

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.

Wednesday, July 24, 2013.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Lovely for the purpose of an introduction. Ms. Lovely then introduced, on the Rostrum, her youngest daughter, Catherine Taylor Lovely. Catherine is a recent graduate of the University of New Hampshire and is in the process of applying for law school. The Senate welcomed her with applause and she withdrew from the Chamber.

Reports of Committees.

By Mr. Joyce, for the committee on Bonding, Capital Expenditures and State Assets, that the Senate Bill authorizing the Division of Capital Asset Management and Maintenance to grant an easement upon land of the Commonwealth located in the town of Ware to the Massachusetts Water Resources Authority (Senate, No. 1457),-- **ought to pass.**
Referred, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. McGee, for the committee on Transportation, on Senate Nos. 1647 and 1682, a Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 1836);
Read and, under Senate Rule 27, referred to the committee on Ways and Means.

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

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

At twenty-two minutes past two o'clock P.M., Mr. Tarr doubted the presence of a quorum; and, a count of the Senate determined that a quorum was not present.

Subsequently, at twenty-four minutes past two o'clock P.M., the President declared that a quorum was present.

PAPERS FROM THE HOUSE.

Engrossed Bill Returned by Governor With His Objections Thereto.

The engrossed Bill relative to transportation finance (see House, No. 3535, amended), which, on Wednesday, July 18, 2013, had again been laid before His Excellency the Governor for his approbation,— **came from the House the same having been returned by His Excellency the Governor, with his objections thereto in writing, [for message, see House, No. 3585] and having passed that branch, notwithstanding said objections.**

The message (House, No. 3585) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

The question on passing the bill, in concurrence, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-four minutes past two o'clock P.M., as follows, to wit (*yeas 35 — nays 5*) [**Yeas and Nays No. 106**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	Knapik, Michael R.
Candaras, Gale D.	Lovely, Joan B.
Chandler, Harriette L.	McGee, Thomas M.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Murray, Therese
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Petruccelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Timilty, James E.
Forry, Linda Dorcena	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. — 35.
Joyce, Brian A.	

NAYS.

Hedlund, Robert L.

Ross, Richard J.

Montigny, Mark C.

Tarr, Bruce E. — 5.

Pacheco, Marc R.

The yeas and nays having been completed at twenty-eight minutes past two o'clock P.M., the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Mr. Tarr moved reconsideration of the previous vote, and after debate, the motion was negative, by a vote of 3 to 24.

Mr. Tarr further doubted the vote and asked for a call of the yeas and the nays.

The question on reconsideration was determined by a call of the yeas and the nays, at nineteen minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 5 — nays 35*) [**Yeas and Nays No. 107**]:

YEAS.

Hedlund, Robert L.

Ross, Richard J.

Knapik, Michael R.

Tarr, Bruce E. — 5.

Montigny, Mark C.

NAYS.

Barrett, Michael J.

Keenan, John F.

Brewer, Stephen M.

Kennedy, Thomas P.

Brownsberger, William N.

Lovely, Joan B.

Candaras, Gale D.

McGee, Thomas M.

Chandler, Harriette L.

Moore, Michael O.

Chang-Diaz, Sonia

Moore, Richard T.

Clark, Katherine M.

Murray, Therese

Creem, Cynthia Stone

O'Connor Ives, Kathleen

DiDomenico, Sal N.

Pacheco, Marc R.

Donnelly, Kenneth J.

Petruccelli, Anthony

Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Timilty, James E.
Forry, Linda Dorcena	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 35.
Joyce, Brian A.	

The yeas and nays having been completed at sixteen minutes before three o'clock P.M., the motion to reconsider was *negated*.

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Mary Ann Gangemi, an employee of the Department of Public Health (see House, No. 3224), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 14 to 0. The bill was signed by the President and sent to the House for enactment.**

Engrossed Bill.

An engrossed Bill establishing a sick leave bank for Linda Barlow, an employee of the Department of Mental Health (see House, No. 3468) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

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

Petition (accompanied by bill, House, No. 3593) of Daniel B. Winslow relative to the collection and reporting of voter identification empirical data;

Under suspension of Joint Rule 12, to the committee on Election Laws.

