

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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Saturday, April 13, 2013.

Met at twelve minutes past ten o'clock A.M.

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

Petition.

Mr. Finegold (by request) presented a petition (subject to Joint Rule 12) of Carlos Cruz for legislation to allow the recording of conversations to reflect federal law;

Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of a Committee.

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on petition, a Bill to authorize the Department of Conservation and Recreation and the city of Worcester to create and operate a multipurpose rectangular field at the Lake Avenue Park in Worcester (Senate, No. 1460);

By the same Senator, for the same committee, on Senate 1472 and House 2883, a Bill relative to state contracting (Senate, No. 1472) (Representative Orral of Lakeville dissenting); and

By the same Senator, for the same committee, on petition (accompanied by bill Senate, No. 1456), a Bill to authorize the sale of land in the town of Templeton (Senate, No. 1768);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. DiDomenico, for the committee on Municipalities and Regional Government, on petition, a Bill to amend the charter of the city of Holyoke to limit the number of terms served by the president of the city council (Senate, No. 956) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill to repeal a certain regulation relating to the regulation of dogs in the town of Wareham (Senate, No. 965) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill to authorize the rent board of the town of Middleborough to impose fees for the employment of outside consultants (Senate, No. 966) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill to authorize the city of Newburyport to impose liens upon properties in the town of Newbury which connect to the water and sewer systems of the city (Senate, No. 973) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill to authorize the town of Belchertown to convey certain conservation land (Senate, No. 1752) [Local approval received];

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

Committee Discharged.

Ms. Clark, for the committee on the Judiciary, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 774) of Michael O. Moore for legislation to clear titles for foreclosed properties,-- **and**

**recommending that the same be referred to the committee on Financial Services;
Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

A Bill establishing a sick leave bank for Irene Archambault, an employee of the Trial Court (House, No. 3380, changed,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill designating the former Canton Airport site as the Lieutenant Colonel Arthur E. Farnham, Jr. and Technical Sergeant Thomas M. Connolly, Jr. Memorial Park, Neponset River Reservation (House, No. 704, amended,-- on petition),-- **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

Bills

Authorizing the city of Malden to convey a sewer easement over a portion of certain park land (House, No. 1836, changed,-- on petition) [Local approval received]; and

Relative to certain parcels of land in the city of Revere (House, No. 3336, changed and amended,-- on petition) [Local approval received];

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

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-

Resolutions (filed by Mr. Joyce) “congratulating the honorable Robert Edward Baylor on his retirement”; and

Resolutions (filed by Mr. Tarr) “congratulating Laurel Grange #161 on the occasion of its one hundred and twenty-fifth anniversary.”

PAPERS FROM THE HOUSE.

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

Petition (accompanied by bill, House, No. 3416) of Josh S. Cutler for legislation to establish a sick leave bank for Keith M. Adams, an employee of the Department of Public Health; and

Petition (accompanied by bill, House, No. 3417) of John W. Scibak and Michael R. Knapik for legislation to establish a sick leave bank for John Gustavis, an employee of the Hampshire County Sheriff’s Department

Severally, 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:

The House Bill relative to transportation finance (House, No. 3415),-- **was read a second time.**

After debate, pending the question on adoption of the amendment previously recommended by the committee on Ways and Means and pending the main question on ordering the bill to a third reading, Mr. Tarr moved that the further consideration thereof be postponed until Monday, April 22nd.

After debate, the question on postponement was determined by a call of the yeas and nays, at eighteen minutes before eleven o’clock A.M., on motion of Mr. Tarr, as follows, to wit (*yeas 3 — nays 30*) **[Yeas and Nays No. 19]:**

YEAS

Hedlund, Robert L.

Tarr, Bruce E. — **3.**

Ross, Richard J.

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.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Jehlen, Patricia D.	Timilty, James E.
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 30.

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R.
Creem, Cynthia Stone	Pacheco, Marc R. — 5.
Downing, Benjamin B.	

The yeas and nays having been completed at fourteen minutes before eleven o'clock A.M., the motion to postpone was *negatived*.

Mr. Michael O. Moore and Ms. Clark moved that the proposed new text be amended by inserting, after section ____, the following new section:-

“SECTION __. Notwithstanding any general or special law to the contrary, the inspector general shall conduct an investigation of the policies and procedures regarding enforcement of fare collection for the Massachusetts Bay Transportation Authority. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the investigation and any recommended changes to the system to further prevent and detect fare evasion not later than December 1, 2013.”

The amendment was adopted.

Mr. Michael O. Moore moved that the proposed new text be amended by inserting, after section __, the following new section:-

“SECTION __. Notwithstanding any general or special law to the contrary, the fares for the Massachusetts Bay Transportation Authority shall be adjusted every January 1 by the percentage increase of the Consumer Price Index for Urban Consumers prepared by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year.”

The amendment was *rejected*.

Messrs. Brownsberger and Donnelly moved that the proposed new text be amended by adding the following words to the end of section 29:- “In addition to the foregoing adjustments, the tax per gallon shall be increased by 3 cents on January 1, 2017 and by an additional 3 cents on January 1, 2020.”

The amendment was *rejected*.

Mr. DiDomenico moved that the proposed new text be amended by inserting the following section:-

“SECTION XX. Section 24 of chapter 161A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding after the last sentence the following sentences: -

Real property of the authority shall, if leased, used, or occupied in connection with a business conducted for profit shall, for the privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of January first to the lessee, user, or occupant in the same manner and to the same extent as if such lessee, user, or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Notwithstanding the above, such collector shall have for the collections of taxes assessed under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate. This section shall not apply to leases, easements, grants, licenses or rights of way associated with the networks of public utilities or communications companies.”

After remarks, the amendment was adopted.

Messrs. Montigny and Rodrigues moved that the proposed new text be amended in section 54, by inserting the following after subsection (b):-

“(c) The department shall use any additional bonding capacity or any portion thereof created by the removal of personnel costs from the capital budget pursuant to this section to fund the capital costs associated with planning, design, permitting, engineering and construction of transportation projects that shall include, but not be limited to, the south coast rail project and green line extension.”; and by inserting at the end thereof the following:- “Sufficient funds to pay for debt service for these projects shall be distributed annually from the Commonwealth Transportation Fund in section 2ZZZ of Chapter 29.”

The amendment was *rejected*.

Mr. Donnelly moved that the proposed new text be amended by adding at the end thereof the following new section:-

“SECTION XX. The department shall develop a mandatory Universal University Pass Program (U-Pass) beginning in fiscal year 2015 for colleges and universities throughout the commonwealth, with the purpose of providing unlimited rides on the transportation systems of the Massachusetts Bay Transportation Authority (MBTA) and the Regional Transit Authorities (RTA) to all full-time undergraduate and graduate students at the colleges and universities that are located within 1 mile of MBTA or RTA service. The U-Pass program shall contain all the terms of participation by the schools, the obligations of the department, MBTA, and RTAs under the program, and such other terms as necessary.

The U-Pass fare for the first fiscal year of the program shall be no less than 65% of the full fare, per student per semester. The department may increase the fare in later years. All colleges and universities that are located within 1 mile of service provided by the MBTA or a RTA are required to participate in the program and pay the applicable U-Pass fare for each full-time undergraduate and graduate student at the school directly to the applicable RTA or MBTA. The department may authorize alternative arrangements under unusual circumstances and may allow for the continuation of contracts that provide unlimited rides for students.”

After remarks, the amendment was *rejected*.

Mr. Donnelly moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“SECTION XX. The department shall develop a voluntary Universal Employer Pass Program (E-Pass) beginning in fiscal year 2015 for large employers throughout the commonwealth, with the intended purpose of providing unlimited rides on the transportation systems of the Massachusetts Bay Transportation Authority (MBTA) and the Regional Transit Authorities (RTA) to all employees of participating large employers. The MBTA or RTA shall make the program available to all large employers

that are located within 1 mile of MBTA or RTA service. The E-Pass agreements shall contain all the terms of participation by employers, the obligations of the department, MBTA, and RTAs under the program, and such other terms as necessary. The department shall establish a goal that at least 50 per cent of large employers in the commonwealth have an E-Pass program in place within five years of the establishment of the voluntary program. For purposes of this section, 'large employer' shall mean employers that employ at least 50 employees in the commonwealth.

The E-Pass fare shall be negotiated by the department with each participating employer and shall be set at a level to assure that no transit authority has a reduction in fare revenue as a result of the program. Employers within one mile of service provided by the MBTA or a RTA that participate would be required to pay the applicable E-Pass fare for each employee directly to the applicable RTA or MBTA. The department may authorize alternative arrangements under unusual circumstances."

The amendment was *rejected*.

Mr. Donnelly, Ms. Clark and Ms. Chang Diaz moved that the proposed new text be amended by adding at the end of the bill the following new sections:-

"SECTION XX. Section 5 of chapter 161A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (e) in its entirety and replacing it with the following new subsection:-

(e) The board shall not establish a fare in excess of 35 per cent of the regular adult cash fare for children between the ages of 5 and 19 years, inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with disabilities who reside within the commonwealth. Any such fare so established shall provide for free transfer privileges.

SECTION XX. Section 8 of chapter 161B of the General Laws is hereby amended by inserting after the first sentence in subsection (d) the following text:

Fares shall not be in excess of 35 per cent of the regular adult cash fare for children between the ages of 5 and 19 years, inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with disabilities who reside within the commonwealth. Any such fare so established shall provide for free transfer privileges."

The amendment was *rejected*.

Ms. Creem moved that the proposed new text be amended by adding the following new section:-

"SECTION XX: Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a Vulnerable Road User Safety Commission to investigate and report on the frequency of injury to and accidents involving vulnerable road users, and methods to enhance multiple modes of transportation, including bicycling and walking. Vulnerable road users shall include, but not be limited to, pedestrians and bicyclists. Said commission's report shall include, but not be limited to, data on the frequency of accidents involving vulnerable road users, the nature of such accidents, the involved parties, road conditions, and methods to increase road safety, including but not limited to colored bike paths, wider bike lanes, increased use of traffic lights, and practices used in other cities to increase vulnerable road user safety. The commission shall develop strategic and legislative recommendations to reduce the incidence of accidents and educational materials and strategies to inform the public on best safety practices for sharing the road.

The commission shall be comprised of the House and Senate Chairs of the Joint Committee on Transportation, who shall serve as co-chairs of the commission; the Commissioner of the Department of Public Health or his designee; the Commissioner of Transportation or his designee; The Commissioner of Public Safety, and one representative from each of the following organizations: the Bicycle and Pedestrian Advisory Board, WalkBoston, the Massachusetts Bicycle Coalition, the Massachusetts Municipal Association, the Massachusetts Chiefs of Police Association, and the Massachusetts State Police. Said commission shall file a report of its study, including its recommendations and drafts of legislation with the clerks of the Senate and House of Representatives on or before December 31, 2013."

The amendment was *rejected*.

Ms. Creem moved that the proposed new text be amended by striking out, in line 478, the year "2015" and inserting in place thereof the following year:- "2014".

The amendment was *rejected*.

Ms. Flanagan and Ms. Clark moved that the proposed new text be amended by inserting at the end thereof the following new section:-

"SECTION ____ . The Massachusetts department of transportation, in order ensure its transportation investment in capital projects is both geographically and modally equitable, shall publish on its website the information required in the annual report pursuant to section 28 of chapter 6C of the general laws; provided, said information also is to be updated no less than quarterly with such updates reported on said website."

After remarks, the amendment was adopted.

Mr. Rush moved that the proposed new text be amended by inserting the following section:-

"SECTION XX. There is hereby established a special legislative task force to investigate and study cost-savings reform measures within the Massachusetts Bay Transportation Authority.

The task force shall consist of 8 members, two of whom shall be the the house and senate chairs of the joint committee on transportation; one of whom shall be the chair of the senate committee on post audit and oversight; one of whom shall be the chair of the house committee on post audit and oversight; one of whom shall be appointed by the senate president and shall be a member of the joint committee on transportation; one of whom shall be appointed by the speaker of the house of representatives

and shall be a member of the joint committee on transportation; one of whom shall be designated by the senate minority leader and who shall be a member of the joint committee on transportation or the senate committee on post audit and oversight; one of whom shall be designated by the house minority leader and who shall be a member of the joint committee on transportation or the senate committee on post audit and oversight. The chairs of the joint committee on transportation shall serve as the co-chairs of the task force. The investigative study shall include but not be limited to consideration the following issues:

(1) the task force shall make an investigation and study of cost-savings reform measures within the Massachusetts Bay Transportation Authority, including but not limited to an evaluation of potential cost savings through reform of administrative expenses, consultancy services, equipment lease and purchase, facility and operational costs, grants and subsidies, fiduciary payments, highway and building projects, information technology, pension, personnel and insurance;

(2) the task force shall identify potential new revenue sources not associated with revenues generated from fare increases or service cuts;

(3) the task force shall identify and report on progress of legislative reforms implemented in 2009, to include reforms related to the development of objective project selection criteria, development of a performance management system, strategic planning for technology, integrated asset management system, life cycle modeling, ending the practice of paying operating employees from the capital budget;

(4) the task force shall conduct a thorough review of the fare collection system.

The special legislative task force established by this section shall, upon request by any member of the task force, have access to any documents required in furtherance of this section.

The task force shall report to the general court the results of its investigation and study and its recommendations, together with drafts of legislation, to carry its recommendations into effect by filing the same with the clerks of the senate and house of representatives on or before October 1, 2013.

SECTION XX. Sections 28 and 29 shall take effect on such a date after a legislative reform package provided for in Section XX is signed into law by the governor.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nine minutes before twelve o'clock noon, on motion of Mr. Ross, as follows, to wit (*yeas 7 — nays 24*) [**Yeas and Nays No. 20**]:

YEAS

Hedlund, Robert L.

Rush, Michael F.

Kennedy, Thomas P.

Tarr, Bruce E.

O'Connor Ives, Kathleen

Timilty, James E. — 7.

Ross, Richard J.

NAYS

Barrett, Michael J.

Jehlen, Patricia D.

Brewer, Stephen M.

Joyce, Brian A.

Brownsberger, William N.

