminal wrongdoing to the attorney general for prosecution."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-one minutes before four o'clock P.M., on motion of Mr. Tarr, as follows to wit (*yeas 4 — nays 33*) [**Yeas and Nays No. 12**]:

YEAS

Hedlund, Robert L. Ross, Richard J.

Knapik, Michael R. Tarr, Bruce E. — **4.**

NAYS

Barrett, Michael J.	Kennedy, Thomas P.
Brewer, Stephen M.	Lovely, Joan B.
Brownsberger, William N.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 33.
Keenan, John F.	

ABSENT OR NOT VOTING

Donnelly, Kenneth J.
— **1.**

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

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new Section:-

“SECTION __. The department of housing and community development shall conduct an examination of the ‘HomeBASE’ program, so-called, to determine its efficacy in reducing dependence on shelter housing and homelessness, its achievement of cost-savings and efficiencies, its sustainability within current budgetary parameters, and any additional resources required in order for the program to meet its goals and remain viable for the next five fiscal years. The results of said examination, together with any legislative recommendations, shall be filed with the clerks of the house and the senate not later than 90 days after the effective date of this act.”

After remarks, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by striking sections 18, 19, and 23 in its entirety. The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting at the end thereof the following new section:-

“SECTION __. Notwithstanding any special or general law to the contrary, the department of transitional assistance shall require any applicant applying for tax payer supported benefits with a temporary Social Security number assigned by the department of transitional assistance to provide said department a valid Social Security number or written verification of application for a Social Security number from the Social Security Administration (SSA) within 30 days of the applicant receiving said benefits. If applicant fails to provide a valid Social Security number or written verification from the Social Security Administration within 30 days of receiving said benefits, the benefits to the recipient shall be suspended.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at a quarter past four o'clock P.M., on motion of Mr. Tarr, as follows to wit (*yeas 6 — nays 31*) [**Yeas and Nays No. 13**]:

YEAS

Hedlund, Robert L. Ross, Richard J.
Knapik, Michael R. Tarr, Bruce E.
O'Connor Ives, Timilty, James E. — **6.**
Kathleen

NAYS

Barrett, Michael J. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Brownsberger, Lovely, Joan B.
William N.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone Pacheco, Marc R.
DiDomenico, Sal N. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin Rosenberg, Stanley C.
B.
Eldridge, James B. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — **31.**
Joyce, Brian A.

ABSENT OR NOT VOTING

Donnelly, Kenneth J.
— **1.**

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

Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by inserting at the end thereof the following new Sections:
“SECTION __. Section 6 of chapter 62 of the General Laws, as most recently amended by section 65 of chapter 68 of the Acts of 2011, is hereby amended by striking out, in line 273, the figure ‘2013’ and inserting in place thereof the following figure:- 2015.
SECTION __. Said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 278, the figure ‘2014’ and inserting in place thereof the following figure:- 2016.
SECTION __. Section 6J of said chapter 62, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 39, the figure ‘\$50,000,000’ and inserting in place thereof the following figure:- \$60,000,000.
SECTION __. Section 2 of chapter 63 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the figure ‘456’, in line 27, the following words:- ; and provided further that qualifying corporations under section 38DD shall receive a credit of \$456 against the excise imposed under this section.
SECTION __. Section 2B of said chapter 63, as so appearing, is hereby amended by inserting after the figure ‘456’, in line 40, the following words:- ; provided, however, that qualifying corporations under section 38DD shall receive a credit of \$456 against the excise imposed under this section.
SECTION __. Section 38Q of said chapter 63, as so appearing, is hereby amended by striking out, in line 3, the figure ‘2013’ and inserting in place thereof the following figure:- 2015.
SECTION __. Said section 38Q of said chapter 63, as so appearing, is hereby further amended by striking out, in line 8, the figure ‘2014’ and inserting in place thereof the following figure:- 2016.
SECTION __. Section 38R of said chapter 63, as so appearing, is hereby amended by striking out, in line 37, the figure ‘\$50,000,000’ and inserting in place thereof the following figure:- \$60,000,000.
SECTION __. Said chapter 63 is hereby further amended by inserting after Section 38CC the following section:-
Section 38DD. (a) A corporation formed under chapter 156D and taxable under this chapter shall receive a nontransferrable

credit against an excise tax imposed under subsection (b) of section 2, subsection (b) of section 2B or subsection (b) of section 39.

