HOUSE . . . . . No. 932

By Mr. Flaherty of Boston, petition of Michael F. Flaherty relative to imposing certain limitations on the authority of the Executive Branch to impound or withhold appropriations duly made by the General Court. Ways and Means (joint).

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT CONTROLLING EXECUTIVE IMPOUNDMENT OF APPROPRIATED FUNDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 29 of the General Laws is hereby amended by inserting after Section 14 thereof, the following new section: —

Section 14A. Impoundment Control

It is hereby declared that, in order to ensure the proper separation of powers between the executive and legislative branches of government, to insure that the executive branch uses appropriations to carry out fully the purposes for which the appropriations were enacted, and to prevent the executive branch from impounding appropriations in ways which obstruct or hinder achieving the purposes for which the appropriations were enacted, it is necessary and appropriate to establish certain express limitations on the authority of the executive branch to impound or withhold appropriations duly made by the general court.

(a) Whenever the Goyernor, the Secretary of Administration and Finance, a Cabinet Secretary, head of a department or agency, or other officer or employee of the Commonwealth, determines that all or part of any appropriation by the general court will not be required to carry out the full purposes, objectives and programs for which it has been enacted, the Governor shall transmit in writing to both houses of the general court a detailed special message specifying: —

23 (1) the line item number of the designated appropriation, the
24 amount of the original appropriation and the year or years for
25 which the appropriation was made;
26 (2) the amount of the appropriation which the Governor
27 proposes not to expend;
28 (3) the Secretariat, department and/or agency which ad-
29 ministers the appropriation;
30 (4) the governmental purposes, objectives and programs which
31 the appropriation was enacted to achieve;
32 (5) the then current status of implementation of the programs
33 for which the appropriation was enacted;
34 (6) the reasons the Governor believes that the full purposes,
35 objectives and programs for which the appropriation has been
36 enacted can be met while withholding that part of the
37 appropriation which he proposes to withhold.
38 (b) The Governor shall distribute copies of his written message
39 referred to in paragraph (a) above on the same day to the Speaker
40 of the House and President of the Senate, or if the Legislature is
41 not in session, to the Clerks of the respective houses. The
42 Governor's message shall be printed as an official document of
43 the general court distributed forthwith to all members thereof.
44 (c) If any information contained in a special message
45 transmitted under subsection (a) above is subsequently revised,
46 the Governor shall transmit a supplementary message stating and
47 explaining such revision to both houses in accordance with the
48 procedures described in subsections (a) and (b) above.
49 (d) If the Governor, Secretary of Administration and Finance,
50 Cabinet Secretary, head of a department or agency, or other
51 officer or employee of the Commonwealth, proposes, wishes or
52 intends, to expand an amount less than the amount of any
53 appropriation by the general court but the Governor fails to
54 transmit to both houses of the general court a special message as
55 required in subsections (a) and (b) of this section, the Governor
56 and the executive branch shall expend the full amount of such
57 appropriation in the year or years for which it was appropriated.
58 (e) Any amount of appropriation which the Governor
59 proposes not to expend, as he sets forth in a special message
60 transmitted under subsections (a) and (b) of this section shall be
61 expended in the year or years for which the appropriation was

62 enacted unless both houses of the general court pass a resolution
63 approving a reduction in expenditure within 45 days of receiving
64 the Governor's message, or June 1 of the fiscal year for which the
65 appropriation was enacted, whichever first occurs.

66 (f) If any appropriation is required to be expended under this
67 section and the Governor fails to expend such appropriation for
68 the purposes, objectives and programs for which it was enacted,
69 any person may file a civil action in the supreme judicial court or
70 superior court to require such appropriation to be expended for
71 its legislatively intended use and such person may join in such
72 action claims with respect to any improperly withheld ap-
73 propriations. Such courts are hereby expressly empowered to
74 enter in such civil action, against any officer, employee,
75 department or agency of the Commonwealth, any decree,
76 judgment or order which may be necessary or appropriate to
77 ensure that such appropriations are expended to carry out the
78 purposes for which they were enacted, notwithstanding any law
79 to the contrary which may provide for reversion of unexpended
80 appropriations at the end of a fiscal year, or otherwise restrict
81 expenditure of appropriations.