Wednesday, June 27, 2012.

Met according to adjournment at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Mariano of Quincy concerning Mr. Naughton of Clinton was spread upon the records of the House, as follows:

Statement concerning Mr. Naughton of Clinton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Naughton of Clinton, is unable to be present in the House Chamber for today's sitting due to official military business outside of the Commonwealth. His missing of roll calls today will be due entirely to the reason stated.

Distinguished Guest.

Rear Admiral Buzz Little.

During the session, the Speaker took the Chair and introduced United States Navy Rear Admiral Buzz Little, Commander of the Navy Reserve Forces Command. Admiral Little then addressed the House on the occasion of Fleet Week in Boston.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Allen Robert Loane Square.

Resolutions (filed by Representatives Linsky of Natick and Peisch of Wellesley) on the occasion of the dedication of the Allen Robert Loane Square in the town of Natick; and

Oscar W. H. Brote.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Oscar W. H. Brote on receiving the Eagle Award of the Boy Scouts of America;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Peisch of Wellesley, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communication.

Dukes County Registry of Deeds,—technology expenditure.

A communication from the Dukes County Registry of Deeds (pursuant to Section 2KKK of Chapter 29 of the General Laws) submitting a request for expenditure for technological improvements from the County Registers Technological Fund [copies of said communication forwarded to the House and Senate committees on Ways and Means and Post Audit and Oversight, was placed on file].

Petitions.

Petitions severally were presented and referred as follows:

Hubbardston,—charter. By Mrs. Ferguson of Holden, a petition (accompanied by bill, House, No. 4209) of Kimberly N. Ferguson, Anne M. Gobi and Stephen M. Brewer (by vote of the town) for legislation to establish a charter for the town of Hubbardston;

Harwich,—health insurance. By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 4210) of Sarah K. Peake (by vote of the town) relative to health insurance benefits for elected officials in the town of Harwich; and

Westborough,—charter. By Mr. Peterson of Grafton, a petition (accompanied by bill, House, No. 4211) of George N. Peterson, Jr. and others (by vote of the town) relative to amending the charter of the town of Westborough;

Severally to the committee on Municipalities and Regional Government.

Gardner,—civil service. By Mr. Bastien of Gardner, a petition (accompanied by bill, House, No. 4213) of Richard Bastien and Jennifer L. Flanagan (with the approval of the mayor and city council) relative to exempting certain positions in the city of Gardner from the provisions of civil service laws;

Id. By Mr. Bastien of Gardner, a petition (accompanied by bill, House, No. 4214) of Richard Bastien and Jennifer L. Flanagan (with the approval of the mayor and city council) relative to exempting certain positions in the city of Gardner from the provisions of civil service laws; and

Wilbraham,—special police. By Mr. Puppolo of Springfield, a petition (accompanied by bill, House, No. 4212) of Angelo J. Puppolo, Jr. (by vote of the town) for legislation to authorize the appointment of special police officers in the town of Wilbraham;

Severally to the committee on Public Service.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Mansfield,—public intoxication. By Mr. Barrows of Mansfield, a petition (subject to Joint Rule 12) of F. Jay Barrows and Elizabeth A. Poirier (by vote of the town) relative to public intoxication in the town of Mansfield.

Wastewater district. By Mr. Barrows of Mansfield, a petition (subject to Joint Rule 12) of F. Jay Barrows relative to the Mansfield, Foxborough, and Norton wastewater district.

Delinquency records,—sealing. By Mr. Binienda of Worcester, a petition (subject to Joint Rule 12) of John J. Binienda relative to community service to expedite the sealing of delinquency records.

Halifax,—land. By Representative Calter of Kingston and Senator Kennedy, a joint petition (subject to Joint Rule 12) of Thomas J. Calter (by vote of the town) relative to authorizing the Commissioner of Capital Asset Management and Maintenance to convey a certain parcel of land to the town of Halifax.

Watertown,—Menton Corner. By Mr. Hecht of Watertown, a petition (subject to Joint Rule 12) of Jonathan Hecht, William N. Brownsberger and John J. Lawn, Jr., for legislation to designate a certain corner in the town of Watertown as Menton Corner.

By Mr. Parisella of Beverly, a petition (subject to Joint Rule 12) of Jerald A. Parisella for legislation to establish a sick leave bank for Amy Crowley, an employee of the Department of Revenue.

Amy Crowley,— sick leave.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

A report (in part) of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4000) to the Senate Bill relative to economic development reorganization (Senate, No. 2220), recommending passage of a bill with the same title (Senate, No. 2329), came from the Senate with the endorsement that it had been accepted by said branch.

Economic development reorganization.

Under suspension of the rules, on motion of Mr. Straus of Mattapoisett, the report was considered forthwith; and it was accepted, in concurrence.

The following order, having been approved by the committees on Rules of the two branches, acting concurrently, came from the Senate with the endorsement that it had been adopted by said branch, as follows:

"*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on the Judiciary be granted until Friday, June 8, 2012 within which to make its final report on current Senate documents numbered 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 679, 680, 681, 682, 683, 684, 685, 686, 689, 691, 693, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 729, 730, 731, 732, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 755, 756, 757, 758, 759, 760, 761, 762, 763, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 821, 822, 823, 824, 825, 826, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 862, 863, 864, 865, 866, 867, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 976, 1227, 1712, 1859, 1860, 1861, 1862, 1953, 2012, 2040, 2061 and 2160, relative to the judiciary.

Judiciary committee,— extension of time for reporting.

Under suspension of the rules, on motion of Mr. O'Flaherty of Chelsea, the order was considered forthwith; and it was adopted, in concurrence.

Children, Families and Persons with Disabilities,—extension of time for reporting.

The House Order relative to extending until Tuesday, June 12, 2012 the time within which the committee on Children, Families and Persons with Disabilities is authorized to report on current House document numbered 3902, came from the Senate with the endorsement that it had been adopted, in concurrence, with an amendment striking out the date "Tuesday, June 12" (as amended by the House) and inserting in place thereof the date "Monday, July 16".

Under suspension of the rules, on motion of Ms. Khan of Newton, the amendment was considered forthwith; and it was adopted, in concurrence.

Long-term care facilities,—dementia training.

The House Bill providing for dementia-specific training for certain employees of long-term care facilities (House, No. 3947, amended) (its title having been changed by the Senate committee on Bills in the Third Reading), came from the Senate passed to be engrossed, in concurrence, with an amendment in section 3, in line 25, striking out the word "January" and inserting in place thereof the word "April".

Under suspension of Rule 35, on motion of Ms. Wolf of Cambridge, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Transportation development and improvement.

The House Bill relative to an accelerated transportation development and improvement program for the Commonwealth (House, No. 4174), came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2317; inserting before the enacting clause the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for financing and reforms to the commonwealth's public transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and striking out the title and inserting in place thereof the following title: "An Act relative to financing and reforming public transportation in the Commonwealth.".

Under suspension of the rules, on motion of Mr. Straus of Mattapoisett, the amendments were considered forthwith.

The same member then moved that the House concur with the Senate in its amendments with a further amendment, by striking out all after the enacting clause (inserted by amendment by the Senate) and inserting in place thereof the text contained in House document numbered 4215; and the further amendment was adopted.

The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendment.

Education evaluation.

The Senate Bill providing for the implementation of education evaluation systems in school districts (Senate, No. 2315) (on Senate, No. 2197), passed to be engrossed by the Senate, was read. Under suspension of the rules, on motion of Ms. Peisch of Wellesley, the bill was read a second and (having been reported by the committee on Bills in the Third Reading to be correctly drawn) a third time forthwith.

Pending the question on passing the bill to be engrossed, in concurrence, the same member moved to amend it by inserting before the enacting clause the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is in part to provide forthwith for the implementation of education evaluations system in school districts, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.".

The amendment was adopted; and the bill (Senate, No. 2315, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Bills

Hingham,—sewer services.

Authorizing the Massachusetts Water Resources Authority to provide additional sewer services through the city known as the town of Weymouth to the town of Hingham (Senate, No. 2154) (on a petition); and

Heidi A. Lennon,—sick leave bank.

Establishing a sick leave bank for Heidi A. Lennon, an employee of the Department of Children and Families (Senate, No. 2319) (on a petition);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, then reported, in each instance, that the matter be scheduled for consideration by the House.

Subsequently, under suspension of the rules, in each instance, on motion of Mr. Kafka, the bills severally were read a second time forthwith; and they were ordered to a third reading.

Laurie Bourassa,—sick leave bank.

A petition (accompanied by bill) of Eileen M. Donoghue for legislation to establish a sick leave bank for Laurie Bourassa, an employee of the Department of Developmental Services, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2332) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

General Appropriation Bill.

Mr. Dempsey of Haverhill, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2275) of the House Bill making appropriations for the fiscal year 2013 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 (House, No. 4101), reported, in part, a Bill making appropriations for the fiscal year 2013 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 (House, No. 4200) [Appropriation: $32,509,152,751.00]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, then reported, that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting, the question, being on acceptance.

General Appropriation Bill,— Henderson Boat House, etc.

Mr. Dempsey of Haverhill, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2275) of the House Bill making appropriations for the fiscal year 2013 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 (House, No. 4101), reported, in part, a Bill establishing the social innovation financing trust fund and authorizing the lease of the Henderson Boat House (House, No. 4219). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, then reported, that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting, the question, being on acceptance.

Patricia Morin,— sick leave bank.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the joint petition of Todd M. Smola and Stephen M. Brewer for legislation to establish a sick leave bank for Patricia Morin, an employee of the Executive Office of Health and Human Services. Under suspension of the rules, on motion of Mr. Rogers of Norwood, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Vehicle emissions.

By Ms. Gobi of Spencer, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill to promote the reduction of green house gas emissions and to reduce the use of fossil fuels for vehicles in the Commonwealth (House, No. 253).

Assawompset Ponds,— water.

By the same member, for the same committee, on a joint petition, a Bill to preserve public water supply in Assawompset Ponds Complex communities (House, No. 3669).

Mercury thermostats.

By the same member, for the same committee, on House, Nos. 251 and 1170, a Bill prohibiting the sale, installation and disposal of mercury thermostats (House, No. 4204).

Municipal solid waste.

By the same member, for the same committee, on House, No. 1142, a Bill to reduce solid waste and generate municipal cost savings (House, No. 4205).

Boater safety.

By the same member, for the same committee, on House, No. 3407, a Bill David Hanson Boater Safety Act (House, No. 4206).

Mercury lamps.

By the same member, for the same committee, on Senate, No. 360 and House, Nos. 267 and 1163, a Bill relative to increasing the recycling of mercury-added lamps (House, No. 4207).

Land takings.

By the same member, for the same committee, on Senate, No. 1854, a Bill relative to land taking regulations (House, No. 4208).

By Mr. Walsh of Lynn, for the committee on Health Care Financing, on a petition, a Bill relative to manufacturer rebates and discount programs (printed as Senate, No. 548). Manufacturer rebates.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Emergency Measures.

The engrossed Bill providing for the implementation of education evaluation systems in school districts (see Senate, No. 2315, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Education evaluation.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 41 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. Bill enacted.

The engrossed Bill financing improvements to the Commonwealth's transportation system (see Senate, No. 2329), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Transportation bonds.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 36 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a "loan" bill as defined by Section 3 of Article LXII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative. Bill enacted (state loan),—yea and nay No. 292.