Keenan, John F.

Candaras, Gale D.

Lovely, Joan B.

Chang-Diaz, Sonia

McGee, Thomas M.

Clark, Katherine M.

Montigny, Mark C.

DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Spilka, Karen E.
Finegold, Barry R.	Welch, James T.
Flanagan, Jennifer L.	Wolf, Daniel A. — 24.

PAIRED.

YEAS.

NAYS.

Moore, Michael O. (<i>present</i>)	Pacheco, Marc R.
Moore, Richard T. (<i>present</i>)	Creem, Cynthia Stone — 4.

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R. — 3.
Downing, Benjamin B.	

The yeas and nays having been completed five minutes before twelve o'clock noon, the amendment was *rejected*.

Mr. Knapik moved that the proposed new text be amended by striking out section 29.
The amendment was *rejected*.

Messrs. Finegold and Michael O. Moore moved that the proposed new text be amended by inserting, after section 13, the following section:-

“SECTION 13A. Section 3B of said chapter 29, as amended by section 112 of the acts of 2012, is hereby further amended by inserting after the words ‘equivalent employees for the subsequent fiscal year’ the following:- ‘; and (3) a statement detailing each authority’s ridership data and cost per ride for each service.’; and by inserting, at the end thereof, the following:- These statements shall also be posted on the Massachusetts Department of Transportation’s website.”

After remarks, the amendment was adopted.

Mr. Hedlund moved that the proposed new text be amended by striking Section 29 in its entirety.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-seven minutes past twelve o'clock noon, on motion of Mr. Hedlund, as follows, to wit (*yeas 5 — nays 27*) [**Yeas and Nays No. 21**]:

YEAS

Hedlund, Robert L.	Tarr, Bruce E.
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Ross, Richard J. Timilty, James E. — **5.**

Rush, Michael F.

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.

Chang-Diaz, Sonia Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

DiDomenico, Sal N. Moore, Richard T.

Donnelly, Kenneth J. O'Connor Ives, Kathleen

Donoghue, Eileen M. Petruccelli, Anthony

Eldridge, James B. Rosenberg, Stanley C.

Finegold, Barry R. Spilka, Karen E.

Flanagan, Jennifer L. Welch, James T.

Jehlen, Patricia D. Wolf, Daniel A. — **27.**

Joyce, Brian A.

PAIRED.

YEAS.

NAYS.

Pacheco, Marc R.

Rodrigues, Michael J.
(*present*) — **2.**

ABSENT OR NOT VOTING

Chandler, Harriette L.

Downing, Benjamin B.

Creem, Cynthia Stone

Knapik, Michael R. — 4.

The yeas and nays having been completed at a half past twelve o'clock noon, the amendment was *rejected*.

Mr. Hedlund moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“SECTION 1. Chapter 90 of the General Laws is hereby amended by inserting after section 2BBBB the following section:-
Section 2CCCC. There shall be established and set upon the books of the commonwealth a separate fund to be known as the State Fire Marshal Fireworks Fund, hereinafter referred to as ‘the fund’. All monies credited to such fund generated from fees, fines, leases, gifts, grants, interest earned on any monies within this fund or any other revenue sources. The fee for a firework permit shall not exceed \$25 as set forth in paragraph (b) of section 60 of chapter 148. Revenues credited to the fund shall be used, not subject to appropriation, for operating costs, capital improvements, equipment and maintenance, including the costs of personnel, but no expenditure shall be made from the fund that shall cause the fund to be in deficit at the close of a fiscal year.

SECTION 2. Chapter 148 of the General Laws is hereby amended by striking out section 39, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 39. No person shall use, or explode, or cause to explode, any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article, which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

For the purposes of this section the word ‘fireworks’ shall include materials classified as 1.4G in the U.S. Department of Transportation’s Hazardous Materials Table and shall also include blank cartridges or toy cannons in which explosives are used, the type of toy balloon which requires fire underneath to propel the same, or any tablets or other device containing any explosive substance.

Whoever shall use any fireworks in violation of this section shall be punished by a fine of five hundred dollars for a first offense and one thousand dollars for each subsequent offense. Any officer qualified to serve criminal process shall seize all of the fireworks mentioned herein without a warrant, and the fireworks seized shall, upon conviction of such violation, be forfeited to the commonwealth.

Notice of such seizure of the fireworks shall immediately be sent to the marshal by the officer making the seizure, and the fireworks seized shall be held and securely stored by that department until the marshal or his authorized representative takes them into his possession for disposal.

The term ‘fireworks’ as used herein shall not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol paper caps or plastic caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times; and provided, further, that this section shall not apply (1) to the sale of any fireworks to be shipped directly out of the commonwealth, or (2) to the sale of any such article for the use of, and its use by, persons having obtained a permit for a supervised display of such fireworks from the marshal or some officer designated by him therefore, under any provision of section thirty-nine A, or (3) to the sale of flares, lanterns or fireworks for the use of, and their use by, railroads, railways, boats, motor vehicles or other transportation agencies, or other activity, lawfully permitted or required to use any or all of such articles for signal purposes, illumination or otherwise, or (4) to the sale or use of blank cartridges for a duly licensed show or theatre or for signal or ceremonial purposes in athletics or sports, or to the sale of special blank cartridges and their use in the proper operation of industrial tools and equipment only, or (5) to experiments at a factory for explosives, or (6) to the sale of blank cartridges for the use of, or their use by, the militia or any organization of war veterans or other organizations authorized by law to parade in public, a color guard armed with firearms, or (7) in teaching the use of firearms by experts, or (8) to the sale of shells for firearms, cartridges, gunpowder, and for the purpose of using, and their use, or in connection with the hunting of game or in target practice with firearms, or (9) to farmers and fruit growers who, having obtained a permit under section thirteen of chapter forty-eight, use firecrackers for the control of damage to their crops by birds.

Said chapter 148 is hereby further amended by adding the following section:-

Section 60. (a) A city or town may accept the provisions of this section pursuant to section 4 of chapter 4.

(b) The legislative body of a city or town, upon application in writing, on forms provided by the division as defined in section 39, may authorize the head of a fire department of a city or town to grant a permit for the use of fireworks otherwise prohibited by the general laws within the city or town for display by individuals approved by the city or town; provided, however that no permit shall be required for the display of either sparklers under 3 feet in length or novelty poppers. The permits shall be on forms provided by the division. After a permit has been granted, use of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is not transferable and shall not be issued to a person under the age of 18 years. The fee for such permit shall not exceed \$25 which shall be credited to the State Fire Marshal Fireworks Fund, established

by section 2CCCC of chapter 90. Also, the state fire marshal may direct municipal fire departments to include safety materials, developed and provided by the division, to everyone who receives such a permit.

(c) The legislative body of a city or town, upon application in writing, may grant a sales license, on forms provided by the division, to a resident wholesale dealer or retailer to have in his possession within the city or town fireworks otherwise prohibited by this chapter, for sale only to people 18 years of age or older. A license granted under this subsection is not transferable, nor shall a license be issued to a person under the age of 18 years.

The storage of fireworks at the site of a wholesaler, dealer, or retailer who has goods on hand for sale to the public in a supervised display area, shall be as follows: (1) in a 1 story, noncombustible building without a basement, which building is weather resistant, well ventilated, and equipped with a strong door kept securely locked except when open for business; and (2) the location of the storage building shall be approved by the department

(d) If a municipality grants a fireworks sales license as described in this section, which allows an entity to sell fireworks within the municipality, the municipality must authorize the head of its fire department to grant permits for the use of fireworks within the municipality as described in this section. Also, if a municipality authorizes its fire department to grant such fireworks use permits, then the municipality must also have in place the procedure for licensing fireworks sales, using the forms provided by the division, as described in this section.

(e) The state fire marshal shall promulgate rules and regulations to implement the purposes of this section. Such regulations shall include the storage requirements for licensed sellers.

(f) Whoever shall have in his possession or under his control, or whoever shall use or explode or cause to explode any fireworks in violation of this section shall be punished by a fine of five hundred dollars for a first offense and one thousand dollars for each subsequent offense. Any officer qualified to serve criminal process shall seize all of the fireworks mentioned herein without a warrant, and the fireworks seized shall, upon conviction of such violation, be forfeited to the commonwealth.

Notice of such seizure of the fireworks shall immediately be sent to the state fire marshal by the officer making the seizure, and the fireworks seized shall be held and securely stored by that department until the fire marshal or his authorized representative takes them into his possession for disposal.

(g) The money collected from fines assessed for violations of this section will go to the fund.

(h) For the purposes of this section, 'fireworks' shall be defined as the materials classified as 1.4G in the U.S. Department of Transportation's Hazardous Materials Table."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before one o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (*yeas 5 — nays 27*) **[Yeas and Nays No. 22]:**

YEAS

Hedlund, Robert L. — **1.**

NAYS

Barrett, Michael J.	Lovely, Joan B.
Brewer, Stephen M.	McGee, Thomas M.
Brownsberger, William N.	Montigny, Mark C.
Candaras, Gale D.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rosenberg, Stanley C.

Donoghue, Eileen M.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Jehlen, Patricia D.	Timilty, James E.
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 31.
Kennedy, Thomas P.	

PAIRED.

YEAS.

NAYS.

Rodrigues, Michael J. (*present*) Pacheco, Marc R.— **2.**

ABSENT OR NOT VOTING

Chandler, Harriette L.	Downing, Benjamin B.
Creem, Cynthia Stone	Knapik, Michael R. — 4.

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

Mr. Hedlund moved that the proposed new text be amended by inserting at the end thereof, the following new sections:-
 “SECTION XX: The MBTA shall immediately discontinue the current procurement process for a new contract to operate commuter rail services and shall begin a new procurement process no later than June 1, 2013. As part of the new procurement process, the MBTA must issue a Request for Proposals that includes all information related to MBTA and Massachusetts Bay Commuter Rail employee contracts, salaries, pensions, payscale, employee benefits and overtime policies.
 SECTION XX: The MBTA shall immediately discontinue the current procurement process for a new contract to operate commuter rail services and shall begin a new procurement process no later than June 1, 2013. As part of the new procurement process, the MBTA must issue a Request for Proposals that includes all information related to MBTA and Massachusetts Bay Commuter Rail employee contracts, salaries, pensions, payscale, employee benefits and overtime policies.”
 After remarks, the amendment was *rejected*.

Mr. Hedlund moved that the proposed new text be amended by inserting, at the end thereof, the following new section:-
 “SECTION XX: The MBTA shall conduct a survey of the 23 companies that submitted statements of interest to the current request for proposals to operate the commuter rail but did not submit a proposal to ascertain why they opted out of the bidding process.”

The amendment was adopted.

Ms. Donoghue and Mr. Michael O. Moore moved that the proposed new text be amended in Section 53, in subsection (b) by adding the following sentence:- “The preliminary and final reports of savings shall be posted on the authority’s website.”; and by

inserting, after section 41 the following 2 sections:-

“SECTION 41A. Section 23 of chapter 161A of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The audit shall be posted on the authority’s website.

SECTION 41B. Said chapter 161A is hereby amended by adding the following 2 sections:-

Section 50. The authority shall, at least twice per year, prepare and clearly and conspicuously make available for public inspection on its website a comparison of projected versus actual revenues and expenses as well as the status of its capital projects and costs including an actual utilization of planned or projected levels for each capital project.

Section 51. The authority shall, clearly and conspicuously, place a notice of how to report fraud, abuse and waste in all authority offices, in all offices of authority contractors and on the authority’s website. All such notices shall include the inspector general’s website and hotline telephone number and the state auditor’s website and hotline telephone number.”

The amendment was *rejected*.

Ms. Chandler, Ms. Creem and Mr. Michael O. Moore moved that the proposed new text be amended by inserting after section ___, the following new sections:-

“SECTION ___: Section 2E (a) of Chapter 64C of the General Laws is hereby amended by striking in line 4 the number ‘10,000’ and inserting in place thereof the number ‘20,000’;

By striking in line 5 the number ‘25,000’ and inserting in place thereof the number ‘50,000’;

By striking in line 8 the number ‘500’ and inserting in place thereof the number ‘1,000’;

By striking in line 9 the number ‘2,000’ and inserting in place thereof the number ‘4,000’;

By striking in line 12 the number ‘1,000’ and inserting in place thereof the number ‘2,000’;

By striking in line 13 the number ‘5,000’ and inserting in place thereof the number ‘10,000’;

By striking in line 20 the number ‘10,000’ and inserting in place thereof the number ‘20,000’;

By striking in line 21 the number ‘25,000’ and inserting in place thereof the number ‘50,000’;

By striking in line 23 the number ‘1,000’ and inserting in place thereof the number ‘2,000’;

By striking in line 24 the number ‘5,000’ and inserting in place thereof the number ‘10,000’.

SECTION ___: Section 7B l(1) of Chapter 64C of the General Laws is hereby amended by striking in line 115 the number ‘5,000’ and inserting in place thereof the number ‘10,000’;

By striking in line 116 the number ‘25,000’ and inserting in place thereof the number ‘50,000’;

By striking in line 129 the number ‘5,000’ and inserting in place thereof the number ‘10,000’;

By striking in line 130 the number ‘25,000’ and inserting in place thereof the number ‘50,000’;

Section 7B l(2) is amended by striking in line 143 the number ‘5,000’ and inserting in place thereof the number ‘10,000’;

By striking in line 143 the number ‘25,000’ and inserting in place thereof the number ‘50,000’;

Section 7B l(3) is amended by striking in line 149 the number ‘5,000’ and inserting in place thereof the number ‘10,000’;

By striking in line 149 the number ‘25,000’ and inserting in place thereof the number ‘50,000’.

SECTION ___: Section 14 (a) of Chapter 64C of the General Laws is hereby amended by striking in line 8 the words ‘five hundred’ and inserting in place thereof the words ‘one thousand’.

SECTION ___: Section 33A of Chapter 64C of the General Laws is hereby amended by striking in line 6 the number ‘5,000’ and inserting in place thereof the number ‘10,000’.