Petition (accompanied by bill, House, No. 3594) of Thomas P. Conroy relative to pesticide application;

Under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.

Petition (accompanied by bill, House, No. 3595) of William Smitty Pignatelli and others for legislation to establish a homeless bill of rights;

Under suspension of Joint Rule 12, to the committee on Housing.

Petition (accompanied by bill, House, No. 3596) of Daniel B. Winslow and others for legislation to reduce sexual exploitation of victims of human trafficking;

Under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 3597) of James M. Cantwell and Josh S. Cutler for legislation to designate the song "Dream On" by Aerosmith as the official rock song of the Commonwealth;

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Providing for a charter for the town of Sandwich (Senate, No. 1792);
Authorizing the town of Arlington to establish a special account for the purchase, installation and maintenance of public works of art (Senate, No. 1794);
Relative to the charter of the town of Rockland (Senate, No. 1798);
Revising the charter for the city of Pittsfield (Senate, No. 1803);
Relative to the charter of the town of Norton (House, No. 1848);
Authorizing increased fees for special details performed by public employees in the City of Melrose (House, No. 3496); and
Relative to the town manager of the town of Saugus (House, No. 3508);
Were severally read a second time and ordered to a third reading.

PAPERS FROM THE HOUSE

*Message from the Governor — Disapproval and Reductions
General Appropriations Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2014 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3538), which on Tuesday, July 2, 2013, had been laid before the Governor for his approbation,— **came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.**

The message (House, No. 3566) was read; and the Senate proceeded to reconsider one item, which had been reduced in accordance with the provisions of the Constitution.

Item 1595-6368 (CTF Transfer to MTTF) was considered as follows:

“1595-6368. For an operating transfer to the Massachusetts Transportation Trust Fund, established pursuant to section 4 of chapter 6C of the General Laws; provided, that the Massachusetts Department of Transportation shall expend not less than \$80,000,000 to complete forward funding of regional transit authorities; provided further, that the MassDOT highway division shall restore a crosswalk located on Main street in the Town of Boylston; provided further, that \$194,364 shall be expended to ensure continued operation of job access transportation services provided by the Berkshire regional transit authority; provided further, that not less than \$770,000 shall be provided to the Montachusett regional transit authority for a contract with Community Transit Services to ensure services shall not be reduced in fiscal year 2014; and provided further, that the Massachusetts Department of Transportation and the Montachusett regional transit authority shall work in conjunction with Community Transit Services, Inc. and the town of Athol to phase out services not currently covered by the regional transit authority not later than July 1, 2014..... \$238,462,444

Commonwealth Transportation Fund..... 100%”.

[The Governor reduced this item by \$75,664,945 and struck the following wording “; provided, that the Massachusetts Department of Transportation shall expend not less than \$80,000,000 to complete forward funding of regional transit authorities”.]

After remarks, the question on passing item 1595-6368, contained in section 2, in concurrence, the reduction and objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty minutes past three o’clock P.M., as follows, to wit (*yeas 40 — nays 0*) [**Yeas and Nays No. 108**]:

YEAS.

- | | |
|--------------------------|--------------------|
| Barrett, Michael J. | Kennedy, Thomas P. |
| Brewer, Stephen M. | Knapik, Michael R. |
| Brownsberger, William N. | Lovely, Joan B. |
| Candaras, Gale D. | McGee, Thomas M. |

Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Murray, Therese
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petruccelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	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. – 40.

NAYS – 0.

The yeas and nays having been completed at twenty-five minutes past three o'clock P.M., item 1595-6368, contained in section 2, stands, in concurrence, notwithstanding the reduction and objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bill.

An engrossed Bill establishing a sick leave bank for Mary Ann Gangemi, an employee of the Department of Public Health (see House, No. 3224) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the President and laid before the Governor for his approbation.

