

By Mr. Murphy of Peabody, petition of John E. Murphy, Jr., relative to imposing a limitation on 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:*

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

3 *Section 14A.* Impoundment Control

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

15 (a) Whenever the Governor, the Secretary of Administration  
16 and Finance, a Cabinet Secretary, head of a department or  
17 agency, or other officer or employee of the Commonwealth,  
18 determines that all or part of any appropriation by the general  
19 court will not be required to carry out the full purposes,  
20 objectives and programs for which it has been enacted, the  
21 Governor shall transmit in writing to both houses of the general  
22 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.