[See Yea and Nay No. 292 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to an accelerated transportation development and improvement program for the Commonwealth (see House, No. 4174, amended) having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. Transportation Authority,—improvements.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 51 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage

Bill enacted,—yea and nay No. 294.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair); and on the roll call 127 members voted in the affirmative and 24 in the negative.

[See Yea and Nay No. 294 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bill.

Bill enacted.

The engrossed Bill validating the actions taken at certain town election held in the town of Rowe (see House bill printed in House, No. 4194) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

House bills

Third reading bills.

Relative to public access of private restrooms (House, No. 2366);

Relative to annual immunization against influenza for children (House, No. 3948);

Granting creditable service to employees of the Dedham Westwood water district (House, No. 4157); and

Validating the actions taken at a certain town election held in the town of Rowe (printed in House, No. 4194);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Sent to the Senate for concurrence.

Senate bills

Second reading bills.

Relative to anti-freeze and engine coolant (Senate, No. 88);

Relative to the effective enforcement of municipal ordinances and bylaws (Senate, No. 2300); and

House bills

Relative to speed limits (House, No. 926);

Relative to motorcycle inspections (House, No. 1790);

Relative to the police department in the city of Holyoke (House, No. 3484);

[sic] Amendment to the city of Boston Art Commission enabling legislation, Chapter 410 of the Acts of 1898 (House, No. 3784);

Authorizing alternate members on local historical commissions (House, No. 3968);

Relative to tax titles in the town of East Bridgewater (House, No. 3991);

Relative to electing water commissioners in the town of Harvard (House, No. 3997);

Amending the preparation of certain ballots in the city of Boston (House, No. 4020);

Relative to the finance committee of the town of Provincetown (House, No. 4054); and

Relative to speed limits (House, No. 4165);

Severally were read a second time; and they were ordered to a third reading.

Second reading bill amended.

The House Bill encouraging responsible, cost effectiveness and meaningful lives for individuals with disabilities (House, No. 984), was read a second time.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 4167),— was adopted.

The substituted bill then was ordered to a third reading.

Collective bargaining.

The House Bill relative to collective bargaining agreements (House, No. 1402), was read a second time.

Pending the question on ordering the bill to a third reading, Mr. O'Day of West Boylston, moved to amend it in line 3 by inserting after the word "employees" the words "of the Commonwealth, its Appointing Authorities, Agencies, Departments, Divisions to include Massachusetts Department of Transportation and Massachusetts Board of Higher Education.".

The amendment was adopted; and the bill, as amended, was ordered to a third reading.

Utilities,— response services.

The Senate Bill relative to the emergency service response of public utility companies (Senate, No. 2143, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After remarks on the question on passing the bill to be engrossed, Mr. Basile of Boston moved to amend it in section 6, line 65, by striking out the words "their service area" and inserting in place the words "the Commonwealth"; and the amendment was adopted

Ms. Coakley-Rivera of Springfield then moved to amend the bill in section 2 by adding the following paragraph:

"(X) The Identification of the location of all hospitals, nursing homes, public or private senior housing complexes and assisted living facilities in the service area for the purpose of prioritizing and ensuring the immediate restoration of services to said locations.".

The amendment was adopted.

Mr. Naughton of Clinton then moved to amend the bill in section 5 by adding the following paragraph:

"(i) On or before October 1 of each year, every city or town must notify each investor-owned electric distribution or natural gas distribution company and the Massachusetts emergency management agency the name of the emergency management official or designee responsible for coordinating the emergency response during storm restoration. If a municipality does not have a designated emergency management official, the chief municipal officer shall designate one public safety official responsible for said emergency response.".

The amendment was adopted.

Mr. Golden of Lowell then moved to amend the bill in section 2, in lines 13 and 14, by striking the words "service workers" and inserting

Utilities,— response services.

in place thereof the word "crews", in line 38 by striking the figure "4" and inserting in place thereof the figure "5", in line 43, by striking the words "local officials" and inserting in place thereof the words "management staff responsible for company operations", in lines 45, 48 and 51, by striking out, in each instance, the word "transmission"; and in line 54, by striking out the words "general public" and inserting in place thereof the words "designated emergency management official". The amendments were adopted.

Messrs. Winslow of Norfolk and Hunt of Sandwich then moved to amend the bill in section 2, in line 16, and in section 5, in line 52, by striking out the words "twice-daily" and inserting in place thereof, in each instance, the words "three times daily". The amendments were adopted.

The same members then moved to amend the bill by inserting after section 1 the following section:

"SECTION 1A. Section 1J of said chapter 164, as so appearing, is hereby amended by inserting after the word "commonwealth." the following text:—

No municipality shall be prohibited from requiring utility lines located within the publicly-owned right of way to be kept clear of trees and branches as a condition of the use of such public property by utility companies.".

After remarks the amendment was rejected.

Messrs. Winslow of Norfolk and Hunt of Sandwich then moved to amend the bill by adding the following section:

"SECTION 7. Chapter 164 of the General Laws is hereby amended by inserting after section 1J the following section:—

Section 1K. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Catastrophic conditions', severe weather conditions resulting in the interruption of service to 10 percent or more of a utility's customers or a state of emergency declared by local, state or federal government officials.

'Duration of the interruption', the measure of time from the time the utility was notified or otherwise became aware of the loss of service.

'Interruption', the full or partial loss of service to 1 or more customers for longer than 5 minutes.

'Normal conditions', conditions other than catastrophic conditions as defined by this section.

'Same-circuit repetitive interruption', a grouping of more than 10 customers on a circuit who experience multiple interruptions under all conditions.

(b) Notwithstanding any general or special law, rule or regulation to the contrary, the department shall promulgate regulations to establish a credit of not less than $25 to be awarded to each ratepayer, whereupon an investor-owned electric distribution, transmission or natural gas distribution company fails to restore service as follows:

(i) within 120 hours after an interruption due to catastrophic conditions;

(ii) within 16 hours after an interruption that occurred during normal conditions; or

(iii) where there are more than 7 service interruptions in a 12-month period due to same circuit repetitive interruption.

The credit shall be credited during a single billing month within 3 months of the department's notification of violation or final adjudication after appeal under this section; provided, however, that companies may petition the department to distribute the credit over a period of more than a single billing month if the cumulative amount of the credits exceeds $10,000,000. The department may establish a schedule of credits dependent on the class of ratepayer, length of interruption or frequency of interruption. The entire cost of the credit shall be assessed to the investor-owned electric distribution, transmission or natural gas distribution company that provides such service to the affected customer. The issuance of the credit shall be appealable to the department. The department shall review the amount of the credit on an annual basis. The credits established by this section shall be implemented notwithstanding the maximum penalty under section 1J."

Quorum.

Pending the question on adoption of the amendment, Mr. Winslow of Norfolk asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,— yea and nay No. 286.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

[See Yea and Nay No. 286 in Supplement.]

Therefore a quorum was present.

Amendment rejected,— yea and nay No. 287.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Winslow of Norfolk; and on the roll call 37 members voted in the affirmative and 115 in the negative.

[See Yea and Nay No. 287 in Supplement.]

Therefore the amendment was rejected.

Bill passed to be engrossed,— yea and nay No. 288.

On the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Keenan of Salem; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 288 in Supplement.]

Therefore the bill was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment (for text of House amendment, see House document numbered 4220).

Competitively priced electricity.

The Senate Bill relative to competitively priced electricity in the Commonwealth (Senate, No. 2214, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Representatives Peake of Provincetown and Ferrante of Gloucester moved to amend it by adding the following four sections:

"SECTION 45. Subparagraph (1) of paragraph (B) of section 5K of chapter 111 of the general laws, as appearing in the 2008 Official

Competitively priced electricity.

Edition, is hereby amended by inserting after the first sentence the following sentence:— The monitoring stations shall be set throughout a 20 mile radius of the nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county.

SECTION 46. Paragraph (F) of said section 5K of said chapter 111, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The department of public health shall stockpile thyroid-blocking agents according to regulations promulgated by the department for cities and towns located within a 20 mile radius of a nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county.

SECTION 47. Said section 5K of said chapter 111, as so appearing, hereby amended by adding the following paragraph:—

(I) The plume exposure pathway emergency planning zone, as defined in 44 C.F.R. section 350.2, shall be the area located within a 20 mile radius of the nuclear power plant, which shall also include cities and towns located in Barnstable, Dukes and Nantucket counties, as well as in the area known as Cape Ann in Essex county. Predetermined protective action plans shall be in place for the Plume Exposure Pathway Emergency Planning Zone which shall include sheltering and evacuation details.

SECTION 48. The department of public health shall promulgate rules and regulations to implement the provisions of sections X to X, inclusive, within 180 days of the effective date of this act.".

The amendment was rejected.

Representatives Sciortino of Medford and Provost of Somerville then moved to amend the bill by adding the following two sections:

"SECTION 45. Chapter 25 of the General Laws is amended in Section 21 by inserting after subsection (e) the following new subsections:—

(f) In implementing its energy efficiency plan, each electric and natural gas distribution company Program Administrator, and any other entity that receives public subsidy and provides energy efficiency services shall, in consultation with the Energy Efficiency Advisory Council, as defined by section 22 of chapter 25 of the General Laws, and subject to the approval of the Department of Public Utilities:

(1) Report aggregate residential and commercial ratepayer data for those who receive energy efficiency program benefits to the Department Of Energy Resources. The report shall specify for each zip code the number of participants served; energy efficiency measures provided; program and participant dollars spent per measure; energy savings per measure; and the number of participants that reside in rental units.

(2) Not later than January 1, 2013 and every January 1 and July 1 of each year thereafter, each electric, and any other entity that receives public subsidy and provides energy efficiency services shall submit the data identified in Section (f)(1) to the Department Of Energy Resources.

(g) The Department Of Energy Resources shall establish and maintain a database to store and manage all energy efficiency program data collected under section (f) of chapter 25.

(h) The Department Of Energy Resources shall establish annual benchmarks for reaching the statewide goals and providing equitable access to historically harder-to-reach segments, including, but not limited to, residential rental properties, low and moderate-income homeowners and renters (those earning up to 120% state median income), communities whose primary language is not English, and small commercial businesses, which may not be participating at rates commensurate with the funds that they are paying into the programs as ratepayers.

(i) Not later than January 1, 2014 and every January 1 of each year thereafter, the Department Of Energy Resources shall provide a report to the Joint Committee on Telecommunications, Utilities and Energy, and the public through the department, demonstrating whether energy efficiency programs are reaching ratepayers and buildings equitably.

(j) The Department Of Energy Resources shall promulgate regulations to implement the requirements of this legislation within one year of enactment.

SECTION 46. Chapter 23J of the General Laws, as so appearing, is hereby amended in Section 5 by inserting at the end the following new paragraph:—

The center shall annually, no later than April 1, submit to the governor, the joint committee on telecommunications, utilities and energy, energy efficiency advisory council a report detailing the energy efficiency and green industry workforce development needs in the State. The report shall include:

(A) data on jobs created and demographic information about who is hired;

(B) recommended target hiring goals;

(C) average salaries and benefits information;

(D) recommended legislation to implement the proposed plan on a long-term basis.".

The amendment was rejected.

Mr. Moran of Boston then moved to amend the bill in section 41, in line 428, by inserting after the word "in" (the first time it appears) the words "accordance with cost-based criteria. In the absence of clear cost causation, volumetric charges must be employed in", and, in lines 429 and 430 by striking out the words "unless the cost causation for each rate class is directly attributable to volumetric usage". The amendments were adopted.