(b) A corporation shall only be eligible for a credit under subsection (a) for the first 3 years in which it is required to file a return under this chapter; provided, however, that such credit shall not be allowed to any corporation with 50 per cent or more of its voting stock owned by another corporation, whether or not such owning corporation is taxable in the commonwealth.

SECTION __. Section 39 of said chapter 63, as appearing in the 2010 Official Edition, is hereby amended by inserting after the figure ‘\$456’, in line 49, the following words:- ; provided, however, that qualifying corporations under section 38DD shall receive a credit of \$456 against the excise imposed under this section.

SECTION __. The credit allowed in the preceding two sections shall apply to companies that first begin to pay the excise due under sections 2, 2B and 39 of said chapter 63 in tax year 2014 or any year thereafter.

SECTION __. Subsection (c) of section 3 of chapter 63B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the first and second sentences and inserting in place thereof the following 3 sentences:— For purposes of this chapter, there shall be 4 required installments for each taxable year, except as otherwise provided by this chapter. The first installment shall be paid on or before the fifteenth day of the third month of the taxable year; the second installment shall be paid on or before the fifteenth day of the sixth month of the taxable year; the third installment shall be paid on or before the fifteenth day of the ninth month of the taxable year; and the fourth installment shall be paid on or before the fifteenth day of twelfth month of the taxable year. The amount of any installment shall be 25 per cent of the required annual payment.

SECTION __. Section 4A of said chapter 63B, as so appearing, is hereby amended by striking out, in line 4, the word ‘sixty-five percent’ and inserting in place thereof the following words:- 50 per cent.

SECTION __. Said section 4A of said chapter 63B, as so appearing, is hereby further amended by striking out, in line 9, the word ‘ten percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. Said section 4A of said chapter 63B, as so appearing, is hereby further amended by striking out, in line 14, the word ‘ninety percent’ and inserting in place thereof the following words: - 25 per cent.

SECTION __. Said section 4A of said chapter 63B, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the word ‘ten percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. Section 4B of said chapter 63B, as so appearing, is hereby amended by striking out, in lines 7 and 8, the word ‘thirty percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. Said section 4B of said chapter 63B, as so appearing, is hereby further amended by striking out, in line 10, the word ‘twenty-five percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. Said section 4B of said chapter 63B , as so appearing, is hereby further amended by striking out, in line 13, the word ‘twenty-five percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. Said section 4B of said chapter 63B, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the word ‘twenty percent’ and inserting in place thereof the following words:- 25 per cent.

SECTION __. The preceding nine sections shall take effect beginning January 1, 2014.”

Mr. Brewer rose to a point of order which, being stated, was that the amendment was unconstitutional because it appeared to make several changes to tax provisions and if this is so it would be considered a “money bill” which must originate in the House and thus this amendment would be unconstitutional.

The President ruled that the point of order was well taken.

After consultation with Senate Counsel the Chair has been advised that a supplemental budget engrossed by the House is an appropriation bill, not a “money bill.

A “money bill” is one that affects state revenue by either raising or lowering state tax levels or increasing or decreasing the amount of money in the General Fund through state taxes and tax credits.

Article 7 of the Constitution states that all “money bills” must originate in the House of Representatives.

Appropriation bills are not automatically “money bills”, so the Senate can and does initiate spending bills from time to time, but the Senate cannot initiate bills that increase or decrease general tax revenues.

The parliamentary precedents of the Senate require the President to observe, with meticulous care, the Constitutional prerogatives of the House of Representatives. The President must see that the Senate does not originate a “money bill” in violation of the Constitution.

After discussions, it has been determined that the supplemental budget engrossed by the House does not contain any provisions that raise or lower general state taxes.

Therefore, it would be unconstitutional for the Senate to entertain any amendments that seek to raise or lower state taxes or increase or decrease the amount of money in the General Fund through state taxes and tax credits.

As a result, the amendment must be laid aside because, if adopted, it would unconstitutionally transform the supplemental budget into a “money bill”.

The amendment was laid aside.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Notwithstanding any general or special law to the contrary, all eligible communities shall be reimbursed for regional school transportation costs in fiscal year 2013 in an amount that ensures full compliance with the provisions of section 15 of chapter 12 of the acts of 2010.”

The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 1, by inserting after line item 7004-0108 the following new line item:-

“7035-0006..... \$1,000,000”; and in section 2A, in line item 1599-2007, by striking the figure “\$2,949,889”, in line 92, and inserting in place thereof the following figure:- \$1,949,889.