*Message from the Governor — Disapproval and Reductions
General Appropriations Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2014 for the

maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3538), which on Tuesday, July 2, 2013, had been laid before the Governor for his approbation,— **came from the House, in part, several items and sections having been passed by the House notwithstanding the reduction or disapproval of the Governor.**

The message (House, No. 3566) was read; and the Senate proceeded to reconsider several items, which had been reduced and disapproved in accordance with the provisions of the Constitution.

Item 1595-6370 (CTF Transfer to RTA) was considered as follows:

1595-6370. For an operating transfer to the regional transit authorities organized pursuant to chapter 161B of the General Laws or predecessor statutes pursuant to clause (2) of subsection (d) of section 2ZZZ of chapter 29 of the General Laws; provided, that the Massachusetts department of transportation shall notify the house and senate committees on ways and means 60 days prior to the implementation of any changes to the methodology of distributing state contract assistance to regional transit authorities; and provided further, that each regional transit authority receiving assistance under this item shall deliver, not later than October 1, 2013, a copy of its most recent audited financial statement to the chief financial officer of the department of transportation, the secretary of administration and finance, the state treasurer, the state comptroller, the house and senate committees on ways and means and the joint committee on transportation \$67,635,055

Commonwealth Transportation Fund..... 100%.

[The Governor reduced this item by \$49,135,055.]

The question on passing item 1595-6370, contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes past three o'clock P.M., as follows, to wit (*yeas 40 — nays 0*) [**Yeas and Nays No. 109**]:

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Kennedy, Thomas P. |
| Brewer, Stephen M. | Knapik, Michael R. |
| Brownsberger, William N. | Lovely, Joan B. |
| Candaras, Gale D. | McGee, Thomas M. |
| Chandler, Harriette L. | Montigny, Mark C. |
| Chang-Diaz, Sonia | Moore, Michael O. |
| Clark, Katherine M. | Moore, Richard T. |
| Creem, Cynthia Stone | Murray, Therese |
| DiDomenico, Sal N. | O'Connor Ives, Kathleen |
| Donnelly, Kenneth J. | Pacheco, Marc R. |
| Donoghue, Eileen M. | Petrucelli, Anthony |
| Downing, Benjamin B. | Rodrigues, Michael J. |

Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	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. – 40.

NAYS – 0.

The yeas and nays having been completed at twenty-nine minutes before four o'clock P.M., item 1595-6370, contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1595-6369 (CTF Transfer to MBTA) was considered as follows:

1595-6369. For an operating transfer to the Massachusetts Bay Transportation Authority pursuant to clause (1) of subsection (d) of section 2ZZZ of chapter 29 of the General Laws \$275,200,000”

Commonwealth Transportation Fund..... 100%.

[The Governor reduced this item by \$115,200,000.]

The question on passing item 1595-6369, contained in Section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-eight minutes before four o'clock P.M., as follows, to wit (*yeas 40 — nays 0*) **[Yeas and Nays No. 110]:**

YEAS.

Barrett, Michael J.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.

Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Murray, Therese
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petruccelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	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. – 40.

NAYS – 0.

The yeas and nays having been completed at twenty-six minutes before four o'clock P.M., item 1595-6369, contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Item 1233-2350 (Unrestricted Local Aid) was considered as follows:

1233-2350. For the distribution to cities and towns of the balance of the State Lottery and Gaming Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws and additional aid to municipalities as provided for in section 3 \$920,230,293.

[The Governor reduced this item by \$177,070,000.]

The question on passing item 1233-2350, contained in section 2, in concurrence, the reduction of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-four minutes before four o'clock P.M., as follows, to wit (*yeas 40 — nays 0*) [**Yeas and Nays No. 111**]:

YEAS.

Barrett, Michael J.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Murray, Therese
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petruccelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rosenberg, Stanley C.
Finegold, Barry R.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	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. – 40.

NAYS – 0.

The yeas and nays having been completed at twenty-one minutes before four o'clock P.M., item 1233-2350, contained in section 2, stands, in concurrence, notwithstanding the reduction of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Order Adopted.

On motion of Mr. Brewer ,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M., in a full formal session with a calendar.

On motion of Ms. Chandler, at nineteen minutes before four o'clock P.M., the Senate adjourned to meet again tomorrow next at one o'clock P.M.