Mr. Kulik of Worthington moved that the bill be amended adding the following section:

"SECTION 45. (a) The Massachusetts Clean Energy Center shall administer a Design and Construction Improvement Grant program, in conjunction with the Commonwealth Hydropower Program, for the purpose of funding upgrades and improvements to existing hydroelectric generation facilities located in the commonwealth that have incrementally increased generating capacity after December 31, 1997, provided that such upgrades and improvements are necessary for the facilities to qualify as a Class I or Class II renewable energy generating source pursuant to section 11F of chapter 25A of the general laws and 225 CMR 14.00.

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(b) Notwithstanding any rule or regulation to the contrary, the Massachusetts Clean Energy Center shall have the right to draw upon and shall make available for the grant program developed pursuant to subsection (a) not less than thirty percent of all Class II alternative compliance payment funds generated under section 11F of chapter 25A of the general laws during the twelve months preceding the solicitation under said grant program.

(c) Facilities that apply for the grant program developed pursuant to subsection (a) shall be eligible for a grant for each such facility of up to an amount equal to the thirty percent of Class II alternative compliance payment funds made available under subsection (b); provided that sufficient funds are available for such grants. No grant shall equal more than fifty percent of the total actual cost for the upgrades and improvements necessary for the facilities to qualify as a Class I or Class II renewable energy generating source pursuant to section 11F of chapter 25A of the general laws and 225 CMR 14.00. In awarding grants under said program, the Massachusetts Clean Energy Center shall give preference to facilities that either (i) have installed or implemented efficiency improvements resulting in an incremental generation capacity increase of ten megawatts or more, or (ii) have completed capacity upgrades or installed or implemented efficiency improvements for a facility of one megawatt or less prior to said capacity upgrades or efficiency improvements.

(d) The grant program outlined in subsections (a)-(c) shall terminate on December 31, 2014.".

The amendment was adopted.

Representatives Walz of Boston and Keenan of Salem then moved to amend the bill by adding the following two sections:

"SECTION 46. Section 3(a) of Chapter 23J of the General Laws, as so appearing, is hereby amended by adding the following subsection to the end thereof:—

(32) to borrow and repay money by issuing bonds or notes of the center, to apply the proceeds thereof in furtherance of its purposes under this chapter and to pledge or assign or create security interests in any revenues, receipts or other assets of funds of the center to secure bonds or notes, including without limitation amounts received or held in the Massachusetts Renewable Energy Trust Fund established pursuant to section 9.

SECTION 47. Section 9(g) of Chapter 23J of the General Laws, as so appearing, is hereby amended by deleting the last paragraph thereof, and replacing it with the following:—

The amounts collected pursuant to section 20 of chapter 25 shall be impressed with a trust for the benefit of the trust fund. To facilitate the center's ability to issue bonds and notes secured by amounts in the trust fund, the commonwealth shall covenant with the holders of such bonds and notes that the amounts collected under said section 20 of said chapter 25 shall not be diverted from the trust fund and that the rates of the mandatory charges under said section 20 of said chapter 25 shall not be reduced while any such bonds or notes are outstanding. In furtherance of the public purposes of the trust fund, income derived from the investment of amounts collected under said section 20 of said chapter 25 shall be expended by the center as provided in subsec-

tion (a) and, in the discretion of the center, in furtherance of the public purposes of the center or otherwise consistent with the purposes of the trust fund.".

The amendment was adopted.

Ms. Reinstein of Revere then moved to amend the bill by striking out section 14 and inserting in place thereof the following section:

"SECTION 14 section 1A of chapter 164 of the General Laws, as appearing, is hereby amended by striking out, in lines 194 and 195, the words 'before January 1, 2009, and 50 megawatts of such a facility after January 1, 2010" and inserting in place thereof the following words:— provided further that a distribution company must obtain approval from the department on or before June 30, 2014 to construct new generation facilities that produce solar energy.".

The amendment was adopted.

Mr. Curran of Springfield then moved, there being no objection, to amend the bill in section 14 (inserted by amendment), by striking out the word "construct" and inserting in place thereof the words "submit a request to recover costs associated with"; and the amendment was adopted.

Mr. Smizik of Brookline then moved to amend the bill in section 2, in line 30, by inserting after the word "program." the following sentence: "Notwithstanding the foregoing, nothing in this section shall cause the funding to decrease of the low-income residential demand-side management and education programs funded pursuant to section 19 of chapter 25.". The amendment was adopted.

Ms. Hogan of Stow and other members of the House then moved to amend the bill by adding the following section:

"SECTION 48. Chapter 164 of the General Laws is hereby amended by striking out section 137 and inserting in place thereof the following section:—

Section 137. Notwithstanding any general or special law, rule, or regulation to the contrary; (a) any non-profit institution in the commonwealth or any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth, including the executive, legislative, and judicial branches of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, may, unless located within the boundaries of a community served by a municipal light department, participate in and become a member of any competitively procured program organized and administered, pursuant to the provisions of this chapter, by or on behalf of any public instrumentality of the commonwealth or of any subsidiary organization thereof for the purpose of group purchasing of electricity, natural gas, telecommunications services, or similar products; (b) the disposition of municipal or state real property by lease, easement, or license for renewable energy shall not require competitive bidding when a part of a power purchase agreement or a net metering agreement in a program organized and administered pursuant to this section; (c) any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth, including the executive, legislative, and judicial branches of the commonwealth, are hereby authorized on behalf of the commonwealth to dispose of real property, by lease, easement, or

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license, which is part of a power purchase agreement or net metering agreement in a program organized and administered pursuant to this section, including but not limited to construction of renewable energy projects on state property; and (d) any renewable project which is part of a power purchase agreement or net metering agreement in a program organized and administered pursuant to this section and deemed to be public construction shall be subject to the provisions of sections 26 to 27 D, inclusive, of chapter 149.".

The amendment was adopted.

Mr. Winslow of Norfolk moved to amend the bill by adding the following twenty-three sections:

"SECTION 49. The first sentence of section 19 of chapter 25 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out in line 2, the words:— except those served by a municipal lighting plant,.

SECTION 50. Said section 19 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 5, the following words:— participating municipal lighting plants.

SECTION 51. Subsection (a) of section 20 of said chapter 25, as so appearing, is hereby amended by striking out, in line 2, the words:— except those served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level,.

SECTION 52. Subsection (b) of said section 20 of said chapter 25 is hereby repealed.

SECTION 53. Section 21 of said chapter 25 is hereby amended by inserting after the word 'companies', in line 9, the words:— municipal light plants formed after July 31, 2012.

SECTION 54. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 77, the words:— municipal light plants.

SECTION 55. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 81, the words:— municipal light plants.

SECTION 56. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 83, the words:— municipal light plants.

SECTION 57. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 85, the words:— municipal light plants formed after July 31, 2012.

SECTION 58. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 93, the words:— and municipal light plants.

SECTION 59. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 105, the words:— municipal light plant.

SECTION 60. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'company', in line 110, the words:— municipal light plant.

SECTION 61. Subsection (e) of section 10 of chapter 25A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the second sentence.

SECTION 62. Subsection (i) of section 11F of said chapter 25A is hereby repealed.

SECTION 63. Subsection (d) of section 11F½ of said chapter 25A is hereby repealed.

SECTION 64. Section 1B of chapter 164 of the General Laws, as so appearing, is hereby amended by adding to the end of subsection (a) the following:— except that the purchase by a municipality of plant from a distribution company shall transfer all rights and obligations established in this section to the municipal lighting plant of the purchasing municipality or cooperative.

SECTION 65. Said chapter 164 is hereby amended by striking out section 43, as so appearing, and inserting in place thereof the following section:—

Section 43. (a) If a municipality which votes to establish a municipal lighting plant fails, within 150 days from the passage of the final vote required by section 35 or 36, to agree, as to price or as to the property to be included in the purchase, with a distribution company currently serving such municipality, such municipality may apply to the department within 180 days after the expiration of said 150 days for review of the feasibility of the municipality's acquisition of such property. The municipality's filing shall include:

(1) an outline of the property the municipality wishes to acquire;

(2) a projection of purchase price of such property;

(3) a projection of total costs of establishing the municipal lighting plant;

(4) a financing plan to cover the purchase price, including a description of municipality's bonding ability;

(5) pro forma income statement and balance sheet for the municipal lighting plant;

(6) the options for governance of the municipal lighting plant approved or anticipated by the municipality, and;

(7) a projection of electric rates to be charged by the municipal lighting plant.

(b) The department may investigate the feasibility of the municipality's proposed acquisition, and shall, within 180 days of the filing and after notice and a public hearing, issue a report regarding the feasibility of the municipality's filing; provided, however, that the department is not required to issue more than 3 such reports in any contiguous 12-month period. Any reports that are not issued within 180 days of the filing shall be issued in the order of the filings. If multiple municipalities file with the stated intent of establishing a joint or cooperative system of municipal lighting plants, the department shall process such filing simultaneously, to the extent possible. The department shall transmit its report to the distribution company, the clerk of each such town and the department of energy resources. The department shall report to the general court the results of its findings and file such reports with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on telecommunications, utilities and energy.

(c) Upon the issuance of the department's report, the municipality may seek determination as to what property ought in the public interest to be included in the purchase and what price should be paid, which

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shall be equal to 50 percent of the net book value, plus 50 percent of the reproduction cost new less depreciation, adjusted based on the physical condition of the assets, in addition to any damages as specified in this section. Such value shall be estimated without enhancement on account of future earning capacity or good will, or of exclusive privileges derived from rights in the public ways. Such price shall include damages, if any, which the department finds would be caused by the severance of the property proposed to be included in the purchase from other property of the owner, including (1) stranded costs; (2) the capital costs of infrastructure reconfiguration or additions caused by the severance; (3) engineering costs; and (4) any other costs incurred in preparing for the reconfiguration and the sale. Such property shall include such portion of the property within the limits of such municipality as is suitable for, and used in connection with, the distribution of electricity within such limits. If any such property is subject to any mortgages, liens or other encumbrances, the department in making its determination shall provide for the deduction or withholding from the purchase price, pending discharge, of such sum or sums as it deems proper.

(d) The department, after notice to the parties, shall give a hearing thereon and make the determination aforesaid.

(e) Within 60 days after such determination shall have been made by the department, the distribution company shall tender to the municipality's city or town clerk a copy of a good and sufficient deed of conveyance for the property required by the department to be purchased, and shall then place said deed in escrow. The municipality shall have 300 days in which to accept or reject said tender and, if accepting, to pay to the distribution company the price determined by the department. Such acceptance or rejection in case of a city shall be by vote of its city council and in case of a town shall be by vote at a town meeting, or by such town officer or body to which town meeting shall delegate such authority.

(f) In connection with the exercise by a municipality of the option to purchase utility plant pursuant to this section, the municipality may elect to assume responsibilities for maintenance, placement and removal of jointly-owned poles or other facilities shared with other public utilities, or to purchase such facilities at an amount equal to 50 percent of the net book value, plus 50 percent of the reproduction cost new less depreciation, adjusted based on the physical condition of the assets. Except where the municipality makes such election, the municipality shall assume the rights and obligations of the previous owner with respect to any person other than the distribution company controlling or using the poles, conduit or other jointly-owned or joint-use facilities, property and rights; provided, that in the assumption of the rights and obligations of the previous owner by such a municipality, such municipality shall in no way or form restrict, impede, or prohibit access that other parties would enjoy under the previous ownership.