The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 27, by inserting after the words “Community College”, in line 403, the following words:- “; provided, however, that for any executive branch agency which, in fiscal year 2013, had its spending reduced by 1 per cent under authority of chapter 29, section 9C of the General Laws, or any office or department that does not report to the governor which has reduced its spending by 1 per cent, or any department or agency listed in clause (1) through (12) above, the total amount appropriated for fiscal year 2013 shall be reduced by an additional 1 per cent.”; by striking section 16 in its entirety; in section 1, by inserting after line item 7004-0108 the following new line items:-

“7035-0006..... \$1,000,000”; and

In said section 1 by inserting after 7004-0108 the following item:-

“7061-0012..... \$11,500,000”.

The amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking section 17 in its entirety.

After debate, the amendment was *rejected*.

Messrs Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following:-

“SECTION XX. There shall be a special commission to conduct an investigation and study of the unemployment insurance system maintained by the department of unemployment assistance under the executive office of labor and workforce development. The commission shall consist of 11 members: 2 members who shall be appointed by the state auditor, both of whom shall have experience with the adjudication of unemployment disputes, and 1 of whom shall serve as chair; 2 members of the senate, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; 2 members of the house of representatives, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader of the house; the director of the department of unemployment assistance, or a designee; the president of the Massachusetts taxpayer’s foundation, or a designee; the executive vice-president of the AFL-CIO, or a designee; the executive vice-president of associated industries of Massachusetts, or a designee; and the executive director of the Massachusetts municipal association, or a designee.

The study shall analyze structural reforms available to ensure the long-term financial stability of the unemployment insurance system that would improve the economic climate for employers funding the system and employees legitimately in need of utilizing the system. Said report shall include recommendations on limiting the duration of benefits, increasing work and wage requirements for benefit eligibility, and updates to the experience table that would create greater equity in employer payments. The commission may request from all state agencies such information and assistance as the commission may require. The commission shall report the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives and filing an electronic copy of the report with the house and senate committees on ways and means and the office of commonwealth performance, accountability and transparency. Said office of commonwealth performance, accountability and transparency shall monitor the progress of said report and make it conspicuously available and accessible online in searchable format on the office of commonwealth performance, accountability and transparency website.

The commission shall file its report on or before July 31, 2013.”

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 2A by striking line item 1599-2007 in its entirety.

After remarks, the amendment was *rejected*.

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

“SECTION _ . Section 16 of chapter 194 of the acts of 2011 is amended by striking out subsection 59 and inserting in place thereof the following subsection:-

Section 59. There shall be established and set up on the books of the commonwealth a Gaming Revenue Fund which shall receive revenues collected from the tax on gross gaming revenue received from gaming licensees. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:

(1) 100 per cent of the revenue received from a category 2 licensee shall be transferred to the General Fund of the commonwealth; and

(2) 100 per cent of the revenue received from a category 1 licensee shall be transferred as follows:

(a) 1.5 per cent of revenues shall be dedicated to support not-for-profit and municipally-owned performing arts centers impacted as a result of the operation of gaming facilities; provided, however, that funds dedicated to such performing arts centers shall be to subsidize fees paid to touring shows or artists; and provided further, that funding shall be appropriated through a competitive grant process to be developed and administered by the Massachusetts cultural council;

(b) 6.5 per cent to the Community Mitigation Fund established in section 61;

(d) 5 per cent to the Public Health Trust Fund established in section 58; and

(e) 87 per cent to the General Fund of the commonwealth.”; and

further by striking section 93 of said chapter 194 of the acts of 2011 and inserting in place thereof the following:-

“Section 93. (a) There shall be established and set up on the books of the commonwealth a Gaming Licensing Fund which shall receive all category 1 or category 2 licensing fees collected from applicants in receipt of a category 1 or category 2 license under chapter 23K of the General Laws. The fund shall expire on December 31, 2015. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:-

(1) 10 per cent to the Community Mitigation Fund established in section 61 of chapter 23K of the General Laws; and

(2) 90 per cent to the General Fund of the commonwealth.

(b) Upon receipt by the Massachusetts gaming commission of license fees from licensees, interim transfers and payments shall be made on a pro rata basis from the Gaming Licensing Fund as provided in clauses (1) and (2) of subsection (a); provided, however, that no transfer or payment under said clauses (1) and (2) of said subsection (a) shall occur until the fund reimburses \$20,000,000 to the Commonwealth Stabilization Fund as required by subsection (c) of section 94.”.