SECTION ___: Section 34 of Chapter 64C of the General Laws is hereby amended by striking in line 7 the word ‘five’ and inserting in place thereof the word ‘ten’;

By striking in line 8 the word ‘five’ and inserting in place thereof the word ‘ten’;

By striking in line 10 the word ‘one’ and inserting in place thereof the word ‘two’;

By striking in line 11 the words “one year” and inserting in place thereof the words ‘two years’;

By striking in line 34 the number ‘5,000’ and inserting in place thereof the number ‘10,000’.

SECTION ___: Section 35 of Chapter 64C of the General Laws is hereby amended by striking in line 4 the words “five” and inserting in place thereof the word ‘ten’;

By striking in line 5 the word “five” and inserting in place thereof the word ‘ten’;

By striking in line 7 the word ‘one’ and inserting in place thereof the word ‘two’;

By striking in line 8 the words “one year” and inserting in place thereof the words ‘two years’;

By striking in line 24 the number ‘5,000’ and inserting in place thereof the number ‘10,000’.

SECTION: Section 37 of Chapter 64 C is hereby amended by striking in line 9 the word ‘two’ and inserting in place thereof the word ‘four’;

By striking in line 10 the word ‘five’ and inserting in place thereof the word ‘ten’;

By striking in line 26 the word ‘two’ and inserting in place thereof the word ‘four’;

By striking in line 27 the word ‘five’ and inserting in place thereof the word ‘ten’.

SECTION ___: Section 38 of Chapter 64 C is hereby amended by striking in line 4 the word ‘two’ and inserting in place thereof the word ‘four’;

By striking in line 5 the word “five” and inserting in place thereof the word ‘ten’.

SECTION ___: Section 5 (a) of Chapter 94F is hereby amended by striking in line 6 the number “1,000” ” and inserting in place thereof the number ‘2,000’;

And further amended by striking in line 7 the words “1 year” and inserting in place thereof the word ‘two years’;

Section 5 (b) of Chapter 94F is hereby amended by striking in line 16 the number “500” ” and inserting in place thereof the

number “1,000”; and

By striking in line 17 the number “5,000” “and inserting in place thereof the number ‘10,000’.”

The amendment was *rejected*.

Mr. Finegold and Ms. Donoghue moved that the proposed new text be amended by inserting, after section 58, the following section:-

“SECTION 58A. The Massachusetts Department of Transportation shall implement a program whereby vehicles that do not meet the occupancy criteria of high occupancy vehicle lanes may pay a toll to access said lanes on interstate highway route 93. Any revenue collected from said tolls shall be used to improve or expand commuter rail service on the interstate highway route 93 corridor, including the Haverhill/Reading and Braintree commuter rail lines.”

After remarks, the amendment was *rejected*.

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

“SECTION XX. Notwithstanding any general or special law to the contrary, the secretary of the Massachusetts Department of Transportation, in consultation with the commissioner of the division of capital asset management, shall, as required by section 182 of chapter 68 of the acts of 2011, submit a report and establish a plan for the sale or lease of real property under the ownership, possession and control of the Massachusetts Department of Transportation, including, but not limited to, any land or buildings previously owned by the Massachusetts turnpike authority, and determine whether such assets are surplus to the operation of the Massachusetts Department of Transportation, as defined by section 1 of chapter 6C of the General Laws.

(a) If land or property is deemed to be surplus to the operation of the Massachusetts Department of Transportation, the department shall formulate a plan to ensure that the surplus land is sold or leased within a 5 year period. The department shall submit the report to the executive office for administration and finance and the house and senate committees on ways and means on or before January 1, 2014.”

The amendment was *rejected*.

Mr. Ross moved that the proposed new text be amended in subsection (b) of section 54, by inserting after the word “2013” the first time it appears, the following words:- “, specifying individually each employee’s salary, job classification and department;”; by inserting after the word “employees” the second time it appears, the following words:- “, specifying individually each employee’s salary, job classification and department;” and by inserting after the word “employees” the third time it appears, the following words:- “, specifying individually each employee’s salary, job classification and department;”.

After remarks, the amendment was adopted.

Messrs. Ross and Montigny moved that the proposed new text be amended by inserting in subsection (e) of section 7 after the word “business” the following words:- “to be posted on the department’s website no later than 5 days following each meeting”. After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before one o’clock P.M., on motion of Mr. Ross, as follows, to wit (*yeas 33 — nays 0*) [**Yeas and Nays No. 23**]:

YEAS

Barrett, Michael J.	Lovely, Joan B.
Brewer, Stephen M.	McGee, Thomas M.
Brownsberger, William N.	Montigny, Mark C.
Candaras, Gale D.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O’Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony

Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Hedlund, Robert L.	Tarr, Bruce E.
Jehlen, Patricia D.	Timilty, James E.
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 33.
Kennedy, Thomas P.	

NAYS — 0.

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R.
Creem, Cynthia Stone	Pacheco, Marc R. — 5.
Downing, Benjamin B.	

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

Recess.

There being no objection, four minutes before twelve o'clock noon, at the request of Mr. Tarr, for the purpose of a minority caucus, the President declared a recess; and, at eight minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The House Bill relative to transportation finance (House, No. 3415),-- **was again considered, the main question being on ordering the bill to a third reading.**

Mr. Ross moved that the proposed new text be amended after section 28 by inserting the following new section:-
 "SECTION XX. Section 13 of chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by

inserting in line 11, after the word ‘purposes’, the following words:- ; provided, however, that no less than seventy per cent of such sums shall be expended for capital projects and improvements and related costs located within the highway district where such sums were collected. Such sums shall be used for such capital projects and improvements and related costs in the highway district under the supervision of the district highway director of each district office.”

After remarks, the amendment was *rejected*.

Mr. Ross moved that the proposed new text be amended by inserting the following new section:-

“SECTION XX. Section 3 of Chapter 6C of the General Laws, as so appearing, is hereby amended by inserting after subsection 48 the following new subsection:-

(49) Notwithstanding any general or special law to the contrary, in order to promulgate efficiency and cost-savings, the department shall not, whether, as a condition of state funding or otherwise, require any city or town to construct or reconstruct any public way with a design speed that exceeds the posted speed that shall be assigned to that public way by the city or town upon completion of construction or reconstruction.”

The amendment was *rejected*.

Mr. Ross moved that the proposed new text be amended by inserting the following new section:-

“SECTION XX. Section 57C of said chapter 59, as so appearing, is hereby amended by inserting after the twelfth paragraph the following paragraph:

Notwithstanding any general or special law to the contrary, a city or town may design and designate a place on its municipal real estate tax bills whereby taxpayers of the city or town may voluntarily check off, donate and pledge an amount not less than \$1, or such other designated amount which shall increase the amount otherwise due, and to establish a city or town economic aid fund for the purpose of maintaining municipal roads and bridges. (b) Amounts donated to the economic aid fund shall be deposited into a special account in the general treasury of the city or town and shall be in the custody of the treasurer. The treasurer shall invest the funds at the direction of the officer, board, commission, committee or other agency of the city or town who, or which, is otherwise authorized and required to invest trust funds of the city or town and subject to the same limitations applicable to trust fund investments, except as otherwise specified herein. The fund, together with the interest earned thereon, shall be used for the purpose specified in this section without further appropriation. (c) In a city or town having an economic aid fund, there shall be a taxation aid committee to consist of the chairman of the board of assessors, the city or town treasurer and 3 residents of the city or town to be appointed by the mayor or board of selectmen as the case may be. The board shall adopt rules and regulations to carry out this section and to identify the recipients of the aid.”

The amendment was *rejected*.

Mr. Rosenberg moved that the proposed new text be amended by inserting the following new sections:-

“SECTION __. Subsection (a) of section 13 of said Chapter 6C, as so appearing, is hereby amended by inserting at the end thereof the following sentence:-

The department shall devise and implement a fair and reasonable fee structure to charge and collect tolls for transit over the turnpike between Interchange 1 in West Stockbridge and Interchange 6 in Springfield/I-291, inclusive, provided that, notwithstanding any general or special law to the contrary, such revenues shall be applied exclusively to road, rail, and transit projects and related costs in Hampshire, Hampden, Franklin, and Berkshire counties.

SECTION __. Within 90 days of passage of this act the department shall provide to the joint committee on transportation and the joint committee on ways and means a plan to implement a proposed fee structure for collecting tolls for transit over the turnpike between Interchange 1 in West Stockbridge and Interchange 6 in Springfield/I-291, inclusive, which shall include, but not be limited to, the proposed fees, assumptions used to set the fees, and a timeline to implement collection of fees.”

The amendment was adopted.

Ms. Chandler moved that the proposed new text be amended by inserting after section __, the following new sections:

“SECTION __: Section 1 of Chapter 94F is hereby amended by adding the following definitions:

‘Contraband’, such units of smokeless tobacco sold, purchased, transported, imported, received, or possessed and (i) upon which any required tax has not been paid, (ii) has been imported in violation of federal, state or local law, (iii) the packaging of which has been altered so as to remove, conceal or obscure any statement, label, sticker, or notice or any health warning in violation of federal, state or local law.

‘Smokeless Tobacco’, snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing, including, but not limited to Cavendish, plug, twist and fine-cut tobaccos.

‘Unit of smokeless tobacco’, a single container to be purchased by the consumer.

SECTION __: Chapter 94F is hereby further amended by adding the following new sections:

Section 5A. Smokeless Tobacco; Possession without license; Penalties.

Any person, except as otherwise provided by law, who sells, purchases, transports, imports, receives, or possesses smokeless tobacco upon which tax has not been paid shall be required to pay any tax owed pursuant Massachusetts law. In addition, such person shall be required to pay a civil penalty of (i) \$2.50 per unit of smokeless tobacco, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5 per unit of smokeless tobacco, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per unit of smokeless tobacco, up to \$2,000, for the third and any subsequent violation by the legal entity within a 36-month period, to be assessed and collected by the commissioner as other taxes are collected. In addition, where willful intent exists to defraud the Commonwealth of any tax levied on smokeless tobacco pursuant

to Massachusetts law, such person shall be required to pay a civil penalty of \$25 per unit of smokeless tobacco, up to \$25,000.

B. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, import, receive or possess fewer than 500 units of smokeless tobacco unless the tax on those units has been paid. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

C. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, import, receive or possess 500 or more units of smokeless tobacco unless the tax on those units has been paid. Any person violating the provisions of this subsection shall be guilty of a felony.

D. If a person who (i) has not been issued a license, as provided in Section two of Chapter sixty-four C or (ii) is not a retail dealer who has lawfully purchased smokeless tobacco from such license holder has in his possession within the Commonwealth more than 25 units smokeless tobacco upon which no tax has been paid, such possession shall be presumed to be for the purpose of evading the payment of the taxes due thereon.

E. Any person other than an authorized holder who possesses, with intent to distribute, more than 25, but fewer than 500, units of tax-paid smokeless tobacco is guilty of a misdemeanor for a first offense and is guilty of a felony for any second or subsequent offense.

F. Any person other than an authorized holder who possesses, with intent to distribute, more than 500, units of tax-paid smokeless tobacco is guilty of a felony.

G. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per unit, but no more than \$5,000, for a first offense; (ii) \$5 per unit, but no more than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per unit, but no more than \$20,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the commissioner as other taxes are collected.

Section 5B. Illegal distribution of smokeless tobacco.

It shall be unlawful for any person to: Sell or distribute in the Commonwealth of Massachusetts, acquire, hold, own possess, or transport, for sale or distribution in the Commonwealth, or import, or cause to be imported, into the Commonwealth for sale or distribution in the Commonwealth any smokeless tobacco, (i) the packages of which bear any statement, label, sticker, or notice indicating that the manufacturer did not intend the smokeless tobacco to be sold, distributed, or used in the United States, including but not limited to labels stating 'For Export Only,' 'U.S. Tax-Exempt,' 'For Use Outside U.S.,' or similar wording; (ii) the packages of which do not comply with all requirements imposed by or pursuant to federal law regarding warnings and any other information on packages manufactured, packaged, or imported for sale, distribution, or use in the United States or all federal trademark and copyright laws; (iii) imported into the United States in violation of any federal law or regulation; or (iv) that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States.

Alter any package of any smokeless tobacco, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure (i) any statement, label, sticker, or notice described in clause (i) of the foregoing paragraph or (ii) any health warning that is not specified in, or does not conform with the requirements of federal law.

The commissioner may impose a civil penalty in an amount not to exceed the greater of 500 percent of the retail value of the smokeless tobacco involved or \$5,000 upon finding a violation of this provision and may assess the tax due and any interest upon the product acquired, possessed, sold, or offered for sale in violation of this provision.

Any person who commits any of the acts prohibited by this section, either knowingly or having reason to know he is doing so shall be guilty of a felony.

In addition to any other remedy provided by law, any person may bring an action for appropriate injunctive or other equitable relief for a violation of this provision, for actual damages, if any, sustained by reason of the violation, and as determined by the court, interest on the damages from the date of the complaint, and taxable costs. If the court finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained by reason of the violation.

For the purpose of enforcing this provision, the commissioner may request or share information with any federal, state or local agency, including any agency of another state or local agency thereof.

Section 5C. Forfeiture of Contraband Smokeless Tobacco. Contraband smokeless tobacco possessed in violation of Sections five A and B of this Chapter ninety-four F shall be subject to seizure, forfeiture, and destruction by the commissioner or any law-enforcement officer of the Commonwealth. All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of smokeless tobacco in a knowing and intentional violation of Sections five A and B of this Chapter ninety-four F shall be subject to seizure and forfeiture as provided in sections fifty to fifty-five, inclusive, of chapter one hundred and thirty-eight in the case of alcoholic beverages."

The amendment was *rejected*.

Ms. Chandler and Ms. Creem moved that the proposed new text be amended (Senate, No, 1766) by inserting after section ___, the following new section:

"SECTION ___: Section 7B of chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(m) In addition to the excise imposed by subsection (b), an excise shall be imposed on all smoking tobacco and on all cigars weighing more than 3 pounds per 1,000 units and not more than 12 pounds per 1,000 units held in the commonwealth at the rate of 110 per cent of the wholesale price of such products."

The amendment was *rejected*.