(g) Any municipal lighting plant established pursuant to these provisions shall file with the department a plan for supporting development of renewable and alternative energy production comparable to the magnitude of such support achieved under sections 11F and 11F½ of chapter 25A, sections 138 through 143, and section 83 of chapter 169

of the acts of 2008. Following department approval of such plan, the municipal lighting plant shall implement that plan and report annually to the department regarding such implementation.

(h) The department shall not allow as a cost of service any costs of the incumbent distribution company in connection with such proceedings, in excess of the costs reasonably necessary to provide information, negotiate necessary contractual arrangements, and represent the interests of the remaining ratepayers in designing any severance plan required.

(i) If, at the time of purchase of the distribution equipment by a municipality, the distribution company has unfunded liabilities for pensions and other post-retirement benefits that would be recovered through distribution rates, the department shall determine the fair share of such liabilities attributable to the distribution system to be acquired by the municipality and the method by which the municipal lighting plant shall compensate the distribution company for that fair share.

(j) To the extent that the distribution company has entered into any long term contracts for renewable energy pursuant to section 83 of chapter 169 of the acts of 2009 prior to the date of the acquisition, the municipality acquiring any electric distribution facilities pursuant to this section shall be required to assess its distribution customers an equivalent charge in distribution rates to cover its proportionate share of the monthly costs of such contracts, as would have been charged to the electric distribution customers in such municipality had the acquisition not occurred. Such amounts collected shall then be remitted to the electric distribution company within thirty days of being invoiced by the electric distribution company.

(k) The department shall report to the joint committee on telecommunications, utilities and energy annually on the operation of this section, including a summary of activity under this section and any recommendations for amending the section.

SECTION 66. Said chapter 164 is hereby further amended by inserting after section 56E the following section:—

Section 56F. The department is hereby authorized to promulgate rules and regulations to establish service quality standards for municipal light plants formed after July 31, 2012, including, but not limited to, standards for customer satisfaction, service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, and public safety provided. Each municipal light plant formed after July 31, 2012 shall file a report with the department by March first of each year comparing its performance during the previous calendar year to the department's service quality standards and any applicable national standards as may be adopted by the department.

SECTION 67. Section 47A of said chapter 164 is hereby amended by inserting after the word 'plant', in line 1, the words:— formed prior to July 31, 2012.

SECTION 68. Said section 47A of chapter 164 is hereby further amended by inserting after the word 'plant', in line 6, the words:— formed prior to July 31, 2012.

SECTION 69. Said section 47A of said chapter 164 is hereby further amended by inserting after subsection (f) the following subsection:—

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(g) No municipal lighting plant shall prohibit customers within the service territory of said lighting plant from engaging in third-party ownership agreements of residential renewable energy equipment for the generation of energy to be used at the customer's residence.

SECTION 70. Notwithstanding any general or special law to the contrary, municipal light plants formed prior to July 31, 2012 may count existing eligible renewable energy generating sources and alternative energy generating towards compliance with sections 11F and 11F½ of chapter 25A.

SECTION 71. The executive office of energy and environmental affairs is hereby authorized to adopt rules and regulations necessary to carry out this Act.

SECTION 72. Sections 49, 51, 52, 61 through 63 shall take effect July 1, 2013.".

Pending the question on adoption of the amendment, Mr. Winslow moved that it be amended by striking out proposed sections 49 to 72, inclusive, and inserting in place thereof the following 19 sections:

"SECTION 49. The first sentence of section 19 of chapter 25 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word 'plant' the words:— formed prior to July 31, 2012.

SECTION 50. Said section 19 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 5, the following words:— participating municipal lighting plants.

SECTION 51. Section 20 of said chapter 25, as so appearing, is hereby amended by inserting after the word 'plant', in line 3, the words:— formed prior to July 31, 2012.

SECTION 52. Said section 20 of chapter 25 is hereby further amended by inserting after the word 'plant', in line 10, the words:— formed prior to July 31, 2012.

SECTION 53. Section 21 of said chapter 25 is hereby amended by inserting after the word 'companies', in line 9, the words:— municipal light plants formed after July 31, 2012.

SECTION 54. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 77, the words:— municipal light plants.

SECTION 55. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 81, the words:— municipal light plants.

SECTION 56. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 83, the words:— municipal light plants.

SECTION 57. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 85, the words:— municipal light plants formed after July 31, 2012.

SECTION 58. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'companies', in line 93, the words:— and municipal light plants.

SECTION 59. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'company', in line 105, the words:— municipal light plant.

SECTION 60. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'company', in line 108, the words:— municipal light plant.

SECTION 61. Said section 21 of chapter 25 is hereby further amended by inserting after the word 'company', in line 110, the words:— municipal light plant.

SECTION 62. Section 1B of chapter 164 of the General Laws, as so appearing, is hereby amended by adding to the end of subsection (a) the following:— except that the purchase by a municipality of plant from a distribution company shall transfer all rights and obligations established in this section to the municipal lighting plant of the purchasing municipality or cooperative.

SECTION 63. Said chapter 164 is hereby amended by striking out section 43, as so appearing, and inserting in place thereof the following section:—

Section 43. (a) If a municipality which votes to establish a municipal lighting plant fails, within 150 days from the passage of the final vote required by section 35 or 36, to agree, as to price or as to the property to be included in the purchase, with a distribution company currently serving such municipality, such municipality may apply to the department within 180 days after the expiration of said 150 days for review of the feasibility of the municipality's acquisition of such property. The municipality's filing shall include:

(1) an outline of the property the municipality wishes to acquire;

(2) a projection of purchase price of such property;

(3) a projection of total costs of establishing the municipal lighting plant;

(4) a financing plan to cover the purchase price, including a description of municipality's bonding ability;

(5) pro forma income statement and balance sheet for the municipal lighting plant;

(6) the options for governance of the municipal lighting plant approved or anticipated by the municipality, and;

(7) a projection of electric rates to be charged by the municipal lighting plant.

(b) The department may investigate the feasibility of the municipality's proposed acquisition, and shall, within 180 days of the filing and after notice and a public hearing, issue a report regarding the feasibility of the municipality's filing; provided, however, that the department is not required to issue more than 3 such reports in any contiguous 12-month period. Any reports that are not issued within 180 days of the filing shall be issued in the order of the filings. If multiple municipalities file with the stated intent of establishing a joint or cooperative system of municipal lighting plants, the department shall process such filing simultaneously, to the extent possible. The department shall transmit its report to the distribution company, the clerk of each such town and the department of energy resources. The department shall report to the general court the results of its findings and file such reports with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on telecommunications, utilities and energy. The department may assess reasonable fees

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to fund its responsibilities under this subsection from each municipality submitting a filing for a proposed acquisition.

(c) Upon the issuance of the department's report, the municipality may seek determination as to what property ought in the public interest to be included in the purchase and what price should be paid, which shall be based on the standard formula developed by the department in subsection (d). Such value shall be estimated without enhancement on account of future earning capacity or good will, or of exclusive privileges derived from rights in the public ways. Such price shall include damages, if any, which the department finds would be caused by the severance of the property proposed to be included in the purchase from other property of the owner, including (1) stranded costs; (2) the capital costs of infrastructure reconfiguration or additions caused by the severance; (3) engineering costs; and (4) any other costs incurred in preparing for the reconfiguration and the sale. Such property shall include such portion of the property within the limits of such municipality as is suitable for, and used in connection with, the distribution of electricity within such limits. If any such property is subject to any mortgages, liens or other encumbrances, the department in making its determination shall provide for the deduction or withholding from the purchase price, pending discharge, of such sum or sums as it deems proper. The department may assess reasonable fees to fund its responsibilities under this subsection from each municipality seeking such determination for a proposed acquisition.

(d) No later than December 31, 2012 the department shall develop a standard formula used to determine the value of property, including any jointly-owned poles or other facilities shared with other public utilities, to be purchased by any municipality seeking to establish a municipal lighting plant under this section. Such formula shall be used by the department in all determinations of property value performed under subsections (c) and (g) of this section, provided, however, that the department may make reasonable exceptions to the formula in specific transactions.

(e) The department, after notice to the parties, shall give a hearing thereon and make the determination aforesaid within 180 days from the municipality's application.

(f) Within 60 days after such determination shall have been made by the department, the distribution company shall tender to the municipality's city or town clerk a copy of a good and sufficient deed of conveyance for the property required by the department to be purchased, and shall then place said deed in escrow. The municipality shall have 300 days in which to accept or reject said tender and, if accepting, to pay to the distribution company the price determined by the department. Such acceptance or rejection in case of a city shall be by vote of its city council and thereafter ratified by a majority of the voters at an annual or special city election, and in case of a town shall be by vote at a town meeting, or by such town officer or body to which town meeting shall delegate such authority, and thereafter ratified by a majority of voters at an annual or special town election.

(g) In connection with the exercise by a municipality of the option to purchase utility plant pursuant to this section, the municipality may elect to assume responsibilities for maintenance, placement and

removal of jointly-owned poles or other facilities shared with other public utilities, or to purchase such facilities at a price set by the department, which shall be based on the standard formula developed by the department in subsection (d). Except where the municipality makes such election, the municipality shall assume the rights and obligations of the previous owner with respect to any person other than the distribution company controlling or using the poles, conduit or other jointly-owned or joint-use facilities, property and rights; provided, that in the assumption of the rights and obligations of the previous owner by such a municipality, such municipality shall in no way or form restrict, impede, or prohibit access that other parties would enjoy under the previous ownership.

(h) Any municipal lighting plant established pursuant to these provisions shall file with the department a plan for supporting development of renewable and alternative energy production comparable to the magnitude of such support achieved under sections 11F and 11F½ of chapter 25A, sections 138 through 143, and section 83 of chapter 169 of the acts of 2008. Following department approval of such plan, the municipal lighting plant shall implement that plan and report annually to the department regarding such implementation.

(i) The department shall not allow as a cost of service any costs of the incumbent distribution company in connection with such proceedings, in excess of the costs reasonably necessary to provide information, negotiate necessary contractual arrangements, and represent the interests of the remaining ratepayers in designing any severance plan required.

(j) If, at the time of purchase of the distribution equipment by a municipality, the distribution company has unfunded liabilities for pensions and other post-retirement benefits that would be recovered through distribution rates, the department shall determine the fair share of such liabilities attributable to the distribution system to be acquired by the municipality and the method by which the municipal lighting plant shall compensate the distribution company for that fair share.

(k) To the extent that the distribution company has entered into any long term contracts for renewable energy pursuant to section 83 of chapter 169 of the acts of 2008 prior to the date of the acquisition, the municipality acquiring any electric distribution facilities pursuant to this section shall be required to assess its distribution customers an equivalent charge in distribution rates to cover its proportionate share of the monthly costs of such contracts, as would have been charged to the electric distribution customers in such municipality had the acquisition not occurred. Such amounts collected shall then be remitted to the electric distribution company within thirty days of being invoiced by the electric distribution company.

(l) The department shall report to the joint committee on telecommunications, utilities and energy annually on the operation of this section, including a summary of activity under this section and any recommendations for amending the section.

SECTION 64. The first sentence of section 47A of said chapter 164 is hereby amended by inserting after the word ‘law’ the words:— formed prior to July 31, 2012.

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SECTION 65. Said section 47A of chapter 164 is hereby further amended by inserting after the word 'law', in line 7, the words:— formed prior to July 31, 2012.