Mr. Brewer rose to a point of order which, being stated, was that the amendment appeared to condition executive action on approval of the Legislature. It appears to cause executive functions to be carried out by members of the Legislature and as such would violate the separation of powers doctrine in the Constitution.

The President ruled that the point of order was well taken.

After examination of the amendment, Senate Counsel has advised that the amendment would violate Section 30 of the Massachusetts Constitution.

Article 30 of the Constitution states that the Legislature shall never exercise the powers of the Executive or the Judiciary, nor shall the Executive exercise the powers of the Legislature or the Judiciary and nor shall the Judiciary exercise the powers of the Legislature or Executive.

The Legislature may NOT condition executive action on approval by the Legislature and may NOT provide for its own members to perform executive functions.

The parliamentary precedents of the Senate require the President to observe, with meticulous care, the Constitutional prerogatives of each branch of government. The President must see that the Senate does not exercise the powers of the Executive in violation of the Constitution.

It has been determined that this amendment gives the Legislature the power to perform executive functions through its ability to approve the actions of the Board of Higher Education.

As a result, this amendment must be laid aside because, if adopted, it would unconstitutionally grant the Legislature the power to approve executive actions and therefore perform executive functions violating separation of powers.

The amendment was laid aside.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 22 by striking, in lines 359-360, the following words:- “and after demonstrating sufficient knowledge of the regulations related to the process piping pipefitter license”; and by inserting in line 361, after the word “license.”, the following sentence:- “Any person who cannot document such active engagement in process piping shall be required to demonstrate sufficient knowledge of the regulations related to the process piping pipefitter license.”.

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

Messrs. Tarr, Hedlund, Knapik, and Ross moved that the bill be amended by adding the following section:-

“SECTION _. Notwithstanding any general or special law to the contrary, the Massachusetts Gaming Commission shall issue a report on the expected timeframe of revenues to be received under subsection 59 of section 16 of chapter 194 of the acts of 2011 and monies from licensing fees under section 93 of said chapter 2011. The report shall be filed with the clerks of the house of representatives and the senate and an electronic version of said report shall be filed with the house and senate committees on ways and means and the office of commonwealth performance, accountability and transparency. Said office of commonwealth performance, accountability and transparency shall monitor the progress of said report and make it conspicuously available and accessible online in searchable format on the office of commonwealth performance, accountability and transparency website. Said report shall be filed not later than 45 days after the effective date of this act.”

After debate, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 19 by inserting at the end thereof the following sentence:- “The commission shall file its report by said date notwithstanding the failure of a member or members to be appointed to the commission; provided, however, that the commission shall submit in its report an explanation as to why the commission could not comply with its legal mandate to report by December 31, 2012 and why any member or organization legally mandated to serve on the commission or to authorize a designee to serve on the commission failed to serve or appoint said designee prior to December 31, 2012; provided, further, that the commission shall provide an electronic copy of the report to the office of commonwealth performance, accountability and transparency. Said office of commonwealth performance, accountability and transparency shall monitor the progress of said report and make the report conspicuously available and accessible online in searchable format on the office of commonwealth performance, accountability and transparency website.”

The amendment was *rejected*.

Messrs Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION XX. Notwithstanding any general or special law to the contrary, the Department of Transitional Assistance shall not provide by return mail voter registration forms to recipients of public benefits, unless recipients have verified their address to the Department of Transitional Assistance within the previous six months.”

The amendment was *rejected*.

Mr. Keenan moved that the bill be amended in Section 2A, in item 1599-0054, by inserting after the words “and other terms of funding that the secretary considers appropriate,” the following words:- “which shall include but not be limited to costs associated with overtime and realignment of personnel by police departments to review and prepare files and documentation as directed by or requested from federal, state and other governmental entities involved in the response to this breach, and for costs associated with court appearances by police officers and municipal employees for any cases which may be reviewed or retried due to the breach.”.

The amendment was *rejected*.

Mr. Keenan moved that the bill be amended in section 1 by inserting after line item 7004-0108 the following:

“Massachusetts Marketing Partnership”

7008-0900 provided further, that not less than \$5,000 shall be expended for the town of Abington’s tricentennial celebration.....\$5,000

Massachusetts Tourism Fund..... 100%.”

The amendment was *rejected*.

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

“SECTION XX:

(a) Section 9 of chapter 15A of the General Laws is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law to the contrary, for the purpose of determining eligibility for in-state tuition rates and fees at public institutions of higher education, in the case of an individual who is not a citizen or permanent resident of the United States as those terms are defined under federal immigration law, the individual shall not be eligible for in-state tuition.