Mr. Finegold moved that the proposed new text be amended by inserting, after section 58, the following section:-
“SECTION 58A. The Massachusetts Department of Transportation shall review all projects on its project list which were added prior to July 1, 2008 and have not yet been completed. Each such project shall be reviewed to determine whether it is still necessary, and, if so, whether improvements to such project can be made. Such a review shall be done annually, reviewing all projects added to the list at least 5 years prior.”

The amendment was *rejected*.

Mr. Knapik moved that the proposed new text be amended by inserting at the end thereof the following new section:-
“SECTION __. Section 3 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the nineteenth paragraph and inserting in place thereof the following paragraph:-
(19) appoint officers and employees and to engage accountants, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this chapter and fix their compensation; provided, however, that the department shall provide thirty days notice before engaging such accountants, architects, attorneys, engineers, planners, real estate experts and other consultants;”

The amendment was *rejected*.

Messrs. Welch, Finegold and Knapik moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“SECTION XX. Chapter 64C of the General Laws is hereby amended by adding the following section:-

Section 1.

There shall be a special commission established to study and report on the illegal tobacco distribution industry in Massachusetts and the resulting loss of tax revenue to the commonwealth.

Section 2.

The special commission shall consist of 9 members: the commissioner of the department of revenue or a designee; the treasurer of the commonwealth or a designee; 1 member of the house of representatives, as appointed by the speaker of the house; 1 member of the senate, as appointed by the senate president; 1 member to be appointed by the governor; the secretary of administration & finance or a designee; the attorney general of the commonwealth or a designee; the executive director of the Northeast Association of Wholesale Distributors or a designee; and the Executive Director or the New England Convenience Store Association or a designee.

Section 3.

The scope of the special commission shall include, but not be limited to, researching and making recommendations regarding: (1) the regulation, oversight, distribution and sale of all tobacco products sold in the Commonwealth; (2) the illegal tobacco market in the Commonwealth; (3) the loss of tobacco excise and sales tax revenue in the state; (4) the maximization of the collection of tobacco excise and sales tax revenues being lost to the illegal market; and (5) enforcement and penalties for violation of collection and reporting of all tobacco taxes as set forth in General Laws Chapter 64C.

Section 4.

The special commission shall convene no later than June 1, 2013 and shall report general court the results of its study, together with recommendations and drafts of legislation necessary to carry out any recommendations, if any, with the clerks of the house and senate, and the chairs of the to the joint committee on ways and means and the joint committee on revenue not later than November 1, 2013.”

The amendment was *rejected*.

Mr. Keenan, Ms. Clark and Mr. Donnelly moved that the proposed new text be amended by inserting in section 58 of the bill, after the words “projects, including” the following new text: - “procurement of Red and Orange line subway vehicles.”
After remarks, the amendment was *rejected*.

Messrs. Keenan and Donnelly, Ms. Creem and Mr. Joyce moved that the proposed new text be amended by inserting in section 58 of the bill, after the words “projects, including” the following new text:- “repairs to the authority’s capital infrastructure necessary to meet or exceed the State of Good Repair asset rating established under the federal Transit Economic Requirements Model and required for the federal New Starts grant application.”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-five minutes before three o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 33 — nays 0*) [**Yeas and Nays No. 24**]:

YEAS

Barrett, Michael J.

Lovely, Joan B.

Brewer, Stephen M.

McGee, Thomas M.

Brownsberger, William N.	Montigny, Mark C.
Candaras, Gale D.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Hedlund, Robert L.	Tarr, Bruce E.
Jehlen, Patricia D.	Timilty, James E
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 33.
Kennedy, Thomas P.	

NAYS — 0.

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R.
Creem, Cynthia Stone	Pacheco, Marc R. — 5.
Downing, Benjamin B.	

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

Messrs. Montigny, Pacheco and Joyce moved that the proposed new text be amended by inserting after section 53 the following section:-

“SECTION 53A. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall, not later than January 1, 2014, issue a request for proposals to sell, license or rent naming or sponsorship rights for all subway, bus or commuter rail stations or other assets operated and owned by the authority. A request for proposals shall be for a specified term, renewable at the sole discretion of the authority.

(b) The secretary of transportation shall direct all revenues generated by the Massachusetts Bay Transportation Authority under this section to be used on mass transit capital expansion projects.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past three o'clock P.M., on motion of Mr. Brownsberger, as follows, to wit (*yeas 20 — nays 12*) [**Yeas and Nays No. 25**]:

YEAS

Barrett, Michael J.	McGee, Thomas M.
Brewer, Stephen M.	Montigny, Mark C.
Candaras, Gale D.	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Petrucelli, Anthony
Finegold, Barry R.	Rodrigues, Michael J.
Flanagan, Jennifer L.	Rosenberg, Stanley C.
Joyce, Brian A.	Rush, Michael F.
Kennedy, Thomas P.	Spilka, Karen E.
Lovely, Joan B.	Welch, James T.— 20.

NAYS

Brownsberger, William N.	Keenan, John F.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	Ross, Richard J.
Eldridge, James B.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.

Jehlen, Patricia D.

Wolf, Daniel A. — 12.

PAIRED.

YEAS.

NAYS.

Pacheco, Marc R.

Chang-Diaz, Sonia (*present*)
— 2.

ABSENT OR NOT VOTING

Chandler, Harriette L.

Downing, Benjamin B.

Creem, Cynthia Stone

Knapik, Michael R. — 4.

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

Mr. Finegold moved that the proposed new text be amended by inserting, after section 58, the following section:-
“SECTION 58A. The secretary shall issue a report on the feasibility of implementing a zone-based fare structure for the Massachusetts Bay Transportation Authority’s subway service. The report shall be filed with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation by January 1, 2014.”
The amendment was *rejected*.

Mr. Hedlund moved that the proposed new text be amended by inserting, at the end thereof, the following new section:-
“SECTION XX. Notwithstanding any general or special law to the contrary there is hereby established a special commission for the purpose of reviewing and evaluating the costs associated with operating both the Massachusetts bay transit authority and the Massachusetts bay commuter rail, with a specific focus on labor costs and benefits, labor agreements and management expenses. The commission shall compare these labor costs, expenses and agreements with those of other states, jurisdictions and other departments within the Commonwealth. Said special commission shall consist of the Secretary of Transportation or a designee, who shall serve as chair; the State Auditor or a designee; a representative of the company operating the commuter rail at the time the commission is seated; 3 members who shall be appointed by the Governor, 2 of whom shall be representatives of business associations and 1 of whom shall represent organized labor; 1 member who shall be appointed by the Speaker of the House; 1 member who shall be appointed by the House Minority Leader; 1 member who shall be appointed by the Senate President; and 1 who shall be appointed by Senate Minority Leader. Said special commission shall report, in writing, to the general court with its recommendation, if any, on the equity and cost effectiveness of the commonwealth’s current rail labor expenses and recommend whether certain policies from other jurisdictions should be implemented as part a comprehensive state transportation. A report of the commission’s findings shall be filed with the clerks of the house of representatives and senate not later than November 1, 2013.”
The amendment was *rejected*.

Messrs. Hedlund and Tarr moved that the proposed new text be amended by inserting, at the end thereof, the following new sections:-

“SECTION 1. Section of 13 of Chapter 64A of the General Laws, as appearing in the 2012 edition, is hereby amended by inserting at the end of the paragraph after the words ‘chapter 131’ the following ‘; and 0.05 percent shall be credited to the Harbors and Inland Waters Maintenance Fund, established by section 10A ½ of chapter 91’.

SECTION 2. Chapter 91 of the General Laws, as appearing in the 2012 edition, is hereby amended by inserting after section 10A the following new section: -

Section 10A ½. There is hereby established a fund to be known as the Harbors and Inland Waters Maintenance Fund to which shall be credited such sums as are determined the provisions of section thirteen of chapter sixty four A, sections forty-two, forty-three, forty-five, forty-six A and forty-nine of chapter ninety-one and any sums received by the commonwealth from the federal government on account of the activities of the department of conservation and recreation relative to (a) the continuous maintenance dredging; (b) cleaning of all the areas within the harbors, inland waters and great ponds of the commonwealth include the removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation; (c) maintenance of state piers; and (d) for the purpose of carrying out the provisions of section thirty-one. All monies

in said fund shall be subject to appropriation, and shall be used only for the purpose of continuous maintenance dredging and cleaning of harbors, inland waters and great ponds of the commonwealth, including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation, by the department of conservation and recreation.” After remarks, the amendment was *rejected*.

Mr. Tarr and Ms. Clark moved that the proposed new text be amended by inserting at the end thereof the following new section:-
“SECTION XX. There is hereby established a special task force to analyze the feasibility of a registration plate system utilizing enhanced recognition and identification registration plates. The task force shall consist of the registrar of motor vehicles, who shall serve as the chair; the colonel of the state police or a designee; a representative of the Massachusetts Chiefs of Police Association; a representative of the criminal justice information systems; a designee from the Molly Bish Center for Missing and Exploited Children; the secretary of administration and finance or a designee the secretary of transportation or a designee; a representative of the American Automobile Association; a representative of the Massachusetts Correctional Industries; the secretary of the executive office of public safety and security or a designee; a representative of the State Police Association of Massachusetts; a member of a labor organization representing police officers designated by the governor; a designee appointed by the senate president; a designee appointed by the minority leader of the senate; a designee appointed by the speaker of the house of representatives; and a designee appointed by the minority leader of the house of representatives.

The study shall include, but not be limited to, short-term and long-term costs to the commonwealth, time frame for implementation, impact on federal, state and local law enforcement and between states and the tools and equipment necessary to produce enhanced recognition and identification registration plates. The study shall assess: (i) human reaction to numbers, letters, characters and symbols and the ability to cognitively process such numbers, letters, characters and symbols; provided, however, that the task force shall rely upon scientific studies that have been peer reviewed and consult with relevant research or clinical scientists or medical professionals to verify the accuracy of the information it reviews; (ii) transportation-based factors including, but not limited to, the impact on toll revenues; (iii) interfaces with motor vehicle databases in other states including, without limitation, any licensing and registration system used by the registry of motor vehicles; and (iv) criminal information system accessibility.

The task force may conduct 1 or more public hearings to inform the public of its activities. The task force shall seek input from the United States Department of Justice, the United States Immigration and Customs Enforcement and the United States Department of Homeland Security. The report of the task force shall be filed with the Clerks of the Senate and the House of Representatives not later than December 31, 2013.”

The amendment was *rejected*.

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

“SECTION __. Chapter 161A of the General Laws, as most recently amended by chapter 119 of the Acts of 2012, is hereby further amended by inserting at the end thereof the following new section:

Section 50. Notwithstanding any general or special law to the contrary, the department or the authority shall not undertake any system expansion, defined as encompassing the development, conceptual planning, design and construction of any effort to expand the scope of services at the authority, until the department or the authority conducts a cost analysis and certifies that the addition of the project will not prevent the authority from generating sufficient revenue to contribute 34 per cent of the authority’s operating budget annually. This cost analysis shall include any and all costs associated with the project including debt service, construction costs, future maintenance and associated costs. The auditor of the commonwealth shall request that the administrator of the appropriate division of the department prepare the fiscal analysis, including life cycle costs, demonstrating that sufficient revenues exist or will be generated to operate and maintain in good repair the expansion. This analysis shall also be submitted to the joint legislative committee on revenue.

Nothing in this section shall be construed to prevent any system enhancement, defined as encompassing capital projects that improve existing service and foster increased ridership on exiting transit systems.”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes before four o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 4 — nays 29*) [**Yeas and Nays No. 26**]:

YEAS

Hedlund, Robert L.

Tarr, Bruce E.

Ross, Richard J.

Timilty, James 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.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 29.
Keenan, John F.	

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R.
Creem, Cynthia Stone	Pacheco, Marc R. — 5.
Downing, Benjamin B.	

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

Messrs. Barrett and Eldridge, Ms. Creem and Ms. Clark moved that the proposed new text be amended by inserting after section 28 the following section:

“SECTION 28A. The Commissioner of Revenue, in consultation with the Commissioner of Energy Resources, shall file a report, not later than December 1, 2013, regarding any statutory, regulatory and administrative changes, arrangements and calculations that may be required in the event the Commonwealth’s taxation of sales of gasoline is broadened to include taxation of sales of all carbon-based fuels. The report shall be filed with the joint committee on revenue, the joint committee on environment, natural

resources and agriculture, and the senate and house committees on ways and means.”

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by striking section 14 through 16, inclusive; by striking section 24 through 34, inclusive; by striking section 51 in its entirety; and by striking section 56 in its entirety

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nine minutes before four o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 4 — nays 29*) **[Yeas and Nays No. 27]:**

YEAS

Hedlund, Robert L.	Tarr, Bruce E.
Ross, Richard J.	Timilty, James 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.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
DiDomenico, Sal N.	O’Connor Ives, Kathleen
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 29.
Keenan, John F.	

ABSENT OR NOT VOTING

Chandler, Harriette L.

Knapik, Michael R.

Creem, Cynthia Stone

Pacheco, Marc R. — 5.

Downing, Benjamin B.

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

Mr. Tarr moved that the proposed new text be amended by striking in section 62 in line 473 the number "2013" and inserting in place there of :- "2016"; by striking in section 63 in line 475 and 476 the number "2014" and inserting in place there of:- "2017"; and by striking in section 65 in line 478 the number "2015" and inserting in place there of: - "2018".

The amendment was *rejected*.

Mr. Tarr moved that the proposed new text be amended by adding the following section:-

"SECTION. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall, as mandated by section 14 of chapter 132 of the acts of 2012, 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 of representatives and the senate and to the house and senate committees on ways and means and the joint committee on transportation on or before August 30, 2013."

After remarks, the amendment was *rejected*.

Ms. Creem moved that the proposed new text be amended by adding the following section:

"SECTION XX. Section 1. Subsection (a) of section 13 of chapter 6C of the General Laws, as so appearing, is hereby amended by inserting after the figure '3', in line 5, the following:- ' ; provided, however, that the department shall provide a 20 per cent discount on all tolls not otherwise discounted that are in effect for Massachusetts residents who participate in the department's electronic toll collection system'.