SECTION 66. Said section 47A of chapter 164 is hereby further amended by inserting after subsection (f):—

(g) Any municipal light plant formed after July 31, 2012, shall submit to the department a plan for allowing retail customers served by it competitive choice of generation supply. Such plan shall allow any customers purchasing competitive generation supply at the plan's effective date to continue such purchase, and shall regulate migration of customers to and from competitive service only as necessary to protect the financial integrity of the municipal light plant while providing power to municipal-utility generation customers at the lowest feasible stable prices.

SECTION 67. Said chapter 164 is hereby further amended by inserting after section 56E the following section:—

Section 56F. The department is hereby authorized to promulgate rules and regulations to establish service quality standards for municipal light plants formed after July 31, 2012, including, but not limited to, standards for customer satisfaction, service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, and public safety provided. Each municipal light plant formed after July 31, 2012 shall file a report with the department by March first of each year comparing its performance during the previous calendar year to the department's service quality standards and any applicable national standards as may be adopted by the department.

SECTION 68. The executive office of energy and environmental affairs is hereby authorized to adopt rules and regulations necessary to carry out sections 45 through 63 of this Act, inclusive.".

Point of order.

Mr. O'Day of Worcester thereupon raised a point of order that the further amendment offered by the gentleman from Norfolk was improperly before the House for the reason that it was beyond the scope of the pending bill.

The Chair (Mrs. Haddad of Somerset) ruled that the point of order was well taken, and the further amendment was laid aside accordingly.

Appeal from decision of Chair.

Mr. Winslow of Norfolk thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Bastien of Gardner.

The question then was put "Shall the decision of the Chair stand as the judgment of the House?".

Decision of Chair sustained,— yea and nay No. 289.

After remarks the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 119 members voted in the affirmative and 34 in the negative.

[See Yea and Nay No. 289 in Supplement.]

Therefore the decision of the Chair was sustained.

Point of order.

Mr. O'Day of Worcester thereupon raised a point of order that the pending amendment offered by the gentleman from Norfolk was improperly before the House for the reason that it was beyond the scope of the pending bill.

The Chair (Mrs. Haddad of Somerset) ruled that the point of order was well taken, and the amendment was laid aside accordingly.

Ms. Provost of Somerville moved that the bill be amended adding the following five sections:

"SECTION 49. Chapter 10 of the General Laws is hereby amended by inserting after section 35OO the following section:—

Section 35PP. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Oil Heat Energy Efficiency Fund. The fund shall consist of amounts credited to the fund in accordance with sections 11J of chapter 25A and expended exclusively for the purposes of said section 11J of said chapter 25A. The fund shall be administered by the commissioner of energy resources, pursuant to section 11J(b) of chapter 25A, in coordination with the secretary of administration and finance. The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment. The commissioner shall report monthly by source all amounts credited to the fund and all expenditures by subsidiary made from the fund on the Massachusetts management and accounting reporting system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure by the fund in the next fiscal year and thereafter.

SECTION 50. Chapter 25A of the General Laws is hereby amended by adding after section 11I the following new sections:—

Section 11J. (a) For the purposes of section 11J, the following terms shall have the following meanings:

'Fuel oil industry' or 'oil heat industry,' persons in the production, transportation, or sale of oil heat fuel; and persons engaged in the manufacture or distribution of oil heat fuel utilization equipment; provided that 'fuel oil industry' or 'oil heat industry' shall not include ultimate consumers of oil heat fuel.

'No. 1 distillate,' fuel oil classified as No. 1 distillate by the American Society for Testing and Materials (ASTM).

'No. 2 dyed distillate,' fuel oil classified as No. 2 distillate by the American Society for Testing and Materials (ASTM) that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a) (2) of the Internal Revenue Code of 1986.

'Cost Effective,' with respect to an energy efficiency program, means that the program meets a cost-benefit test, which requires that the net present value of economic benefits over the life of the program or measure, including avoided supply and delivery costs and deferred or avoided investments, environmental benefits and avoided environmental costs, avoided operation and maintenance costs and other appropriate energy and non-energy benefits as determined by the department, is greater than the net present value of the costs over the life of the program.

'Energy Efficiency Advisory Council (EEAC),' refers to the energy efficiency advisory council established pursuant to section 22 of chapter 25 of the general laws.

'Oil heat fuel,' No.1 distillate and No.2 dyed distillate that is used as a fuel for residential or commercial space or hot water heating.

'Retail marketer,' a person engaged primarily in the sale of oil heat fuel to ultimate consumers.

'Wholesale distributor,' a person or business entity that produces No. 1 distillate or No. 2 dyed distillate; imports No. 1 distillate or No. 2 dyed distillate; blends No. 1 distillate or No. 2 dyed distillate with

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biodiesel or biofuels; or transports No. 1 distillate or No. 2 dyed distillate across state boundaries or among local marketing areas; and sells the products to retail home or commercial heating oil companies for resale.

(b)(1) Beginning June 1, 2013, the department shall require a systems benefit assessment of two and one-half cents ($.025) per gallon be placed on all gallons of oil heat fuel sold for residential or commercial use in Massachusetts in order to establish oil heat energy efficiency programs. The assessment shall be collected at the point of sale of oil heat fuel by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange. A wholesale distributor shall be responsible for payment of the assessment to the Commonwealth on a quarterly basis; and shall provide to the Commonwealth certification of the volume of fuel sold. No. 1 distillate and No. 2 dyed distillate fuel sold for uses other than as oil heat fuel are excluded from the assessment. Distillate fuel used by vessels, railroad, utilities, farmers and the military are exempt from the assessment.

(2) Such funds shall be deposited by the secretary of administration and finance into the Oil Heat Energy Efficiency Fund pursuant to section 35PP of chapter 10. The Fund shall be expended by the commissioner of energy resources, pursuant to this section, and subject to the approval of the energy efficiency advisory council (EEAC) for the sole purpose of designing, marketing and providing cost-effective energy efficiency programs through financial incentives and services for residential and small business demand-side management programs that improve energy efficiency and reduce consumption for residential and commercial customers who utilize oil heat fuel for space heat or domestic hot water heating, including but not limited to: replacing or upgrading older, inefficient oil heating or domestic hot water systems; duct sealing and insulation, pipe insulation, building envelope sealing and insulation; storm windows; blower door air sealing services; research and design; and marketing of oil heat efficiency products or services. Program design for envelope measures and measures that will save electricity or natural gas, in addition to oil heat, shall be conducted by the EEAC and the program administrator(s), and result in integrated programs that serve all customers, regardless of heating fuel type. Program design elements that result in savings of multiple fuels shall be funded from the oil heat efficiency trust in an equitable manner and in proportion to the oil heat savings generated. No more than one percent (1%) of such funds may be used for training. No more than one percent (1%) of such funds may be allocated to the department for administration of the fund and coordination of the programs. Program design for heating system programs shall be conducted by EEAC and the program administrator(s), provided, however, that under the programs, an oil heating system shall be replaced with a new oil heating system. The commissioner shall act as the fiscal agent responsible with ensuring these services are delivered as approved by the EEAC and in a cost effective manner that is coordinated with other energy efficiency programs.

At least 20 percent of the funds collected shall be spent on comprehensive low-income residential oil heat energy efficiency and educa-

tion programs. The commissioner shall designate that these programs be implemented through the low income weatherization and fuel assistance program network administered by the department of housing and community development.

(c) (1) The EEAC shall advise the department on all aspects of oil energy efficiency funds and programs in the commonwealth. Actions of the EEAC pertaining to disbursement of the oil heat efficiency funds and programs shall require a majority vote.

The EEAC shall establish a target budget designed to ramp-up over time to capture cost-effective energy efficiency for heating oil, and a corresponding annual assessment designed to recover enough money to fund the programs.

(2) To implement this section, the commissioner, with the approval of the EEAC and, is hereby directed and authorized to enter into contracts with appropriate organization(s) to serve as energy efficiency program administrator(s), selected through a competitive procurement process, to deliver and operate, in a cost-effective manner, oil heat energy efficiency programs to be provided by retail heating oil dealers and other business entities, organizations and agencies with qualified technical personnel including oil heat technicians in good standing with the Commonwealth in possession of a certificate of competency as defined by Code of Massachusetts Regulation (CMR) 527 CMR 4.00. Programs shall be approved by the EEAC and shall be delivered in a cost effective manner that is coordinated with other energy efficiency programs.

(3) Every 3 years, in a manner consistent with natural gas and electric efficiency plans set forth in section 21 of chapter 25, on or before April 30, the program administrators shall jointly prepare an oil heat efficiency investment plan for approval by the department and the EEAC. Each plan shall provide for the acquisition of energy efficiency resources that are cost effective or less expensive than supply and shall be prepared in coordination with the energy efficiency advisory council established by section 22 of chapter 25. A program included in the plan shall be screened through cost-effectiveness testing which compares the value of program benefits to the program costs to ensure that the program is designed to obtain energy savings and system benefits with value greater than the costs of the program. Program cost effectiveness shall be reviewed periodically by the department and by the EEAC. If a program fails the cost-effectiveness test as part of the review process, it shall either be modified to meet the test or shall be terminated. The EEAC may allow for transitional, one year plans in order to achieve consistency with section 21 of chapter 25.

An investment plan shall include: (i) an assessment of the estimated lifetime cost, reliability and magnitude of all available energy efficiency resources that are cost effective or less expensive than supply; (ii) the estimated energy cost savings that the acquisition of such resources will provide to oil heat consumers, including, but not limited to, reductions in energy costs and increases in price stability and affordability for low-income customers; (iii) a description of programs, which may include, but which shall not be limited to: (A) efficiency programs; (B) programs for research, development and commercialization of products or processes which are more energy-efficient than

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those generally available; (C) programs for development of markets for such products and processes, including recommendations for new appliance and product efficiency standards; (D) programs providing support for energy use assessment, real time monitoring systems, engineering studies and services related to new construction or major building renovation, including integration of such assessments, systems, studies and services with building energy codes programs and processes, or those regarding the development of high performance or sustainable buildings that exceed code; (E) programs for planning and evaluation; and (F) programs for public education regarding energy; provided, however, that not more than 1 per cent of the fund shall be expended for items (B) and (C) collectively, without authorization from the advisory council; (iv) a proposed mechanism which provides performance incentives to the program administrator(s) based on their success in meeting or exceeding the goals in the plan; (v) the budget that is needed to support the programs; (vi) data showing the percentage of all monies collected that will be used for direct consumer benefit, such as incentives and technical assistance to carry out the plan.

(4) The program administrator(s) shall submit the investment plan to the EEAC. Not later than 90 days after the submission of a plan, the department and EEAC shall approve, modify and approve, or reject and require the resubmission of the plan accordingly.

(5) Programs shall be designed to treat all energy use in a building in a comprehensive and coordinated fashion across the state with maximum use of common program designs, integrated programs, and a common pool of energy efficiency vendors and contractors who can treat all energy use in a building comprehensively.

The financial incentives used in said programs may be a combination of low or zero interest loans or direct rebates and other financial incentives. The EEAC shall solicit input from the oil heat industry, consumer groups, and low income advocacy groups regarding the implementation of this section and delivery of all program services.

(6) The department shall issue regulations implementing this section within 1 year of enactment of this section and the commissioner shall enter into contracts within 6 months after such regulations have been made final.

(7) From time to time, the EEAC shall undertake, or cause to be undertaken, an assessment of cost effective oil heat energy efficiency resource potential in the commonwealth.

(8) Evaluation, monitoring, and verification of the efficiency programs shall be conducted by an independent third-party selected by the EEAC. Said independent third party shall report its findings to the EEAC, the joint committee on telecommunications, utilities, and energy, and the public through the department of energy resources. Allocations for independent third-party monitoring and other consulting services shall not exceed 1 per cent of the fund on an annual basis.