(b) Subsection (t) of Section 9 of chapter 15A of the General Laws is hereby further amended striking out subsection (t), and inserting in place thereof the following subsection:—

(t) issue regulations defining resident of the commonwealth and proof of the same for the purpose of admission and tuition expenses of public institutions of higher education and prepare uniform proofs of residence to be used by all public institutions; provided, however, for the purposes of this clause, a resident of the commonwealth shall also be a citizen or permanent resident of the United States, as provided in section 1621 of Title 8 of the United States Code; provided further, that insofar as the Massachusetts Maritime Academy is designated a regional maritime academy by the United States maritime administration, residents of the states comprising the designated region and attending the Massachusetts Maritime Academy shall be considered Massachusetts residents for the purposes of admission and tuition;.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty minutes before six o’clock P.M., on motion of Mr. Hedlund, as follows to wit (*yeas 12 — nays 25*) [**Yeas and Nays No. 14**]:

YEAS

Candaras, Gale D. O’Connor Ives, Kathleen
Donoghue, Eileen M. Pacheco, Marc R.
Hedlund, Robert L. Ross, Richard J.
Knapik, Michael R. Rush, Michael F.
Moore, Michael O. Tarr, Bruce E.
Moore, Richard T. Timilty, James E. — **12.**

NAYS

Barrett, Michael J. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Brownsberger,
William N. Kennedy, Thomas P.
Chandler, Harriette L. Lovely, Joan B.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.

Creem, Cynthia StonePetrucelli, Anthony
DiDomenico, Sal N. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Spilka, Karen E.
Finegold, Barry R. Welch, James T.
Flanagan, Jennifer L. Wolf, Daniel A. — 25.
Jehlen, Patricia D.

ABSENT OR NOT VOTING

Donnelly, Kenneth J.
— 1.

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

Messrs. Hedlund, Tarr, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new Sections:-

“SECTION __: The General Laws are hereby amended by inserting after chapter 117A the following new chapter:--
Chapter 117B

Residency Requirements for Public Benefits

Section 1. Self declaration of residency shall not be accepted as a valid form of residency verification for people seeking taxpayer-funded individual benefits from the Commonwealth of Massachusetts.

SECTION __. Section 7 of chapter 4 of the General Laws, as most recently amended by chapter 199 of the acts of 2011, is hereby further amended by inserting at the end thereof the following:-

Sixtieth, ‘Legal resident’ or ‘Legal residency’ shall mean a resident meeting any of the requirements below:

(A) A citizen of the United States, defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, or Guam; or whose citizenship can be verified by one of the following:

- (1) U.S. Passport;
- (2) Naturalization certificate;
- (3) Military service papers;
- (4) U.S. Citizen Identity Card (Form I-179);
- (5) U.S. Citizen Resident’s Card (Form I-197);
- (6) Proof that at least one natural or adoptive parent(s) was:
 - (a) A U.S. citizen at the time of the person’s birth, and
 - (b) That the parent had resided in the U.S. before the birth of this person;
- (7) Proof that:

(a) Both parents became naturalized citizens before this person either turned age 18 or married while under age 18; and

(b) At the time the second parent or surviving parent was naturalized, this person:

1. Was residing in the U.S. with lawful admission for permanent resident status or
2. Began to reside permanently in the U.S. while under the age of 18;

(8) Proof that at least one parent is a U.S. citizen by birth or naturalization and the foreign-born child, including an adopted child:

- (a) Is under 18 years of age;
- (b) Is currently residing permanently in the U.S. in the legal and physical custody of the United States citizen parent; and
- (c) Is a lawful permanent resident; or
- (9) Proof that one parent was a citizen of the U.S. at the time of the person’s

birth and proof that such parent resided in the U.S. for more than five years,
two years of which were after the age of 14.

(B) A noncitizen who provides documentation he or she is present in the United States lawfully under the
Immigration and Nationality Act (INA); or

(C) An American Indian born in Canada.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty minutes past six
o'clock P.M., on motion of Mr. Hedlund, as follows to wit: **[Yeas and Nays No. 15]:**

YEAS

Candaras, Gale D. O'Connor Ives, Kathleen
Donoghue, Eileen M. Pacheco, Marc R.
Hedlund, Robert L. Ross, Richard J.
Knapik, Michael R. Rush, Michael F.
Lovely, Joan B. Tarr, Bruce E.
Moore, Richard T. Timilty, James E. — **12.**

NAYS

Barrett, Michael J. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Brownsberger, Kennedy, Thomas P.
William N.
Chandler, Harriette L. McGee, Thomas M.
Chang-Diaz, Sonia Montigny, Mark C.
Clark, Katherine M. Moore, Michael O.
Creem, Cynthia Stone Petrucci, Anthony
DiDomenico, Sal N. Rodrigues, Michael J.
Downing, Benjamin Rosenberg, Stanley C.
B.
Eldridge, James B. Spilka, Karen E.
Finegold, Barry R. Welch, James T.
Flanagan, Jennifer L. Wolf, Daniel A. — **25.**
Jehlen, Patricia D.