Section 2. Subsection (b) of said section 13 of said chapter 6C of the General Laws, as so appearing, is hereby amended by inserting after the figure '4', in line 41, the following:- ' ; provided further, that the department shall provide a 20 per cent discount on all tolls not otherwise discounted that are in effect for Massachusetts residents who participate in the department's electronic toll collection system'.

Section 3. Sections 1 and 2 shall apply to all tolls in effect after December 31, 2014."

The amendment was *rejected*.

Mr. Brownsberger, Ms. Clark and Ms. Donoghue moved that the proposed new text be amended by adding the following new section:-

"Section XX. Section 14C(a) of Chapter 7 of the General Laws is hereby amended by adding the definition of 'agency' after the word 'board,' the following:- 'including the Massachusetts Bay Transportation Authority Retirement Board and any successor or subsidiary entity'."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at four o'clock P.M., on motion of Mr. Ross, as follows, to wit (*yeas 33 — nays 0*) [**Yeas and Nays No. 28**]:

YEAS

Barrett, Michael J.

Lovely, Joan B.

Brewer, Stephen M.

McGee, Thomas M.

Brownsberger, William N.

Montigny, Mark C.

Candaras, Gale D.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Hedlund, Robert L.	Tarr, Bruce E.
Jehlen, Patricia D.	Timilty, James E
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — 33.
Kennedy, Thomas P.	

NAYS — 0.

ABSENT OR NOT VOTING

Chandler, Harriette L.	Knapik, Michael R.
Creem, Cynthia Stone	Pacheco, Marc R. — 5.
Downing, Benjamin B.	

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

Mr. Tarr moved that the proposed new text be amended by inserting at the end thereof the following 3 Sections:-
 “SECTION___. There shall be an independent commission to study and investigate issues related to the laws relating to the use of

private contracts to provide for public services. The commission shall investigate and report on the financial impact of the laws regarding privation contracts on Massachusetts state agencies, the process by which private contractors apply to provide government services, the criteria used to evaluate a private sector application, and the overall laws impact on the finances of state government, the government's ability to efficiently hire for necessary services, and the impact on private sector employment. The commission shall consist of the state auditor or a designee, who shall serve as the chair, the inspector general or a designee, and the attorney general or a designee. The commission shall submit a final report of its findings and recommendations, together with drafts of legislation necessary to implement those recommendations, by filing the same with the clerks of the senate and house before October 1, 2014.

SECTION XX. Sections 52, 53, 54, 55 and 56 of chapter 7 of the General Laws, as appearing in the 2010 Official Edition, are hereby repealed.

SECTION XXX. Section XX shall go into effect April 1, 2015. “

The amendment was *rejected*.

Messrs. Brownsberger and Tarr moved that the proposed new text be amended by adding the following new section:-

“Section XX. Clause Twenty-Sixth of Section 7 of Chapter 4 of the General Laws is hereby amended by adding after the word ‘board,’ the following words:- ‘including the Massachusetts Bay Transportation Authority Retirement Board and any successor or subsidiary entity.’”

The amendment was adopted.

Mr. Brownsberger and Ms. Donoghue moved that the proposed new text be amended by adding the following new sections:-

“Section XX. Section 14C(b) of Chapter 7 of the General Laws is hereby amended by inserting the following between Section 14C(b)(4) and Section 14C(b)(5):- ‘(4 1/2) capital expenditures grouped by project with links to related capital budget documents;’.

Section XXX. Section XX shall take effect on July 1, 2014.”

The amendment was adopted.

Mr. Keenan moved that the proposed new text be amended by inserting in section 2 of the bill, after the words “the Department shall” in line 6 and line 11, and in section 35 of the bill, after the words “the Department shall” in line 299, in each instance, the following word:- “annually”.

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by striking section 58.

The amendment was *rejected*.

Mr. Tarr moved that the proposed new text be amended by adding the following section:-

“SECTION __. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall not enter into a new agreement with a contractor to provide commuter rail services beyond the year of the 2016. Prior to the conclusion of any such contract the Authority shall implement requirements for procurement designed to maximize competition. Said requirements shall require that all pertinent labor cost information is provided and available for prospective bidders. Prior to initiating such procurement, the Authority shall review its previous procurement process and include comments from contractors who expressed interest in the request but who ultimately did not submit an official bid. The authority shall submit to the clerks of the house of representatives and the senate the implements it has identified to improve competition not later than December 15, 2014.”

The amendment was *rejected*.

Ms. Jehlen and Ms. Clark moved that the proposed new text be amended by inserting, at the end thereof, the following new section:-

“SECTION XX. Section 1 of Chapter 64A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting, in line 98, after the second appearance of the word “gallon” the following sentence:- “However, if by July 1, 2015, there is insufficient revenue in the Commonwealth Transportation Fund, Section 2ZZZ of chapter 29, to pay for debt service on bonds issued or to be issued for MassDOT’s and the MBTA’s capital programs including, but not limited to, the transportation capital projects listed in the State Transportation Improvement Program, the MBTA five-year capital plan, the State Implementation Plan, the commonwealth five-year capital investment plan, and any outstanding transportation bond bills, the “tax per gallon” shall be increased by 3 cents per gallon.”.

Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at a half past four o’clock P.M., on motion of Mr. Brownsberger, as follows, to wit (*yeas 10 — nays 23*) [**Yeas and Nays No. 29**]:

YEAS

Brownsberger, William N.	Eldridge, James B.
Chang-Diaz, Sonia	Jehlen, Patricia D.
Clark, Katherine M.	McGee, Thomas M.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Wolf, Daniel A. — 12.

NAYS

Brewer, Stephen M.	Moore, Richard T.
Candaras, Gale D.	Murray, Therese
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Finegold, Barry R.	Rodrigues, Michael J.
Flanagan, Jennifer L.	Rosenberg, Stanley C.
Hedlund, Robert L.	Ross, Richard J.
Joyce, Brian A.	Rush, Michael F.
Keenan, John F.	Spilka, Karen E.
Kennedy, Thomas P.	Tarr, Bruce E.
Lovely, Joan B.	Timilty, James E.
Montigny, Mark C.	Welch, James T.— 23.
Moore, Michael O.	

PAIRED

YEAS.

NAYS.

Barrett, Michael J. (<i>present</i>) — 2.	Pacheco, Marc R.
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ABSENT OR NOT VOTING

Chandler, Harriette L.

Downing, Benjamin B.

Creem, Cynthia Stone

Knapik, Michael R. — 4.

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

Mr. Knapik moved that the proposed new text be amended by striking out sections 36, 37, 39, and 44.
The amendment was *rejected*.

Mr. Richard T. Moore moved that the proposed new text be amended by inserting at the end thereof, the following new section:-
“SECTION X. Notwithstanding any special or general law to the contrary, the department of transportation shall conduct a pilot project to examine the feasibility of engaging in public-private partnerships for the completion of scheduled capital projects. The department of transportation may enter into an agreement to authorize a developer to fund the construction of the commonwealth’s portion of any proposed economic development project that would generate job creation and new state and local tax revenue opportunities. Said projects may be funded in part or entirely by said developer, and shall be completed to any applicable state and federal standards. At the completion of said construction, the commonwealth shall reimburse the developer for those costs associated with the construction from any anticipated revenues, including, but not limited to, sales and income taxes, generated by the proposed development. The department of transportation, in consultation with the auditor and inspector general, shall certify all costs and revenue projections associated with the development.”
The amendment was *rejected*.

Mr. Brownsberger and Ms. Clark moved that the proposed new text be amended by adding the following new section:-
“SECTION XX. Chapter 6C of the General Laws, as so appearing, is hereby amended by striking out section 20 in its entirety and inserting in place thereof the following section:-
SECTION 20. Except as otherwise provided by law, any sale of real property shall be awarded, utilizing appropriate, competitive, and customarily acceptable real estate disposition processes and procedures, to the bidder who is the highest responsible bidder subject to any restrictions, covenants, or conditions the department shall find that sound reasons in the public interest require. Such processes and procedures may include, but shall not be limited to, absolute auction, sealed bids and requests for price and development proposals. The department shall have the right to reject all bids submitted under such processes and procedures and to re-advertise for bids. Before any real property shall be so sold or conveyed, notice that such real property is for sale shall be publicly advertised in a newspaper with a circulation sufficient to inform the people of the city or town in which the real property to be sold is located, once a week for 3 successive weeks. Such advertisements shall state the time and place where all pertinent information relative to the real property to be sold or conveyed may be obtained, the time and location of the auction, or the time and place for the submission of such bids and for the opening thereof, and that the department reserves the right to reject any or all such bids. After the execution of a sale agreement completing such transaction, all bids relating thereto shall be retained by the department and shall be open to inspection by the public until the expiration of such agreement or six months from the date thereof, whichever occurs first, and may thereafter be destroyed by the department. The department may require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the department, accompany the proposals or bids. This paragraph shall not be applicable to any sale of real property by the department to the commonwealth or any city, town or public instrumentality nor to a sale of real property which is determined by the department to have a fair market value of \$5,000 or less.”
The amendment was *rejected*.

Ms. Spilka and Mr. Donnelly moved that the proposed new text be amended by inserting at the end thereof the following section:-
“SECTION XX. The secretary of the department of transportation shall study the feasibility of establishing one or more facilities for the purposes of overhaul and other major repair, manufacture or assembly, installation, and upgrade of mass transit vehicles in order to ensure that safe, modern and efficient vehicles are in service in adequate numbers to meet the needs of citizens of the commonwealth. The secretary shall file report on the findings with the governor, the joint committee on transportation and the house and senate committees on ways and means by June 30, 2014. The study shall consider the possibility of utilizing existing funding sources to direct maintenance and repair projects to existing facilities within the commonwealth and shall estimate the funding needed to create appropriate facilities for manufacture, assembly or major overhaul projects. The report shall include an estimate of the number of jobs related to creating the infrastructure necessary to perform this work in the commonwealth, the number of permanent jobs needed to create and maintain mass transit vehicles in the commonwealth, and the ancillary economic impact of operating such facilities in the commonwealth.”
After remarks, the amendment was adopted.

Ms. Spilka, Mr. Donnelly, Ms. Lovely, Ms. Clark and Messrs. Petrucci and McGee moved that the proposed new text be amended by striking out section 52 and inserting in place thereof the following section:-

“SECTION 52. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall, in the department’s annual budget, ensure that the budget includes sufficient revenue from sources of revenue listed in subsection (c) to meet the following benchmarks: (i) in fiscal year 2014, the department shall contribute 47 per cent of the department’s operating budget; (ii) in fiscal year 2015, the department shall contribute 48 per cent of the department’s operating budget; (iii) in fiscal year 2016, the department shall contribute 50 per cent of the department’s operating budget; (iv) in fiscal year 2017, the department shall contribute 51 per cent of the department’s operating budget; and (v) in fiscal year 2018, the department shall contribute 51 per cent of the department’s operating budget.

(b) The benchmarks in subsection (a) may be achieved through any combination of revenue increases under subsection (c) and savings to the department’s operating budget; provided, that the department shall submit a preliminary report of savings to the operating budget by October 1 of each fiscal year and a final report of savings to the operating budget by January 1 of each fiscal year. Those preliminary and final reports shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

(c) The revenue generated to meet the benchmarks in subsection (a) may be derived from: (i) fees collected by the registrar of motor vehicles under section 34 of chapter 90 of the General Laws; (ii) funds available to the registry of motor vehicles through the Motor Vehicle Inspection Trust Fund under section 61 of chapter 10 of the General Laws; and (iii) any other funds directly collected by the department; provided, however, that no funds collected through increases to tolls charged and collected as of January 1, 2013 under section 13 of chapter 6C of the General Laws shall be counted towards the benchmarks in subsection (a); provided, further that any revenue collected from tolls for transit on roads not tolled as of July 1, 2013 shall count towards the benchmarks in subsection (a).”

Pending the question on adoption of the amendment Ms. Chang-Díaz, Ms. Jehlen and Messrs. Donnelly and Keenan moved that the pending amendment (Spilka et al) be amended by inserting at the end thereof the following:- “and in Section 53 by striking subsection (c) and inserting in place thereof the following subsection:-

(c) The revenue generated to meet the benchmarks in subsection (a) may be derived from any funds collected by the authority through fees and other funds directly collected by the authority; provided, however, such revenue shall not include funds contributed to the Massachusetts Bay Transportation Authority State and Local Contribution Fund under section 35T of chapter 10 of the General Laws; provided further that such revenue shall not be derived by an increase in fares or a reduction in services offered by the authority.”

After debate, the further amendment was *rejected*.

The pending amendment (Spilka et al) was then considered, and it was **adopted**.

Suspension of Senate Rule 38A

Ms. Murray moved that Senate Rule 38A be suspended to allow the Senate to meet beyond the hour of 8:00 P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The House Bill relative to transportation finance (House, No. 3415),-- was again considered, the main question being on ordering the bill to a third reading.

Mr. Richard T. Moore moved that the proposed new text be amended by inserting, at the end thereof, the following new section:-

“SECTION X. Section 1 of chapter 90 of the General Laws is hereby amended by adding the following new definition:-

‘Commercial Motor Vehicle,’ shall mean any motor vehicle which is not a private passenger motor vehicle, antique motor car, motorcycle, auto home, house trailer, taxicab, ambulance, hearse, livery vehicle, or school pupil transport vehicle. A commercial motor vehicle shall include the following vehicles:

(a) The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or

(b) The vehicle is designed to transport more than 15 passengers, including the driver; or

(c) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding in accordance with the Hazardous Materials Regulations of the United States Department of Transportation. Any commercial motor vehicle that singularly has a gross vehicle weight rating of 10,001 pounds or less and is designed to meet emissions standards, shall be submitted for an emissions inspection in addition to all applicable safety inspection requirements; or

(d) A single, full or semi-trailer, used in commerce, with a manufacturer's gross vehicle weight rating over 3,000 lbs; or

(e) Any vehicle which has a vehicle weight, or curb weight, of more than six thousand pounds, as per the manufacturer's description of said vehicle, unless such vehicle is a sport utility vehicle or passenger van, or a pickup truck or cargo van meeting the definition of private passenger vehicle; or

(f) Any vehicle which has five or more wheels on the ground.