(9) The EEAC, in collaboration with the program administrator(s), shall prepare an annual report for submission to the joint committee on telecommunications, utilities, and energy and the public through the department of energy resources that includes, but is not limited to: a description of the amount and use of proceeds of the Oil Heat Energy Efficiency Fund collected under this section; a description of the cost

effective energy efficiency programs funded through such proceeds; the demonstration of consumer savings, cost-effectiveness, and the lifetime and annual energy savings achieved by the energy efficiency programs funded; and the lifetime and annual greenhouse gas emissions benefits achieved by energy efficiency programs funded.

SECTION 51. Chapter 25 of the General Laws is amended by in Section 21 by inserting after subsection (e) the following new subsections:—

(f) In implementing its energy efficiency plan, each electric and natural gas distribution company Program Administrator, the Oil Heat Energy Efficiency Program Administrator, and any other entity that receives public subsidy and provides energy efficiency services shall, in consultation with the Energy Efficiency Advisory Council, as defined by section 22 of chapter 25 of the General Laws, and subject to the approval of the Department of Public Utilities:

(1) Report aggregate residential and commercial ratepayer data for those who receive energy efficiency program benefits to the Department Of Energy Resources. The report shall specify for each zip code the number of participants served; energy efficiency measures provided; program and participant dollars spent per measure; energy savings per measure; and the number of participants that reside in rental units.

(2) Not later than January 1, 2013 and every January 1 and July 1 of each year thereafter, each electric, natural gas distribution company, and oil heat energy efficiency Program Administrator, and any other entity that receives public subsidy and provides energy efficiency services shall submit the data identified in Section (f)(1) to the Department Of Energy Resources.

(g) The Department Of Energy Resources shall establish and maintain a database to store and manage all energy efficiency program data collected under section (f) of chapter 25.

(h) The Department Of Energy Resources shall establish annual benchmarks for reaching the statewide goals and providing equitable access to historically harder-to-reach segments, including, but not limited to, residential rental properties, low and moderate-income homeowners and renters (those earning up to 120% state median income), communities whose primary language is not English, and small commercial businesses, which may not be participating at rates commensurate with the funds that they are paying into the programs as ratepayers.

(i) Not later than January 1, 2014 and every January 1 of each year thereafter, the Department Of Energy Resources shall provide a report to the Joint Committee on Telecommunications, Utilities and Energy, and the public through the department, demonstrating whether energy efficiency programs are reaching ratepayers and buildings equitably.

(j) The Department Of Energy Resources shall promulgate regulations to implement the requirements of this legislation within one year of enactment.

SECTION 52 Chapter 23J of the General Laws, as so appearing, is hereby amended in Section 5 by inserting at the end the following new paragraph:—

The center shall annually, no later than April 1, submit to the governor, the joint committee on telecommunications, utilities and energy,

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energy efficiency advisory council a report detailing the energy efficiency and green industry workforce development needs in the State. The report shall include:

(A) data on jobs created and demographic information about who is hired;

(B) recommended target hiring goals;

(C) average salaries and benefits information;

(C) recommended legislation to implement the proposed plan on a long-term basis.

SECTION 53. Section 7 of chapter 465 of the acts of 1980 is hereby amended by inserting after subsection (g) the following subsections:—

(h) A utility shall be exempt from the requirements of subsection (b) if said utility includes the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department in accordance with Section 21 of Chapter 25 of the General Laws.

(i) The department shall be exempt from the requirements of subsection (f) for any utility that includes the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department in accordance with Section 21 of Chapter 25 of the General Laws.".

After remarks the amendment was rejected.

Representatives Turner of Dennis and Peake of Provincetown moved that the bill be amended by inserting after section 44 (as published) the following new section:

"SECTION 49. Subsection (f) of Section 139 of Chapter 164 of the 2010 Official Addition of the General Laws as so appearing, is hereby amended by inserting after the word 'megawatts', in line 73, the following words:— provided, that a cooperative corporation organized under Section 136 of Chapter 164 of the 2010 Official Addition of the General Laws that is comprised solely of municipalities or other governmental entities may qualify as the customer of a net metering facility of a municipality or other governmental entity and such cooperative corporation may allocate the facility's generating capacity to a municipality or other governmental entity with the written assent of (1) such municipality or other governmental entity and (2) the department. A municipality or governmental entity may not exceed 10 megawatts, whether as a customer of a net metering facility or from allocated generating capacity from such cooperative corporation.".

The amendment was rejected.

Mr. Chan of Quincy then moved to amend the bill by inserting after section 7 the following section:

"SECTION 7A. Said chapter 25 is hereby amended by inserting the following new section:—

Section 23. The department shall file with the House and Senate Clerks and the Joint Committee on Telecommunications, Utilities and Energy a report by March 1st of each year which is the compiling of 5 years historical comparison of the amount of electricity and gas utilized in the state, and total revenue collected from ratepayers. In addition, the report shall include, but is not limited to, the following information from each electric and gas distribution company,: the amount of electricity supplied and utilized, the amount of gas supplied

and utilized revenues collected from ratepayers, the total number of customers, the amount paid by each ratepayer class, the rate for each ratepayer class, service quality penalties paid or credited, storm related penalties, the number of employee employed, the number of call center employees and location of the call centers, the amount of renewable energy contracts, and the amount of renewable energy owned. The report should note any changes in the rate mechanism from year to year whether they be statutory, regulatory or other department authorization.".

The amendment was adopted.

Mr. Cantwell of Marshfield then moved to amend the bill by adding the following section:

"SECTION 49. The department of public utilities, in consultation with the department of energy resources shall study the feasibility, impacts and benefits of allowing electric distribution company customers to net meter their electricity use with hydrokinetic energy. After completing an analysis, the department shall recommend whether customers should be able to net meter their electricity use with hydrokinetic energy. The department shall submit a copy of the study to the clerks of the house of representatives and the senate who shall forward a copy of the study to the joint committee on telecommunications, utilities and energy by March 1, 2013.".

The amendment was adopted.

The Speaker being in the Chair,—

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,— yea and nay No. 290.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

[See Yea and Nay No. 290 in Supplement.]

Therefore a quorum was present.

Subsequently a statement of Ms. Provost of Somerville was spread upon the records of the House, as follows:

Statement of Ms. Provost of Somerville.

MR. SPEAKER: I would like to call to the attention of the House the fact that during the previous quorum roll call I was absent from the House Chamber, on official business in another part of the State House, and was not aware that a quorum roll call was taking place.

Mr. Beaton of Shrewsbury and other members of the House then moved to amend the bill by adding the following section:

"SECTION 50. Chapter 21A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 23, the following new section:—

Section 24. (a) There shall be within the office an energy policy review commission, which shall be an independent public entity not subject to the supervision and control of the office or any other executive office, department, commission, board, bureau, agency or political subdivision of the commonwealth. The commission shall promote public transparency regarding the effectiveness of energy and electricity policies and programs implemented in the commonwealth. The commission shall be charged with researching and reviewing the economic

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and environmental benefits as well as the economic and electricity cost implications of energy and electricity policies in the commonwealth. The commission shall report to the legislature, as prescribed in this section, with recommendations on how to: (i) further expand the commonwealth's renewable energy portfolio and promote energy-efficiency; (ii) encourage business development and job creation; (iii) reduce the administrative costs associated with energy programs funded, in whole or in part, by the commonwealth, while maximizing the benefit of these programs; (iv) reduce the cost and volatility of electricity for commercial, industrial, and residential customers; and (v) increase electricity reliability while ensuring a diverse energy portfolio.

(b) (1) The commission shall consist of 17 persons, as follows: the secretary of energy and environmental affairs and the secretary of housing and economic development, both of whom shall serve as the co-chairs; the attorney general or her designee; the inspector general; the commissioner of the department of energy resources or his designee; the chair of the department of public utilities or her designee; 1 person appointed by ISO-New England; 1 person appointed by associated industries of Massachusetts; 2 persons who are experts in energy efficiency and 2 persons who are experts in renewable energy generation, 1 of whom shall be appointed by the speaker of the house, 1 of whom shall be appointed by the minority leader of the house, 1 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the minority leader of the senate; 5 persons appointed by the Governor, 1 of whom shall be a representative of a Massachusetts green business with 10 or fewer employees, 2 of whom shall be experts in energy economics, and 2 of whom shall be representatives of non-profit environmental organizations with intervention experience in department of public utilities proceedings.

(2) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.

(3) The powers of the commission shall include, but not be limited to: (i) using voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered or needed; (ii) competitively procuring an independent consultant, the cost of which may be assessed proportionately on each gas and electric company pursuant to section 11E of chapter 12 of the General Laws, to review and report the estimated or actual ratepayer cost and benefits of meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency, and renewable energy generation, (iii) recommending policies and making recommendations to agencies and officers of the state and local subdivisions of government to effectuate the changes outlined in section (a); (iv) enacting by-laws for the commission's own governance; and (v) holding regular public meetings, fact-finding hearings, and other public forums as the commission deems necessary.

(4) The commission may request from all state agencies such information and assistance as the commission may require.

(5) The commission shall issue a report which shall include, at minimum an analysis of the estimated or actual economic and environmen-

tal benefits, as well as economic cost, electricity cost, and implication for electricity reliability of: (i) implementing administrative, regulatory, and legislative rulemaking as it pertains to electricity and the structure of the wholesale electricity market; and (ii) meeting legislative and administrative goals and requirements related to greenhouse gas reductions, energy efficiency, and renewable energy generation.

In so doing, the commission shall at minimum research, evaluate, consider and report on: (i) the accuracy of metrics used to assess the success of programs established pursuant to Chapter 169 of the Acts of 2008; (ii) the accuracy of metrics used to assess the cost effectiveness of programs established pursuant to Chapter 169 of the Acts of 2008; (vi) the electricity cost implications and associated economic impact and benefits of scheduled increases in demand resources, aggregate net metering capacity, and renewable energy capacity (vii) the structure of the regional wholesale electricity market and its impact on retail electricity costs; and (iix) the overall impact of the Commonwealth's energy and electricity policies on economic growth in the Commonwealth, specifically net job creation and business development, establishment, and retention.

(c) (1) The commission shall consult with electric distribution companies, natural gas distribution companies, green businesses residing in the Commonwealth, and other interested parties, providing at least one opportunity for public comment, as well as the public review of the commission's draft report prior to filing the report with the legislature.

(2) The commission shall convene its first meeting within 90 days of the passage of this Act and shall file its report, along with any recommendations for legislative or regulatory reforms with the clerk of the house and the clerk of the senate, and with the house and senate chairs of the joint committee on telecommunications, utilities and energy, by July 1, 2013.".

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Beaton; and on the roll call 154 members voted in the affirmative and 0 in the negative.

Amendment adopted,— yea and nay No. 291.

[See Yea and Nay No. 291 in Supplement.]

Therefore the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 1 the following section:

"SECTION 1A. Section 19 of chapter 25 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following subsection:—

(d) In addition to any other amounts derived from sources internal or external to Municipal Lighting Plants, for purposes of paying costs associated with energy efficiency and demand side management programs established by such Municipal Lighting Plants, amounts generated by the such municipal lighting plants under (1) the Forward Capacity Market program administered by ISO-NE, as defined in section 1 of chapter 164; and (2) cap and trade pollution control programs, including, but not limited to, and subject to section 22 of chapter 21A, amounts generated by the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of Understanding, as defined in subsection (a) of section 22 of

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chapter 21A, and the NOx Allowance Trading Program equal to the percentage of each municipal lighting plants electricity sales relative to total electricity sales statewide shall be returned to such Municipal Lighting Plants for implementation of such aforementioned programs.