ABSENT OR NOT VOTING

Donnelly, Kenneth J.
— **1.**

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

Mr. Brewer moved that the bill be amended by inserting after section 5 the following section:-

“SECTION 5A. The definition of ‘child requiring assistance’ in section 21 of chapter 119 of the General Laws, as appearing in
section 3 of chapter 240 of the acts of 2012, is hereby amended by striking out the words ‘or (iv) is habitually truant’ and
inserting in place thereof the following words:- (iv) is habitually truant; or (v) is a sexually exploited child.”;

In section 27 by inserting after the word “appropriated”, in line 385, the following words:- “in section 2 of chapter 139 of the acts
of 2012”; in said section 27 by adding the following words:- “Within 15 days of making reductions under this section, the office,
department, agency or institution of higher education shall report to the executive office for administration and finance and the
house and senate committees on ways and means the amounts, by item and object class, that have been reduced.”; and by striking
out section 32.

The amendment was adopted.

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 engrossed, in concurrence, with the amendment, was determined by a call of the

yeas and nays at twenty-six minutes past six o'clock P.M., on motion of Mr. Brewer, as follows to wit (*yeas 36 — nays 1*) [**Yeas and Nays No. 16**]:

YEAS

Barrett, Michael J. Knapik, Michael R.
Brewer, Stephen M. Lovely, Joan B.
Brownsberger, McGee, Thomas M.
William N.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Chang-Diaz, Sonia Moore, Richard T.
Clark, Katherine M. O'Connor Ives, Kathleen
Creem, Cynthia Stone Pacheco, Marc R.
DiDomenico, Sal N. Petrucci, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin Rosenberg, Stanley C.
B.
Eldridge, James B. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.
Jehlen, Patricia D. Tarr, Bruce E.
Joyce, Brian A. Timilty, James E.
Keenan, John F. Welch, James T.
Kennedy, Thomas P. Wolf, Daniel A. — **36.**

NAYS

Hedlund, Robert L. — **1.**

ABSENT OR NOT VOTING

Donnelly, Kenneth J.
— **1.**

The yeas and nays having been completed at twenty-nine minutes past six o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Ms. Chandler--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at eleven o'clock A.M.

Moment of Silence

At the request of the Chair (Mr. Rosenberg) members, guests and staff stood in a moment of silence and reflection to the memory of Michael D. Dubois.

Adjourn In Memory of Michael D. Dubois

The Senator from Middlesex, Ms. Donoghue, moved that when the Senate adjourns today, it adjourn in memory of one of Lowell's most dedicated teachers, Michael D. Dubois who died on Saturday, February 2nd at the age of 29.

A lifelong resident of Lowell, Michael was born August 26, 1983, a son of the late Normand W. Dubois and Rejeanne R. (Bernier) Dubois. He was a graduate of the Sacred Heart Grammar School, Lowell High School and the University of Massachusetts Lowell. Michael was a popular English Teacher at the Lowell High School Freshman Academy. Michael loved teaching and loved his students.

He was a devoted son, brother, nephew, uncle, friend and teacher. He lived life to the fullest and cherished the time he spent with family and friends. Michael was the type of guy who was always there when you needed him. He could cheer you up with his contagious smile, which you couldn't help but return. Michael was warm, loving, and huggable. He always had a positive attitude.

Michael is survived by his three sisters, Jacqueline Dubois Zegowitz and her husband James, Diane Dubois Prestipino, Suzanne Dubois Frediani and her husband Jason, and his brother, David Dubois; his adoring nieces and nephews, Abigail, Jacob, and Matthew Zegowitz, Julia Prestipino, and Jack and Max Frediani. Michael is also survived by many aunts, uncles, cousins, and dear friends.

Accordingly, as a mark of respect in memory of Michael D. Dubois, at twenty-eight minutes before seven o'clock P.M., on motion of Ms. Donoghue, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.