Notwithstanding the aforementioned vehicles, a dual rear wheel pick-up truck registered by an individual other than a business,

and not used for commercial purposes, shall not be classified as a commercial vehicle for purposes of registration.”
After remarks, the amendment was *rejected*.

Ms. Spilka, Mr. Donnelly, Ms. Clark and Ms. Creem moved that the proposed new text be amended by inserting at the end thereof the following section:-

“Section XX. The paratransit fares of the Massachusetts Bay Transportation Authority and the Regional Transit Authorities shall not exceed:

- (a) The regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income does not exceed 200 per cent of the Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services;
- (b) One and one-half times the regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income is above 200 per cent and does not exceed 300 per cent of the Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services; and
- (c) Twice the regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income exceeds 300 per cent of the Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services.”

After remarks, the amendment was *rejected*.

Ms. Spilka, Messrs. Donnelly and Eldridge, Ms. Clark and Messrs. Tarr and Ross moved that the proposed new text be amended by striking section 5, section 48, and section 59 in their entirety.

After remarks, the amendment was adopted.

Mr. Richard T. Moore moved that the proposed new text be amended by inserting, at the end thereof, the following new section:-
“SECTION X. Notwithstanding any general or special law to the contrary, the department of transportation shall conduct a feasibility study of advertising along bridge overpasses throughout the commonwealth’s highway system, as permitted within federal rules and regulations. Said study shall include an analysis of which routes would be most appropriate for advertising, the amount of revenue that may be generated from such a policy and any rules or regulations which may restrict or prohibit such a policy. Said feasibility study shall be completed by December 31, 2013, and shall be filed with the clerks of the house and senate, the house and senate chairs of the joint committee on transportation, and the house and senate committees on ways and means.”

After remarks, the amendment was adopted.

Ms. Spilka, Mr. Donnelly, Ms. Clark and Mr. Wolf moved that the proposed new text be amended by inserting at the end thereof the following sections:-

“SECTION XX. Section 5 of chapter 161B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by deleting the second paragraph and inserting in place thereof the following paragraph:-

One representative of the disabled commuter population shall serve on the advisory board as a voting member for a 1 year term. Such person shall have 1 vote on the advisory board. Every city or town in the region, on a rotating basis as determined by the board, shall appoint a representative successively; provided that the representative of the disabled commuter population and the representative of the rider community shall not be appointed by the same city or town in the region. The mayor or city manager and the chairman, town manager or town administrator shall appoint a resident of the city or town for this purpose. This representative shall be mobility impaired or have a family member who is mobility impaired, be a caretaker of a person who is mobility impaired, or work for an organization that serves the needs of the physically disabled. The representative of a city or town may be reappointed after representatives from the other cities and towns within the region have served their 1 year terms.

SECTION XX. Said section 5 is further amended by inserting after the second paragraph the following paragraph:-

One representative of the rider community population shall serve on the advisory board as a voting member for a 1 year term. Such person shall have 1 vote on the advisory board. Every city or town in the region, on a rotating basis as determined by the board, shall appoint a representative successively; provided that the representative of the disabled commuter population and the representative of the rider community shall not be appointed by the same city or town in the region. The mayor or city manager and the chairman, town manager or town administrator shall appoint a community rider for this purpose from a list of at least 5 persons nominated by the Massachusetts State AFL-CIO and its regional councils. The representative of a city or town may be reappointed after representatives from the other cities and towns within the region have served their 1 year terms.

SECTION XX. Notwithstanding any general or special law to the contrary, each regional transit authority, hereinafter referred to as RTA, established under chapter 161B of the General Laws shall develop a comprehensive regional transit plan in consultation with the appropriate regional planning agency, the department of transportation, local employers and the business associations, labor organizations, and transit authority riders. The regional transit plan shall include but not be limited to: (1) a comprehensive assessment of transit services; (2) a thorough examination of the ridership trends for each line and service provided by the RTA; (3) a performance analysis of existing services; (4) the development and evaluation of alternative service scenarios; (5) the development of a recommendation to better align service with local and regional demand; (6) the commonwealth’s environmental policies; (7) fare rates and collection methods; (8) the region’s job creation goals and employment needs; and (9) a determination of whether the RTA’s service is deployed in the most effective way possible to accommodate the transit needs of the region’s workforce. The development of the plan shall include public hearings in different regions of the commonwealth and the opportunity to comment on a draft report.”

After remarks, the amendment was adopted.

Ms. Spilka and Mr. Michael Moore moved that the proposed new text be amended by inserting at the end thereof the following section:-

“SECTION XX. Section 13 of Chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended in subsection (b) by striking the words ‘so called.’ in line 84 and inserting in place thereof the following:- ‘so called; and provided further, that the department shall provide a 20 per cent discount on all tolls in effect for Massachusetts residents who reside in a municipality traversed by any tolled asset and who participates in the department’s electronic toll collection system’.”

The amendment was *rejected*.

Ms. Spilka, Ms. Chandler, Messrs. Wolf and Donnelly, Ms. Clark, Ms. Creem, Ms. Jehlen and Mr. Eldridge moves that the proposed new text be amended by inserting after section 58 the following section:-

“SECTION 58A. There shall be a tax fairness commission to study the federal, state and local tax laws applicable to residents of the commonwealth. The commission shall review and evaluate the equity of historical tax rates and methods in relation to the changing income and wealth of residents of the commonwealth since 1990. The commission shall examine the experiences and policy efforts of other states relating to tax fairness.

The commission shall file a report with the clerks of the house and senate on or before March 1, 2014. The report shall include, but not be limited to, the following: (i) the total amount of taxes currently paid by individuals at various income levels; (ii) the effects that making changes to tax laws would have on individuals of all income levels; (iii) the changes in revenue collected by the commonwealth as a result of tax law revisions; (iv) the adequacy of revenue generated by individuals, businesses and any other tax types; (v) tax rates necessary to fund investment in public infrastructure; (vi) tax rates necessary to promote prosperity for all residents; (vii) restrictions on tax changes under Article XLIV of the constitution of the commonwealth; (viii) recommendations for changes in statute to achieve an equitable and adequate system of taxation; and (ix) the best practices of other states.

The commission shall be comprised of the following members: the secretary of administration and finance or the secretary’s designee; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; the chairs of the house and senate committees on ways and means or the chair’s designees; the house and senate chairs of the joint committee on revenue, or the chairs’ designees, who shall serve as co-chairs of the commission; a representative of the Massachusetts Budget and Policy Center; a representative of the Massachusetts Taxpayers Foundation; a representative of the Dukakis Center for Urban and Regional Policy; a representative of the Pioneer Institute; and 4 members designated by the governor, 1 of whom shall represent labor and 2 of whom shall have expertise in economics or tax policy.”

After remarks, the amendment was adopted.

Mr. Tarr and Ms. Clark moved that the proposed new text be amended by adding the following section:-

“SECTION _ . Notwithstanding any general or special law to the contrary, this is hereby established the Massachusetts’ Commuter Rail Audit Commission, which shall consist of the Auditor, the Inspector-General, and the Attorney General or their designees. The purpose of the commission shall be to ensure that any and all contracts for transportation entered into by the MBTA are cost-effective and maximize value for the citizens of the Commonwealth.

Said commission shall audit and review the current and all future proposed contracts by the Massachusetts Bay Transit Authority to determine any potential factors currently present or proposed which would have the effect of reducing or minimizing competition for award of such contracts. Such examination shall include but not be limited to the timely availability of information, statutory, regulatory or other impediments for maximizing efficiency, and the use of fixed pricing and other contract terms.

In conducting its examination the commission shall to the maximum extent possible, consult with entities which have submitted expressions of interest for one or more contracts and which have not subsequently submitted bids for such contracts.

The commission shall submit a report detailing its findings together with any legislative recommendations to the clerks of the House and Senate not later than April 1, 2014.”

After remarks, the amendment was *rejected*.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the proposed new text be amended in subsection (a) of section 52 by striking the figures “47,48,50,51,51” respectively, and inserting in place thereof the figures “49,50,52,53,54”;

In section 52 by adding the following subsection:-

“(d) The operating expenses on wages in the department shall not be increased at any time the department is not exceeding the benchmarks in subsection (a); and further in subsection (a) of section 53 by striking the figures ‘31.5,33,33.25,32.75,34’ respectively, and inserting in place thereof the figures ‘33,34,35,37,38’.”; and

In section 53 by adding the following subsection:-

“(d) The operating expenses on wages in the authority shall not be increased at any time the authority is not exceeding the benchmarks in subsection (a).”

The amendment was *rejected*.

Ms. Creem, Mr. Eldridge and Ms. Clark moved that the proposed new text be amended by inserting the following new language:-

“SECTION 10A. Section 2 of chapter 21J of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting the following new subsection:

(F) Underground Storage Tank fees shall be adjusted at the beginning of each calendar year, beginning by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends

before such preceding year; provided however, that the Consumer Price Index for any calendar year shall be as defined in section 1 of the Internal Revenue Code; and by striking out, in line 471, the year '2014' and inserting in place thereof the following year:- '2013'."

Pending the question on adoption of the amendment, Mr. McGee moved that the pending amendment (Creem et al) be amended by striking out the text and inserting in place thereof the following text:-

"By inserting after section 9 the following section:-

SECTION 9A. Subsection (A) of section 2 of chapter 21J of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- 'The fee imposed under this paragraph shall be adjusted at the beginning of each calendar year, by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year.'; and in section 65 by striking out the words 'Section 29', in line 478, and inserting in place thereof the following words:- 'Sections 9A and 29'."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-six minutes before six o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (*yeas 26 — nays 6*) [**Yeas and Nays No. 30**]:

YEAS

Barrett, Michael J.	Joyce, Brian A.
Brewer, Stephen M.	Keenan, John F.
Brownsberger, William N.	Kennedy, Thomas P.
Candaras, Gale D.	Lovely, Joan B.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 26.

NAYS

Donoghue, Eileen M.	Ross, Richard J.
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Hedlund, Robert L.

Tarr, Bruce E.

Moore, Michael O.

Timilty, James E. — 6.

PAIRED.

YEAS.

NAYS.

Creem, Cynthia Stone

Moore, Richard T. (*present*)

Rodrigues, Michael J. (*present*) Pacheco, Marc R. — 4.

ABSENT OR NOT VOTING

Downing, Benjamin B.

Knapik, Michael R. — 2.

The yeas and nays having been completed at twenty-one minutes before six o'clock P.M., the amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by adding the following section:-

“SECTION ____ . The MBTA shall file a report with the legislature detailing present, planned, and foreseeable activities to increase its self-sufficiency and decrease its dependence on state subsidization and fare increases. Said report shall include, but not be limited to, methods for increased fare collections; the cultivation and implementation of opportunities for sponsorships of facilities, programs, venues and properties; an analysis of employee compensation, including but not limited to, overtime payments, health care benefits, pensions and other benefits; the privatization of some or all of the operations of the MBTA; and any and all other actions being considered or pursued to improve the sustainability of services provided by the MBTA within its current and projected fiscal constraints. This report shall be filed with the clerk of the senate and the clerk of the house of representatives, the joint committee on transportation, and the senate and house ways and means committees no later than 180 days following the effective date of this act.”

The amendment was *rejected*.

Mr. Tarr moved that the proposed new text be amended by inserting before the word “cigarettes” in lines 376, 379, and 381, the following word:- “unstamped”.

The amendment was *rejected*.

Mr. Tarr moved that the proposed new text be amended by striking section 28 in its entirety; and in section 29 by striking everything after the word “words” in line 268 to 272 and inserting in place thereof the following:- “shall not increase when in the preceding two year period the median household income for the commonwealth has decreased”.

The amendment was *rejected*.

Mr. Montigny moved that the proposed new text be amended by adding the following sections:-

“SECTION ____ . Chapter 63 of the General Laws is hereby further amended by inserting after section 29E the following section:-

Section 29F. (a) When 50 per cent or more of the capital interests or profits interest in an entity that is engaged in a non-insurance trade or business and that would otherwise be treated as a partnership or disregarded entity for purposes of this chapter is owned, directly or indirectly, by an insurance company described in sections 20 to 29E, inclusive, the net income that passes through to that insurance company with respect to the non-insurance trade or business shall be taxed to the partnership or disregarded entity as if the partnership or disregarded entity were a corporation subject to tax under this chapter.

(b) A partnership or disregarded entity, described in subsection (a), shall file a return in the manner of a business corporation under the applicable section of this chapter with respect to the non-insurance income and activities of such partnership or disregarded entity, and shall pay the associated excise, taking into account only the portion of such net income that would otherwise pass through to an insurance company described in sections 20 to 29E, inclusive. To the extent applicable, income that is taxable to the partnership or disregarded entity under this section, and any related tax attributes and activities, shall be included and taken into account in a combined report filed under section 32B.

(c) As used in this section, the term ‘partnership or disregarded entity’ shall include a real estate investment trust, in this subsection called a REIT, within the meaning of Section 856 of the Internal Revenue Code of 1986, as amended. In any case in

which this section applies to the ownership of a REIT, the dividends paid deduction to which the REIT is entitled under the Code, to the extent attributable to the income taxed under this section, shall not be recognized.

(d) The commissioner may issue regulations or other guidance to implement this section.

SECTION _____. Section 1 of chapter 64G of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after paragraph (b) thereof the following paragraph:--

(b1/2) 'Doing business in the commonwealth', ownership or operation of a bed and breakfast establishment, hotel, lodging house or motel that is located in the commonwealth, maintenance otherwise of a place of business in the commonwealth, the presence of an employee in the commonwealth on more than a de minimis basis, solicitation in the commonwealth of orders for transfer of occupancy of accommodations located in the commonwealth, solicitation in the commonwealth by a reseller of a contract or other cooperative arrangement with an operator with respect to accommodations located in the commonwealth, inspection in the commonwealth of accommodations that may be the subject of a cooperative arrangement between an operator and a reseller, or other exploitation of the market for accommodations or resale of accommodations located in the commonwealth by any means whatsoever, including, but not limited to, salesmen, solicitors or representatives in the commonwealth, whether those salesmen, solicitors or representatives are employed by the operator or reseller, by a person affiliated with the operator or the reseller by common ownership, or by any other party. This definition is intended to extend the jurisdiction of the commonwealth over operators and resellers to the full extent authorized by the Constitution and the laws of the United States.