Amounts received under this subsection shall be allocated to customer classes, in proportion to their contributions to those amounts; provided, however, that at least 10 per cent of the amount expended for electric energy efficiency programs and at least 20 per cent of the amount expended for gas energy efficiency programs shall be spent on comprehensive low-income residential demand side management or municipal programs as determined by said municipal lighting plants. Subsection (c) shall not apply to municipal lighting plants. Any amounts distributed pursuant to and received by municipal lighting plants under this subsection shall not subject municipal lighting plants to any other general or special law.

Beginning with the 2013 annual Report to the Department of Public Utilities, Municipal Light Plants formed prior to July 31, 2012 shall include in such annual report information regarding expenditures for energy efficiency and demand side energy programs funded by this subsection.".

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 51. Notwithstanding any general or special law to the contrary, the department of public utilities shall open a docket relative to increasing the transparency of electric bills sent to retail and commercial customers by electric or gas distribution companies. The department shall consider whether to require the consolidation of customer charges stemming from public policy programs, including, but not limited to energy efficiency and renewable energy generation programs established pursuant to chapter 169 of the acts of 2008, within a separate "system benefit" line-item on all electric and gas bills to reflect the rate charged to customers for such programs; provided, however, that this consideration include analysis of the itemization of any charge stemming from long-term contracts for renewable energy generation, transmission, and distribution pursuant to chapter 169 of the acts of 2008 and this act, and any charge stemming from net metering credits granted by a distribution company pursuant to chapter 164 of the General Laws. The department may also, alternatively, consider whether to increase the transparency of electric bills by requiring separately itemized rates on all electric and gas bills for charges stemming from said public policy programs. The department shall submit its findings along with any legislative recommendations to the joint committee on telecommunications, utilities and energy by June 1, 2013.".

The amendment was adopted.

Mr. Kulik of Worthington moves to amend the bill in section 12

In line 68 by striking out the figure "5" and inserting in place thereof the figure "6" and

In line 74 by adding after the figures "164." the following paragraph:

Any payment in lieu of taxes due under this clause shall be included in the tax base for purposes of determining the levy ceiling and levy limit under section 21C and in determining minimum residential factor

and classification of property under section 1A of chapter 58 and section 56 of chapter 40. The department of revenue may issue guidelines for implementing the provisions of this requirement consistent with preserving the payment in lieu of taxes amount in the local tax base."; and by adding the following two sections:

"SECTION 52. The division of local services within the department of revenue shall study the impact and provide an estimate of the effect of the changes to chapter 59 of the General Laws contained in this act on municipal revenues. The division of local services shall submit a report detailing its findings to the clerks of the senate and the house of representatives, the chairs of the joint committee on telecommunications, utilities and energy, the chairs of the joint committee on revenue and the chairs of the joint committee on municipalities and regional government not later than 4 years after the effective date of this act.

SECTION 53. Sections 10, 11, 12, 13, 37 and 38 of this act shall be repealed on December 31, 2017.".

Amendments adopted,—yea and nay No. 293.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Frost of Auburn; and on the roll call 131 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 293 in Supplement.]

Therefore the amendments were adopted.

Subsequently a statement of Ms. Canavan of Brockton was spread upon the records of the House as follows:

Statement of Ms. Canavan of Brockton.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call, it was my intention to vote in the affirmative. However, I now find that, for some inexplicable reason, I was recorded in the negative.

Subsequently a statement of Mr. Howitt of Seekonk was spread upon the records of the House as follows:

Statement of Mr. Howitt of Seekonk.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call, it was my intention to vote in the affirmative. However, I now find that, for some inexplicable reason, I was recorded in the negative.

Representatives Ehrlich of Marblehead and Mr. Keenan of Salem then moved to amend the bill by striking out section 42 and inserting in place thereof the following two sections:

"SECTION 42. Each distribution company shall execute, and the department shall approve, long-term contracts for the purchase of capacity, energy or other attributes, with a term of no less than 15 years and a fixed price for the capacity and energy, provided the department finds, after public hearing and within nine months of the filing of the long-term contract with the department, that the purchase of capacity, energy or other attributes shall be from a proposed electric generation facility: (i) that is to be located on the site of a coal or oil-fired electric generation facility in the commonwealth that will be permanently retired and decommissioned prior to the commercial operation date of the proposed facility; (ii) that will have quick start capability that can facilitate the further development of intermittent renewable electric generation resources serving the commonwealth; (iii) whose developer, or an affiliate thereof, shall have committed to demolish the coal or oil-fired generation plant and to remediate the site

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of the existing and operating coal or oil-fired generation plant; and (iv) that such new facility is reasonably expected to result in net benefits in terms of costs to electricity customers in the commonwealth and the mitigation of environmental impacts including, but not limited to, site remediation and reduced greenhouse gas emissions in the commonwealth as well as reduced emissions of criteria pollutants and hazardous air pollutants for the commonwealth of Massachusetts. Any contract executed by the contracting distribution company shall provide for annual remuneration for such company of up to 4 per cent but no less than 2.75 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, as determined by the department of public utilities at the time of contract approval. Distribution companies shall not be obligated to enter into long-term contracts pursuant to this paragraph that would, in the aggregate, exceed ten per cent of the total energy demand from all distribution customers in the service territory of the distribution company.

SECTION 42A. The department shall investigate and study the creation of an electric generation decommissioning fund for new electric generating facilities with a capacity of over 100MW built in the commonwealth after December 31, 2013, and shall study whether the state should require the filing of decommissioning plans for such facilities. The department shall submit a copy of the study to the clerks of the house of representatives and the senate who shall forward a copy of the study to the joint committee on telecommunications, utilities and energy by June 1, 2013.".

The amendment was adopted.

Mr. Madden of Nantucket and other members of the House then moved to amend the bill by adding the following section:

"SECTION 54. Section 11F of Chapter 25A of the General Laws, as so appearing is hereby amended by inserting the following:—

(j) Manufacturers of renewable energy products installed in the Commonwealth shall warranty compliance with state and municipal laws, ordinances and codes existing at the time of installation of new products or facilities, or modification of existing facilities, for a minimum of ten (10) years from the date of installation. Manufacturers shall (i) replace or repair said products at no cost to owners or operators of said facilities, or (ii) remove and replace said products with new products that are compliant with state and municipal laws then existing, or (iii) remove said non-compliant products at the manufacturer's cost and reimburse the owner of said facility the full cost of the products and related installation, site preparation, removal and site restoration.".

The amendment was rejected.

Messrs. Walsh of Framingham and Conroy of Wayland then moved to amend the bill by adding the following section:

"SECTION 54. The department of public utilities shall promulgate rules and regulations requiring transmission companies to file and the department to approve vegetation management plans. Said plans shall also be filed with any affected municipality. Said plans shall include landscape management provisions which encourage to the greatest extent possible, the use of native species plants and shall consider local terrain including soil conditions and visual impacts. Prior to department approval, affected municipalities may comment on said plans.

Municipalities may file a complaint with the department if the transmission company does not comply with the terms of vegetation management plan.

Vegetation management plans shall be reviewed every four years and prior to approval the department shall hold a public hearing.

Transmission companies shall provide sixty days notice to affected abutters of the transmission lines, and said department, of actions to be performed pursuant to the vegetation management plan approved pursuant to this section. This notice shall also be sent to municipal officials of affected communities including but not limited to elected officials, selectmen, planning board members, and conservation commission members. Transmission companies shall be exempt from the requirements of this paragraph in preparation for an imminent emergency event.

In the course of maintaining reliability of power along transmission line right of ways, including easements covering private and public property, each transmission company shall restore deleteriously affected vegetation in the form of replanting of trees and other vegetation and shall complete stump grindings wherever trees have been cut to the stump such that the company partially restores the pre-vegetation management activity property value of affected property owners. This paragraph shall apply only to activity that has occurred after January 1, 2012 and prior to January 1, 2014 or the approval of a company's first vegetation management plan filed in accordance with this section.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 9 the following four sections:

"SECTION 9A. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing, is hereby amended by inserting after 'qualify;. in line 65, the following words:— however, new facilities having a capacity greater than 30 megawatts shall qualify as Class I renewable energy generating sources as prescribed by the department pursuant to subsection (j).

SECTION 9B. Subsection (c) of section 11F of chapter 25A of the General Laws, as so appearing, is hereby amended by striking, in line 66, the following words:— and (iii) no such facility shall involve pumped storage of water or construction of any new dam or water diversion structure constructed later than January 1, 1998.

SECTION 9C. Subsection (d) of section 11F of chapter 25A of the General Laws, as so appearing, is hereby amended by striking, in line 94, the following words:— pumped storage of water nor.

SECTION 9D. Section 11F of chapter 25A of the General Laws, as so appearing, is hereby amended by inserting, after subsection (i) the following new subsections:—

(j) The department shall adopt regulations allowing for each retail supplier, in satisfying its annual obligations under subsection (a), to provide a portion of the required minimum percentage of kilowatt-hours sales of energy generated by new renewable energy sources from energy generated by new hydroelectric facilities, or incremental new energy from increased capacity or efficiency improvements at existing hydroelectric facilities, having a capacity larger than 30 megawatts.

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The department may specify the maximum portion of the minimum percentage of kilowatt-hour sales from energy generated by new hydroelectric facilities having a capacity larger than 30 megawatts that satisfies a retail supplier's annual obligations under subsection (a); provided, however, that the department shall specify the maximum portion as a percentage of the minimum percentage of kilowatt-hour sales from new renewable energy generating sources that shall encourage the incorporation of hydroelectric generation, from new facilities larger than 30 megawatts or existing facilities larger than 30 megawatts that have a new increased capacity, in the commonwealth's renewable energy portfolio.

(k) No retail supplier shall be required to make alternative compliance payments pursuant to section 11F until the department has adopted regulations allowing for each retail supplier, in satisfying its annual obligations under subsection (a), to provide a portion of the required minimum percentage of kilowatt-hours sales of energy generated by new renewable energy sources from energy generated by new hydroelectric facilities as prescribed in subsections (b), (c), (d), and (j).".

The amendment was rejected.

Mr. Peterson of Grafton then moved to amend the bill by striking out section 32; and after remarks the amendment was rejected.

Mr. Donato of Medford being in the Chair,—

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking section 32 and inserting in the place thereof the following section:

"SECTION 32. Said chapter 169 is hereby further amended by inserting after section 83 the following section:—

Section 83A. Beginning on January 1, 2013, and continuing until December 31, 2016, all distribution companies in the commonwealth, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in that time period to jointly solicit additional proposals from renewable energy developers and, provided reasonable proposals have been received, enter into additional cost-effective long-term contracts to facilitate the financing of renewable energy generation, apportioned among the distribution companies in accordance with this section. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution companies in consultation with the department of energy resources and shall be subject to review and approval by the department of public utilities. This long-term contracting obligation shall be separate and distinct from the electric distribution companies' obligation to meet applicable annual renewable portfolio standard, hereinafter referred to as RPS, requirements, under section 11F of chapter 25A of the General Laws.