SECTION _____. Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word 'operator', in line 49, the following words:- 'or the room reseller'.

SECTION _____. Said section 1 of said chapter 64G, as so appearing, is hereby further amended by adding the following paragraphs:-

(k) 'Room reseller' or 'Reseller', any person having any right, permission, license, or other authority from or through an operator to reserve or arrange transfer of occupancy of accommodations the transfer of which is subject to this chapter, such that the occupant pays all or a portion of the rent to the reseller. The term 'Room Reseller' or 'Reseller' includes, but is not limited to, sellers of travel packages as defined in this chapter.

(l) 'Travel package,' a room or rooms bundled with 1 or more separate components such as air transportation, car rental or similar items and charged to the customer or occupant for a single retail price.

SECTION _____. Said chapter 64G is hereby further amended by striking out section 3 and inserting in place thereof the following section:

Section 3. An excise is hereby imposed upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house, or motel in this commonwealth by any operator or room reseller doing business in the commonwealth at the rate of 5 per cent of the total amount of rent for each occupancy. No excise shall be imposed if the total amount of rent paid by the occupant is less than \$15 per day or its equivalent. The operator or room reseller shall pay the excise to the commissioner at the time provided for filing the return required by section 16 of chapter 62C.

The value of the transfer of any room or rooms bundled as part of a travel package may be determined from the room reseller's books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

SECTION _____. The first paragraph of section 3A of said chapter 64G, as appearing in the 2010 Official Edition, is hereby amended by striking out the first, second and third sentences and inserting in place thereof the following 3 sentences:- A city or town that accepts this section may impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located within the city or town by any operator or room reseller at a rate up to, but not exceeding, 6 per cent of the total amount of rent paid by the occupant for the occupancy, but the city of Boston may impose a local excise upon the transfer of occupancy of any room in a bed and breakfast establishment, hotel, lodging house or motel located within the city by any operator or room reseller at the rate of up to but not exceeding 6.5 per cent of the total amount of rent paid by the occupant for the occupancy. No excise shall be imposed if the total amount of rent paid by the occupant is less than \$15 per day or its equivalent or if the accommodation is exempt under section 2. The operator or room reseller shall pay the local excise tax imposed under this section to the commissioner at the same time and in the same manner as the excise tax due the commonwealth.

SECTION _____. Said chapter 64G is hereby further amended by striking out sections 4 to 6, as appearing in the 2010 Official Edition, and inserting in place thereof the following 4 sections:

Section 3B. Notwithstanding any other provision of this chapter, in cases in which occupancy is transferred through the use of a room reseller, the application of the excise shall be as follows: If the room reseller is required to register under section 6 to collect the excise, the room reseller shall collect and pay to the commissioner the excise upon the amount of rent paid by the occupant to the room reseller, less the amount of rent that the reseller has paid to the operator. Whether or not the room reseller is so registered, the operator shall collect and pay to the commissioner the excise upon the amount of rent paid to the operator by the reseller or the occupant.

No assessment shall be made against an operator on the basis of an incorrect remittance of the excise under this chapter by an unaffiliated room reseller and no assessment shall be made against a room reseller on the basis of an incorrect remittance of the excise under this chapter by an unaffiliated operator.

Section 4. Reimbursement for the excise imposed under sections 3 and 3A shall be paid by the occupant or the room reseller to the operator and by the occupant to the room reseller, as the case may be, and each operator and room reseller doing business in the commonwealth shall add to the rent and shall collect from the occupant or the room reseller the full amount of the excise imposed, in accordance with sections 3 and 3A, and that excise shall be a debt to the operator or room reseller, when so added to the rent, and shall be recoverable at law in the same manner as other debts.

Section 5. The amount of the excise collected by the operator or the room reseller under this chapter shall be stated and charged separately from the rent and shown separately on any record thereof at the time the transfer of occupancy is made, or on any evidence of the transfer issued or used by the operator or the room reseller. A room reseller shall not be required to disclose to the occupant the amount of tax charged by the operator. The reseller shall represent to the occupant that the separately stated taxes charged by the reseller include taxes charged by the operator.

Section 6. No person shall operate a bed and breakfast establishment, hotel, lodging house or motel in this commonwealth, or do business as a room reseller in the commonwealth, unless a certificate of registration has been issued to that person in accordance with section 67 of chapter 62C.

SECTION _____. Section 7A of said chapter 64G, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word 'operator', in line 1 and in line 7, the following words: 'or room reseller'.

SECTION _____. Said chapter 64G is hereby further amended by striking out section 7B and inserting in place thereof the following section:

Section 7B. Every operator or room reseller who fails to pay to the commissioner any sums required to be paid by this chapter shall be personally and individually liable for those amounts to the commonwealth. The terms 'operator' and 'room reseller', as used in this section, include an officer or employee of a corporation, or a member or employee of a partnership, who as an officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

SECTION _____. Section 12 of said chapter 64G, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "operator", in line 5, the following words: and each room reseller.

SECTION _____. For purposes of the convention center surcharge imposed by section 9 of chapter 152 of the acts of 1997, as amended, the term 'operator' shall mean 'operator or room reseller.'

SECTION _____. Any revenues generated by Sections ____ to ____ of this act shall be paid into the Commonwealth Transportation Fund to be used for the debt service of capital expansion projects."

After remarks, the amendment was *rejected*.

Mr. Ross moved that the proposed new text be amended by inserting the following new section:-

"SECTION XX. Chapter 64A is hereby amended by inserting after section 7A the following section:-

Section 7B. Any municipality of the commonwealth that buys any fuel on which an excise tax has been paid under chapter 64A and, which fuel has been purchased for its municipal consumption and use, shall be reimbursed the amount of such excise tax paid in the manner and subject to the conditions herein provided. All claims for reimbursement shall be filed with the commissioner of revenue and shall be made in such form and containing such information, and accompanied with supporting documentation, as the commissioner of revenue shall prescribe. The commissioner of revenue shall establish a quarterly calendar year schedule for the submission of claims by municipalities for reimbursement of such paid fuel excise taxes. No reimbursement for such excise tax paid shall be made for any claim submitted after 6 months from the date of the purchase of such fuel. The commissioner of revenue shall transmit all claims approved by him to the comptroller for certification, and the amount so approved and certified as aforesaid shall be paid forthwith from the proceeds of the excise tax levied under this chapter 64A, without specific appropriation. No claim for reimbursement for said excise tax shall be made by a municipality under sections 7 and 7A of chapter 64A, for fuel purchased during said period, to which a municipality is entitled to claim a reimbursement under this section.

SECTION 2. Section 13 of Chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words 'seven and seven A' in line 3, and inserting in place thereof, the following words:- 'seven, seven A and seven B.'

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twelve minutes past six o'clock P.M., on motion of Mr. Ross, as follows, to wit (*yeas 5 — nays 28*) [**Yeas and Nays No. 31**]:

YEAS

Hedlund, Robert L.

Tarr, Bruce E.

Moore, Michael O.

Timilty, James E. — 5.

Ross, Richard J.

NAYS

Barrett, Michael J.

Joyce, Brian A.

Brewer, Stephen M.	Keenan, John F.
Brownsberger, William N.	Kennedy, Thomas P.
Candaras, Gale D.	Lovely, Joan B.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Montigny, Mark C.
Clark, Katherine M.	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 28.

PAIRED.

YEAS.

NAYS.

Moore, Richard T. (<i>present</i>)	Creem, Cynthia Stone — 2.
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ABSENT OR NOT VOTING

Downing, Benjamin B.	Pacheco, Marc R. — 3.
Knapik, Michael R.	

The yeas and nays having been completed at a quarter past six o'clock P.M., the amendment was rejected.

Mr. Tarr and Ms. Donoghue moved that the proposed new text be amended by adding the following sections:

“SECTION A. The state auditor shall conduct a comprehensive audit of the Massachusetts Bay Transportation Authority. The auditor shall review the authority and all contracts it has entered into worth over \$100,000. The auditor shall review the quality, efficiency, and integrity of the department’s operating and capital programs and the contracts of which the authority has entered into to provide transportation services. The audit shall seek to prevent, detect, and correct waste, abuse, and excessive payments

made to employees or contractors. The audit shall review the procurement process of the authority in entering into an agreement to provide commuter rail services, and include a review of bidders who submitted official responses but did not submit an official bid.

SECTION __. Sections 14-16, inclusive, and section 24-34, inclusive, shall not go into effect until the audit required by Section A is submitted to the clerks of the house of representatives and the senate.”

After remarks, the amendment was *rejected*.

Mr. Finegold moved that the proposed new text be amended by inserting, after section 4, the following sections:-

“SECTION 4A. Section 11 of chapter 6C, as so appearing, is hereby amended by inserting after the sixth sentence, in line 23, the following sentence:- All projects shall be listed in order of priority and include a detailed cost estimate of each, including life-cycle costs as required by section 10.

SECTION 4B. The second paragraph of said section 11 of chapter 6C, as so appearing, is hereby amended by adding the following sentence:- Each annual report shall also be posted on the Massachusetts Department of Transportation’s website.”

The amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by striking section 33 and 34, in their entirety.

After debate, the question on adoption of 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. Hedlund, as follows, to wit (*yeas 5 — nays 28*) [**Yeas and Nays No. 32**]:

YEAS

Hedlund, Robert L.	Tarr, Bruce E.
Kennedy, Thomas P.	Timilty, James E. — 5 .
Ross, Richard J.	

NAYS

Barrett, Michael J.	Joyce, Brian A.
Brewer, Stephen M.	Keenan, John F.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O’Connor Ives, Kathleen
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.

Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 28.

PAIRED.

YEAS.

NAYS.

Pacheco, Marc R.	Moore, Michael O. (<i>present</i>) — 2.
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ABSENT OR NOT VOTING

Creem, Cynthia Stone	Knapik, Michael R. — 3.
Downing, Benjamin B.	

The yeas and nays having been completed at a half past six o'clock P.M., the amendment was rejected.

Mr. McGee moved that the proposed new text be amended by inserting after section 58 the following 2 sections:-
 “SECTION 58A. If in fiscal years 2019 and 2020 the amount credited to the Commonwealth Transportation Fund under subsection (a) of section 2ZZZ of chapter 29 of the General Laws from receipts under chapters 21J, 64A, 64E and 64F of the General Laws and the monies received from the sales of motor vehicles under subsection (c) of said section 2ZZZ of said chapter 29 does not exceed the amount credited to the fund in the previous fiscal year by 8 per cent or more, then the comptroller shall transfer from the General Fund to the Commonwealth Transportation Fund an amount equal to the amount credited in the previous fiscal year plus 8 per cent. For fiscal years after 2020, the amount credited to the Commonwealth Transportation Fund under subsection (a) of section 2ZZZ of chapter 29 of the General Laws from receipts under chapters 21J, 64A, 64E and 64F of the General Laws and the monies received from the sales of motor vehicles under subsection (c) of said section 2ZZZ of said chapter 29 shall exceed the amount credited in the previous fiscal year by not less than the percentage growth in the consumer price index over the previous calendar year as defined in section 1 of the Internal Revenue Code.

SECTION 58B. Notwithstanding any general or special law to the contrary, the secretary of transportation and the general manager of the Massachusetts Bay Transportation Authority shall meet with the secretary of administration and finance and the house and senate committees on ways and means on the fiscal status of the Massachusetts Department of Transportation and the Massachusetts Bay Transportation Authority in January and July of each year. The first meeting under this section shall occur not later than December 31, 2013.

Not less than 15 days prior to each meeting, the secretary of transportation shall submit a report to the secretary of administration and finance and the house and senate committees on ways and means detailing: (i) year-to-date revenues collected, projected revenues and expenditures for the current fiscal year; (ii) projected revenues and expenditures for the next 5 fiscal years; (iii) changes in revenue and expenditure projections from the previous semiannual report; (iv) reasons for any changes from previous projections; (v) progress made toward achieving revenue and savings targets set for fiscal years 2017 and 2018; and (vi) a plan detailing how the fiscal year 2017 and fiscal year 2018 targets will be achieved.

In order to comply with clause (vi), the report submitted prior to the July 2015 meeting shall identify any potential changes to the fare and fee structure necessary to achieve the benchmarks set forth in sections 52 and 53 for fiscal year 2017 and fiscal year 2018. If the report proposes to increase the fare and fee structure by 5 per cent, the report shall include an estimate of additional support from the Commonwealth Transportation Fund or other revenue and saving initiatives necessary to limit increases to not more than 5 per cent every 24 months.”

After debate, the amendment was adopted.

Ms. Spilka and Messrs. Petrucci and McGee moved that the proposed new text be amended by inserting after section 6 the

following section:-

SECTION 6A. Section 30 of said chapter 6C, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Subject to the approval of the board the secretary may: (1) operate and administer the programs of roadway design, construction, repair, maintenance, capital improvement, development, and planning through the division of highways and other agencies within the department, as appropriate; (2) coordinate and supervise the administration of the department and its agencies to promote economy and efficiency and to leverage federal funding; (3) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the department and agencies within the department; (4) execute all instruments necessary for carrying out the business of the department and its agencies; (5) acquire, own, hold, dispose of, lease and encumber property in the name of the department and its agencies; (6) enter into agreements with commissions, offices, boards, divisions, authorities and other entities within the department to improve divisions, agencies, administrative efficiency and program effectiveness and to preserve fiscal resources; (7) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the department or its agencies; (8) apply for and accept funds, including grants, on behalf of the commonwealth in accordance with applicable law; and (9) fix and revise from time to time and charge and collect tolls for transit over the following roadways: interstate highway route 90 at the commonwealth's border with New York; interstate highway route 84 at the commonwealth's border with Connecticut; interstate highway route 93 at the commonwealth's border with New Hampshire; interstate highway route 95 at the commonwealth's borders with New Hampshire and Rhode Island; interstate highway route 91 at the commonwealth's borders with Connecticut and Vermont; interstate highway route 395 at the commonwealth's border with Connecticut; interstate highway route 295 at the commonwealth's border with Rhode Island; state highway route 24 at the commonwealth's border with Rhode Island; state highway route 3 at the commonwealth's border with New Hampshire; interstate highway route 7 at the commonwealth's borders with Connecticut and Vermont; and interstate highway Route 146 at the commonwealth's border with Rhode Island. The secretary may delegate any of the foregoing powers to an officer having charge of a division, office or other administrative unit within the department."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at one minutes before seven o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 19 — nays 15*) [**Yeas and Nays No. 33**]:

YEAS

Barrett, Michael J.	Lovely, Joan B.
Brownsberger, William N.	McGee, Thomas M.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Petrucelli, Anthony
Clark, Katherine M.	Rosenberg, Stanley C.
DiDomenico, Sal N.	Rush, Michael F.
Donnelly, Kenneth J.	Spilka, Karen E.
Eldridge, James B.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 19.
Kennedy, Thomas P.	

NAYS

Brewer, Stephen M.	Montigny, Mark C.
Candaras, Gale D.	Moore, Richard T.
Donoghue, Eileen M.	O'Connor Ives, Kathleen
Finegold, Barry R.	Rodrigues, Michael J.
Flanagan, Jennifer L.	Ross, Richard J.
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Timilty, James E. — 15.
Keenan, John F.	

ABSENT OR NOT VOTING

Creem, Cynthia Stone	Knapik, Michael R.
Downing, Benjamin B.	Pacheco, Marc R.— 4.

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

Mr. Ross moved that the proposed new text be amended by striking in section 53 in line 409 the following "33 per cent" and inserting in place thereof the following :- "50 per cent"; and in section 58 by inserting after the word "Laws" the following words:-"provided however that the funds shall not be expended until at least two of the benchmarks outlined in section 53 are met".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at ten minutes past seven o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (*yeas 4 — nays 30*) [**Yeas and Nays No. 34**]:

YEAS

Hedlund, Robert L.	Tarr, Bruce E.
Ross, Richard J.	Timilty, James E. — 4.

NAYS

Barrett, Michael J.	Keenan, John F.
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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.
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 30.

ABSENT OR NOT VOTING

Creem, Cynthia Stone	Knapik, Michael R.
Downing, Benjamin B.	Pacheco, Marc R. — 4.

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

Mr. McGee, Ms. Creem and Mr. Petrucelli moved that the proposed new text be amended by inserting after the enacting clause the following 3 sections:-

“SECTION 1: Section 3 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the words ‘turnpike corridor’, in line 74, the following words:- or a metropolitan highway system community, as appropriate.

SECTION 1A: Said section 3 of said chapter 6C, as so appearing, is hereby further amended by inserting after the word ‘turnpike’, in line 76, the following words:- or metropolitan highway system, as appropriate.,.

SECTION 1B: Said section 3 of said chapter 6C, as so appearing, is hereby further amended by inserting after the word ‘accepted’, in line 78, the following words:- ; provided further, that the department shall not implement all-electronic tolling nor open-road tolling on the metropolitan highway system or turnpike prior to: (i) pursuing approval from the Federal Highway

Administration to toll additional interstate highways within the commonwealth; (ii) developing a comprehensive tolling program on additional interstate and limited access state highways within the commonwealth, which considers equity issues, revenue benchmarks established by state law, current policy objectives, diversion issues, cost and consistency with the current highway program; (iii) examining a regional value pricing program, electronic tolling program, road pricing program and other available tolling options; and (iv) developing a toll feasibility analysis as a part of the highway project selection and the project finance decision making and inclusion of such analysis in the evaluation of all projects as part of the 5-year highway capital improvement program.”; and by striking out, in lines 1 and 2, the words “SECTION 1. Section 3 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition” and inserting in place thereof the following words:- “SECTION 1C. Said section 3 of said chapter 6C, as so appearing.”

After remarks, the amendment was adopted.

Ms. Clark, Ms. Chang- Diaz and Ms. Jehlen moved that the proposed new text be amended by striking out section 53 and inserting in place thereof the following section:-

“SECTION 53. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall, in the authority’s budget as approved by the board of directors under section 20 of chapter 161A of the General Laws, ensure that the budget includes sufficient revenue from sources of revenue listed in subsection (c) to meet the following benchmarks: (i) in fiscal year 2014, the authority shall contribute 31.5 per cent of the authority’s operating budget; (ii) in fiscal year 2015, the authority shall contribute 33 per cent of the authority’s operating budget; (iii) in fiscal year 2016, the authority shall contribute 33.25 per cent of the authority’s operating budget; (iv) in fiscal year 2017, the authority shall contribute 32.75 per cent of the authority’s operating budget; and (v) in fiscal year 2018, the authority shall contribute 34 per cent of the authority’s operating budget.

(b) The benchmarks in subsection (a) may be achieved through increasing non-fare revenues, increasing total fare revenues through ridership growth, increasing fare levels while accounting for potential loss of ridership from fare increases or from savings to the authority’s operating budget; provided, however, that the authority shall submit a preliminary report of savings to the operating budget by October 1 of each fiscal year and a final report of savings to the operating budget by January 1 of each fiscal year. Those preliminary and final reports of savings shall be submitted to the house and senate committees on ways and means and the joint committee on transportation. Nothing in this section shall be construed to relieve the authority of any legal requirements it must fulfill under state or federal law prior to increasing fares or eliminating service.

(c) The revenue generated to meet the benchmarks in subsection (a) may be derived from any funds collected by the authority through fees and fares and any other funds directly collected by the authority; provided, however, that such revenue shall not include funds contributed to the Massachusetts Bay Transportation Authority State and Local Contribution Fund under section 35T of chapter 10 of the General Laws.

(d) The authority may achieve these benchmarks by restraining operating costs and increasing ridership prior to proposing a fare increase. The authority shall, in the authority’s budget plan, regularly create and update 5-year pro forma financials and as part of the budget planning process may plan for small, regular fare increases of not more than 5 per cent for all modes and populations. The authority shall not increase fares at intervals of less than 24 months or at a rate greater than 5 per cent. The authority shall not implement any fare increase unless it is in strict compliance with section 5 of chapter 161A of the General Laws. If the authority’s budget plan does not achieve a required benchmark within a given budget year, but is within 0.5 percentage points of the benchmark, and fares have been increased within the previous budget year, the authority shall increase the subsequent year’s benchmark by an equivalent amount and make needed adjustments to the operating budget and fare levels in the subsequent budget year.”

After remarks, the amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the proposed new text be amended by inserting the text of Senate document numbered 1773, relative to transportation finance reform.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before eight o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 3 — nays 31*) [**Yeas and Nays No. 35**]:

YEAS

Hedlund, Robert L.

Tarr, Bruce E. — 3.

Ross, Richard J.

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
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	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. — 31.
Keenan, John F.	

ABSENT OR NOT VOTING

Creem, Cynthia Stone	Knapik, Michael R.
Downing, Benjamin B.	Pacheco, Marc R. — 4.

The yeas and nays having been completed at twenty-two minutes before eight o'clock P.M., the amendment was rejected.

Messrs. Rodrigues and Montigny moved that the proposed new text be amended in section 54, by striking out subsection (b) and inserting in place thereof the following 2 subsections:-

“(b) The secretary of transportation, in consultation with the secretary of administration and finance, shall file a report regarding the department’s compliance with the second sentence of said section 15 of said chapter 6C not later than August 1, 2013. The report shall include, but not be limited to: (1) the number of employees with salaries funded by capital expenditures in fiscal year 2013, specifying each employee’s salary, job classification and department; (2) the total cost of employee salaries charged to capital expenditures in fiscal year 2013, specifying each employee’s salary, job classification and department; (3) the number of

employees and total cost of employee salaries that the department estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014, 2015 and 2016, specifying each employee's salary, job classification and department; and (4) a strategy to dedicate a portion of the funds made available through compliance with this section to projects that are included in the authority's 5-year rolling capital investment plan as published in accordance with section 5 of chapter 161A of the General Laws. The report shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

(c) The department shall use as necessary the extra bonding capacity or any portion thereof created by the removal of personnel costs from the capital budget under this section to fund the capital costs associated with planning, design, permitting, engineering and construction of transportation projects."

Pending the question on adoption of the amendment, Messrs. Ross, Rodrigues, Montigny, Tarr Knapik and Hedlund moved that the pending amendment (Rodrigues) be amended by striking out the text and inserting in place thereof the following text:-

"In section 54, by striking out subsection (b) and inserting in place thereof the following 2 subsections:-

(b) The secretary of transportation, in consultation with the secretary of administration and finance, shall file a report regarding the department's compliance with the second sentence of said section 15 of said chapter 6C not later than August 1, 2013. The report shall include, but not be limited to: (1) the number of employees with salaries funded by capital expenditures in fiscal year 2013, specifying each employee's salary, job classification and department; (2) the total cost of employee salaries charged to capital expenditures in fiscal year 2013, specifying each employee's salary, job classification and department; (3) the number of employees and total cost of employee salaries that the department estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014, 2015 and 2016, specifying each employee's salary, job classification and department; and (4) a strategy to dedicate a portion of the funds made available through compliance with this section to projects that are included in the authority's 5-year rolling capital investment plan as published in accordance with section 5 of chapter 161A of the General Laws. The report shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

(c) The department shall use as necessary the extra bonding capacity or any portion thereof created by the removal of personnel costs from the capital budget under this section to fund the capital costs associated with planning, design, permitting, engineering and construction of transportation projects."

After remarks, the further amendment was adopted.

The pending amendment (Rodrigues) was then adopted, as amended.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the proposed new text be amended by inserting the text of Senate document numbered 1774, relative to internal special audit unit transparency.

After remarks, the amendment was adopted.

Mr. Brewer moved that the proposed new text be amended in section 8 by inserting after the word "thereof", in line 91, the following words:- "within or outside the limits of such highway";

By striking out sections 10 and 11 and inserting in place thereof the following 4 sections:-

SECTION 10. Subsection (C) of said section 2 of said chapter 21J, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The department shall deposit the receipts from the delivery fee imposed under the first paragraph of subsection (A) into the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 and shall deposit the receipts from the annual storage tank fee imposed under the second paragraph of subsection (A) into the General Fund.

SECTION 11. Said section 2 of said chapter 21J, as so appearing, is hereby further amended by striking out subsection (D).

SECTION 11A. Section 14 of said chapter 21J, as so appearing, is hereby amended by striking out, in line 1, the word "fees,".

SECTION 11B. Said section 14 of said chapter 21J, as so appearing, is hereby further amended by striking out, in lines 2 to 4, inclusive, the words "treasury to the credit of the fund in accordance with the provisions of section two S of chapter twenty-nine" and inserting in place thereof the following words:- General Fund.";

In section 13 by inserting after the figure "1997", in line 134, the following words:- "provided, further, that if in a fiscal year the amount credited to the fund under this subsection is less than \$459,000,000, then the comptroller shall transfer an amount from the General Fund to make up the difference between the amount credited to the fund and \$459,000,000, not later than September 1 of the following fiscal year";

By striking out section 29 and inserting in place thereof the following section:-

SECTION 29. Said section 1 of said chapter 64A, is hereby further amended, by inserting after the word "gallon", the second time it appears, in line 98, as so appearing, the following words:- , adjusted at the beginning of each calendar year, by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year; provided, that the Consumer Price Index for any calendar year shall be as defined in section 1 of the Internal Revenue Code; provided further, that the tax shall not be less than 21 cents per gallon.";

By inserting after section 35 the following section:-

SECTION 35A. Section 7G of said chapter 81, as so appearing, is hereby amended by striking out, in line 2, the word "public".;

In section 44, by inserting after the word "Transportation", in line 332, the following words:- "or in which the department has a sufficient easement interest";

In section 49 by striking out the words "department's office of real estate and asset development", in lines 345 and 346, and inserting in place thereof the following word:- "department"; and

By inserting after section 58 the following 2 sections:-

SECTION 58C. Notwithstanding any general or special law to the contrary, not less than \$20,000,000 may be transferred, under section 2E of the general appropriations act for fiscal year 2014, to the Massachusetts Department of Transportation Trust Fund, established in section 4 of chapter 6C of the General Laws, to: (a) support the debt service related to increased distributions for local road and bridge projects in fiscal year 2014; or (b) support the debt service related to other transportation capital improvement projects.

SECTION 58D. Notwithstanding any general or special law to the contrary, the comptroller shall transfer \$75,000,000 from the General Fund to the Commonwealth Transportation Fund, established in section 2ZZZ of chapter 29 of the General Laws, not later than July 1, 2014 and shall transfer \$56,000,000 from the General Fund to the Commonwealth Transportation Fund, established in said section 2ZZZ of said chapter 29, not later than July 1, 2015.”.

The amendment was adopted.

The President in the Chair, the Ways and Means amendment, as amended, was then adopted.

The bill, as amended, was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed, in concurrence, with the amendment was determined by a call of the yeas and nays, at seven minutes before eight o'clock, P.M., on motion of Mr. Tarr, as follows, to wit (yeas 30 – nays 5) [Yeas and Nays No. 36]:

YEAS

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.
DiDomenico, Sal N.	Murray, Therese
Donnelly, Kenneth J.	Petrucelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Jehlen, Patricia D.	Welch, James T.

Joyce, Brian A.

Wolf, Daniel A. — **30.**

NAYS

Hedlund, Robert L.

Tarr, Bruce E.

Ross, Richard J.

Timilty, James E. — **5.**

O'Connor Ives, Kathleen

ABSENT OR NOT VOTING

Creem, Cynthia Stone

Knapik, Michael R.

Downing, Benjamin B.

Pacheco, Marc R. — **4.**

The yeas and nays having been completed at five minutes before eight o'clock P.M. the bill passed to be engrossed, in concurrence, with the amendment [For text of Senate amendment, printed as amended, see Senate, No. 1770]. Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Ms. Chang-Díaz,--

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

On motion of the same Senator at four minutes before eight o'clock P.M., the Senate adjourned to meet again on Tuesday at eleven o'clock A.M.