A distribution company may fulfill its responsibilities under this section through individual competitive solicitations that are independent from the two joint solicitations for proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost effective long-term contracts to facilitate the financing of renewable energy generation in accordance with this section if, upon petition to the department of public utilities prior to the first joint solicitation, the department rules that a solicitation by an

individual distribution company would be more cost effective to ratepayers than said distribution company engaging in a joint solicitation.

For purposes of this section, a long term contract shall be a contract with a term of 10 to 20 years. In developing proposed long term contracts, the distribution companies shall consider multiple contracting methods, including long-term contracts for renewable energy certificates, hereinafter referred to as RECs, for energy, and for a combination of both RECs and energy. Beginning January 1, 2013, the electric companies shall jointly select a reasonable method of soliciting proposals from renewable energy developers using a competitive bidding process only. Distribution companies may use timetables and methods for the solicitation of competitively bid long-term contracts approved by the department of public utilities prior to January 1, 2013. A distribution company may decline to consider contract proposals having terms and conditions that it determines would require the contract obligation to place an unreasonable burden on the distribution company's balance sheet, and may structure its contracts, pricing, and/or administration of the products purchased to mitigate impacts on the balance sheet or income statement of the distribution company or its parent company, subject to the approval of the department of public utilities; provided that such mitigation shall not increase costs to ratepayers. The distribution companies shall consult with the department of energy resources and the attorney general's office regarding the choice of contracting methods and solicitation methods. All proposed contracts shall be subject to the review and approval of the department of public utilities.

The department of public utilities and the department of energy resources each shall adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy developers to submit proposals for long-term contracts conforming to the contracting methods specified in the second paragraph; (b) require that contracts executed by the distribution companies under such proposals are filed with, and approved by, the department of public utilities before they become effective; (c) provide for an annual remuneration for each contracting distribution company of up to 4 per cent but no less than 2.75 per cent of the annual payments under the contract made by each distribution company to compensate the companies for accepting the financial obligation of the long-term contract, as determined by the department of public utilities at the time of contract approval; (d) to the extent there are significant transmission costs included in a bid, allow the department of public utilities to authorize the contracting parties to seek recovery of such transmission costs of the project through federal transmission rates, consistent with policies and tariffs of the federal energy regulatory commission, to the extent the department finds such recovery is in the public interest; and (e) require that the renewable energy generating source to be used by a developer under the proposal meet the following criteria: (1) have a commercial operation date, as verified by the department of energy resources, on or after January 1, 2013; (2) be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of said chapter 25A, and to sell RECs under the program; and (3) be determined by the department of public utilities to: (i) provide enhanced electricity

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reliability within the commonwealth; (ii) contribute to moderating system peak load requirements; (iii) be cost effective to Massachusetts electric ratepayers over the term of the contract; and (iv) where feasible, create additional employment and economic development in the commonwealth. As part of its approval process, the department of public utilities shall consider the attorney general's recommendations, which shall be submitted to the department of public utilities within 45 days following the filing of such contracts with the department of public utilities. The department of public utilities shall take into consideration both the potential costs and benefits of such contracts and shall approve a contract only upon a finding that it is a cost effective mechanism for procuring low cost renewable energy on a long-term basis taking into account the factors outlined in this section.

The joint solicitations required under this section shall be coordinated among the electric distribution companies by the department of energy resources. If distribution companies are unable to agree on a winning bid(s) pursuant to a solicitation under this section, the matter shall be submitted to the attorney general, in consultation with the department of energy resources and the department of public utilities, for a final, binding determination of the winning bid. The electric distribution companies shall each enter into a contract with the winning bidder(s) for their apportioned share of the market products being purchased from the project. The apportioned share shall be calculated and based upon the total energy demand from all distribution customers in each service territory of the distribution companies.

Distribution companies shall not be obligated to enter into long-term contracts under this section that would, in the aggregate, exceed 4 per cent of the total energy demand from all distribution customers in the service territory of the distribution company. As long as an electric distribution company has entered into long-term contracts in compliance with this section, it shall not be required by regulation or order or by other agreement to enter into additional long-term contracts; provided, however, that an electric distribution company may execute such contracts voluntarily, subject to the department of public utilities. approval.

Ten per cent of the aggregate level of long-term contracts under this section shall be reserved for newly developed, small, emerging or diverse renewable energy distributed generation facilities, as determined by the department of energy resources, that are located within each distribution company's service territory. Notwithstanding any provision in this section to the contrary, each distribution company shall be required to solicit proposals for such distributed generation facilities separately through a competitive bidding process only. Distributed generation projects qualifying under this paragraph shall have a nameplate capacity no larger than 6 megawatts, shall not qualify as a Class I, II or III net metering facility, as defined in section 138 of said chapter 164, and shall not be eligible for solar renewable energy credits at the time of solicitation.

An electric distribution company may elect to use any energy purchased under such contracts for resale to its customers, and may elect to retain RECs for the purpose of meeting the applicable annual RPS requirements under said section 11F of said chapter 25A. If the energy

and RECs are not so used, such companies shall sell such purchased energy into the wholesale spot market and shall sell such purchased RECs through a competitive bid process. Notwithstanding the previous sentence, the department of energy resources shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs under this section and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.

If a distribution company sells the purchased energy into the wholesale spot market and auctions the RECs as described in the fifth paragraph, the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy and RECs, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the department of public utilities. The reconciliation process shall be designed so that a distribution company recovers all costs incurred under such contracts. If the RPS requirements of said section 11F of said chapter 25A should ever terminate, the obligation to continue periodic solicitations to enter into long-term contracts shall cease, but contracts already executed and approved by the department of public utilities shall remain in full force and effect.

This section shall not limit consideration of other contracts for RECs or power submitted by a distribution company for review and approval by the department of public utilities.

If this section is subject to a judicial challenge, the department of public utilities may suspend the applicability of the challenged provision during the pendency of the judicial action until final resolution of the challenge and any appeals, and shall issue such orders and take such other actions as are necessary to ensure that the provisions that are not challenged are implemented expeditiously to achieve the public purposes of this section.".

The amendment to adopted.

Mr. Jones and other members of the House then moved to amend the bill in section 26, in lines 236 to 242, inclusive, by striking out the paragraph contained in those lines; and the amendment was adopted.

Messrs. Madden of Nantucket and DiNatale of Fitchburg then moved to amend the bill by adding the following section:

"SECTION 55. Therefore be it resolved that there shall be a Special Commission on the Health Impacts of Wind Turbines on the citizens of the Commonwealth. Said Commission shall be comprised of the House and Senate Chairmen of the Joint Committee on Public Health as well as the House and Senate ranking minority members on the committee; the House and Senate Chairmen of the Joint Telecommunication and Energy Committee and the ranking House and Senate minority members; the Commissioner of the Department of Public Health or his designee; a scientist who shall be knowledgeable about the health affects of wind turbines who shall be appointed by the Governor; 3 epidemiologists, one who shall be appointed by the Governor, one by the Senate President and one by the Speaker of the House; the Director of the Barnstable County Department of Public Health; the Executive Director or designee of the Berkshire Regional Planning Commission;

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a municipal health agent to be appointed by the Massachusetts Association of Boards of Health; a member of the Massachusetts Medical Society who shall serve as chair; a member of the Massachusetts Municipal Association knowledgeable about the health effects of wind turbines; and 3 citizens of the Commonwealth living within 3000 feet of an operating wind turbine, one of each to be appointed by the Regional Planning Agencies of the counties of Barnstable, Berkshire and Worcester.

Said Commission shall convene within 30 days of the enactment of this bill and said Commission shall file a report no later than September 30, 2013. Said Commission shall study all facets of the health impacts of windmills, including but not limited to; the effects of low frequency noise on humans and animals, sleep disorders, difficulty with equilibrium, headaches, childhood night terrors, effects on the inner ear, learning and mood disorders, panic attacks, irritability, concentration, and memory, noise, flicker, proximity, size of wind turbine, and wind conditions. Said report shall make recommendations to the General Court on legislation designed to protect the health of the citizens of the Commonwealth which would include: an acceptable distance for siting a wind turbine project near dwellings, businesses, and municipal, commercial and residential property lines; an optimum wind turbine size and design that reduces or lessens health impacts; a recommendation as to whether wind turbine projects should be reviewed by local boards of health as part of the permitting process; and any other matter that may be determined of importance to enhance the protection of the public's health. Until the filing of said report by the Commission, no additional large scale (over 1.25 mw) wind turbines shall be approved for installation anywhere in the Commonwealth.".

The amendment was rejected.

Mr. Dempsey of Haverhill then moved, there being no objection, to amend the bill

In section 2, in lines 6 and 7, by striking out the following: "and 5 largest commercial or industrial gas users", in line 10, by inserting after the word "company" the words ", gas company";

In section 14 (inserted by amendment), in line 82, by inserting after the word "construct" the words "or acquire";

In section 17, in lines 130 to 133, inclusive, by striking out the following: "nothing in this section shall impact discounts for any low income customer class created by section 1F of this chapter. If, as a result of this section, the rate paid by any one customer class is impacted by more than 10 per cent, the department shall phase-in the resulting new rate over a period of not less than 3 years" and inserting in place thereof the following: "if the resulting impact for any one customer class would be more than 10 per cent, the change shall be accomplished on a phased-in, revenue neutral basis over a subsequent period with no more than 10 per cent increase occurring in any one year";

In section 29, in line 259, by inserting after the word "to" the figures "310";

In section 40, in line 421, by striking out the following: "Section 44" and inserting in place thereof the following: "Sections 28 and 29"; and

In section 41, in line 425, by inserting after the word "electric" the word "distribution".

The amendments were adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Keenan of Salem; and on the roll call 135 members voted in the affirmative and 16 in the negative. Bill passed to be engrossed,—yea and nay No. 295.

[See Yea and Nay No. 295 in Supplement.]

Therefore the bill (Senate, No. 2214, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment (for text of House amendment, see House, No. 4225).

The House Bill relative to natural gas leaks (House, No. 4199), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time. Natural gas leaks.

Pending the question on passing the bill to be engrossed, Ms. Walz of Boston moved to amend it in line 47 by inserting after the word "gas" the words: "prevention of tree damage"; and the amendment was adopted.

Ms. Ehrlich of Marblehead then moved to amend the bill in line 11 by striking out the word "should" and inserting in place thereof the word: "shall"; and in line 14 by striking out the word "are" and inserting in place thereof the words "shall be"; and the amendments were adopted.

The same member then moved to amend the bill in lines 21, 22 and 23 by striking out the following: "Grade 1 and Grade 2" and inserting in the place thereof, in each instance, the following: "Grade 1, Grade 2, and Grade 3"; and the amendments were adopted.

Ms. Ehrlich then moved to amend the bill in line 25 by inserting after the word "official" the words "and any member of the General Court"; and the amendment was adopted.

After debate, Mr. Chan of Quincy moved to amend the bill in line 54 by striking out the word "reconcile" and inserting in place the words "adjust"; and by adding the following paragraph:

"The department shall not approve any plan under this section that would increase capital spending on the replacement of leak-prone natural gas pipes that would exceed 125% of the of such actual spending in the previous 12 months of said work plan submission. The department may promulgate rules and regulations in accordance with this section." .

The amendments were adopted.

On the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Ms. Ehrlich of Marblehead; and on the roll call 151 members voted in the affirmative and 0 in the negative. Bill passed to be engrossed,—yea and nay No. 296.

[See Yea and Nay No. 296 in Supplement.]

Therefore the bill House, No. 4222, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at two o'clock P.M.

Mr. Peterson of Grafton then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-two minutes after seven o'clock P.M., (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at two o'clock P.M.