

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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, January 9, 2008.

Met at one minute past one o'clock P.M. (Mr. Rosenberg in the Chair).

Petition.

Mr. Downing presented a petition (subject to Joint Rule 12) of Benjamin B. Downing and Christopher N. Speranzo for legislation to amend the Uniform Procurement Act,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Mr. Antonioni, for the committee on Education, on petition, a Bill relative to defining principal's contracts (Senate, No. 273); and

By the same Senator, for the same committee, on petition, a Bill providing MCAS options (Senate, No. 354);
Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Antonioni, for the committee on Education, on petition, a Bill relative to school improvement plans (Senate, No. 276);
Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

By Mr. Augustus, for the committee on Election Laws, on petition, a Bill providing for recall elections in the town of Wrentham (Senate, No. 2290) [Local approval received] (Representative Eldridge of Acton dissenting);
Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to providing for capital facility repairs and improvements for the Commonwealth (House, No. 4455),— **was referred, in concurrence, to the committee on Bonding, Capital Expenditures and State Assets.**

Petitions were referred, in concurrence, as follows:

Joint petition (accompanied by bill, House, No. 4456) of John D. Keenan and Frederick B. Berry (with the approval of the mayor and city council) for legislation to authorize the city of Salem to issue an additional license for the sale of alcoholic beverages to be drunk on the premises to Buchhalter Ltd., doing business as Upper Crust in said city; and

Joint petition (accompanied by bill, House, No. 4457) of John D. Keenan and Frederick E. Berry (with the approval of the mayor and city council) that the city of Salem be authorized to issue an additional license for the sale of alcoholic beverages to be drunk on the premises to Gulu-Gulu Cafe;

Severally to the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 4458) of Joseph R. Driscoll and others (by vote of the town) relative to the number of nomination signatures for placement of candidates on the ballot for certain offices in the town of Braintree; and
Petition (accompanied by bill, House, No. 4459) of Joseph R. Driscoll and others (by vote of the town) relative to the filling of vacancies in certain offices of the town of Braintree;
Severally to the committee on Election Laws.

Petition (accompanied by bill, House, No. 4460) of James E. Vallee and others (by vote of the town) relative to the charter of the town of Medway;
To the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 4461) of Linda Dean Campbell (with the approval of the mayor and city council) for legislation to exempt the position of chief of police in the city of Methuen from the civil service law;
Petition (accompanied by bill, House, No. 4462) of Brian S. Dempsey (with the approval of the mayor and city council) for legislation to authorize Brian Santarlasci to take a civil service examination for the position of police officer in the city of Haverhill, notwithstanding the maximum age requirements;
Joint petition (accompanied by bill, House, No. 4463) of Geoffrey D. Halland Steven C. Panagiotakos (by vote of the town) that the town of Westford be authorized to appoint retired police officers of said town for the purpose of performing special detail assignments;
Joint petition (accompanied by bill, House, No. 4464) of John F. Quinn and Mark C. Montigny (by vote of the town) that the position of deputy chief of police in the town of Dartmouth be exempt from provisions of the civil service law; and
Joint petition (accompanied by bill, House, No. 4465) of John F. Quinn and Mark C. Montigny (by vote of the town) relative to promotional examinations within the police department of the town of Dartmouth;
Severally to the committee on Public Service.

Petition (accompanied by bill, House, No. 4466) of Joseph R. Driscoll and others (by vote of the town) for legislation to further regulate the room occupancy excise tax imposed on hotel and motel accommodations in the town of Braintree;
Under suspension of Joint Rule 12, to the committee on Revenue.

Recess.

There being no objection, at two minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and at twenty-nine minutes past one o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:
Resolutions (filed by Mr. McGee) "honoring the Swampscott High School Football Team on its Division 3 Super Bowl Championship."

Communication.

The Clerk read the following communication:

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053**

January 3, 2008.

William Welch, Clerk
Massachusetts State Senate
State House, Room 334
Boston, MA 02133

Dear Mr. Clerk:

Due to a previous commitment, on January 2, 2008 I was away from the State House and unable to participate in several roll call votes. Had I been present, I would have voted in the following manner:

1. Yes, H. 4342, An Act Authorizing The Sale Of A Certain Parcel Of Land In The City Of Waltham To Said City,
2. Yes, H. 4384, An Act Releasing Certain Land in the Town of Reading From The Operation of a Restriction on Land.

3. No, Amendment # 1 relative to S. 2456, An Act Providing For Participation in the Regional Greenhouse Gas Initiative.
4. No, Amendment #2 relative to S. 2456, An Act Providing For Participation in the Regional Greenhouse Gas Initiative.

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for January 2, 2008.
Thank you in advance for your attention to this important matter.

Sincerely,
Cynthia S. Creem,
State Senator.

On motion of Mr. Panagiotakos, the above communication was ordered printed in the Journal of the Senate.

PAPER FROM THE HOUSE.

Engrossed Bill— Land Taking for Conservation, Etc.

An engrossed Bill removing an agricultural preservation restriction in the town of Raynham known as the Borden Colony (see House, No. 26, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-seven minutes before two o'clock P.M., as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 159**]:

YEAS.	
Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 37
McGee, Thomas M.	

NAYS — 0.
ABSENT OR NOT VOTING.
Berry, Frederick E. — 1.

The yeas and nays having been completed at twenty minutes before two o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Relative to the membership of the conservation commission of the town of Carver (Senate, No. 2428);
Exempting the positions of police and fire chiefs in the town of Burlington from the civil service law (House, No. 2363);
Relative to the appointment of retired police officers in the city of Everett (House, No. 3982);
Relative to the special police force in the town of West Springfield (House, No. 4080);
Relative to the issuance of an all alcohol beverage license in the city of Easthampton (House, No. 4176);

Authorizing the town of Harwich to acquire certain cemetery property (House, No. 4255);
Relative to the land acquisition and maintenance fund of the town of Eastham (House, No. 4256); and
Authorizing the town of Harwich to acquire certain real property (House, No. 4257);

Were severally read a second time and ordered to a third reading.

There being no objection, one matter was considered out of order in the Orders of the Day, the Senate Bill for a healthy Massachusetts safer alternatives to toxic chemicals (Senate, No. 2406),— **was considered; the main question being on ordering the bill to a third reading.**

On motion of Ms. Resor, the further consideration thereof was postponed until Thursday, January 17th.

The Senate Bill to generate renewable energy and efficiency now (Senate, No. 2457),— **was read a second time.**

After remarks, and pending the question on ordering the bill to a third reading, Mr. Downing moved that the bill be amended in Section 75, in the first line of the second paragraph of said section, by striking out the words "10 to 15" and inserting in place thereof: "15 to 20".

After remarks, the amendment was adopted.

Ms. Chandler and Messrs. Panagiotakos and Galluccio moved that the bill be amended by inserting at the end thereof the following:

"(a) Notwithstanding any general or special law to the contrary, The Green Building Plan for the Commonwealth Commission is established to examine the environmental and economic impact of establishing a green building plan for the Commonwealth.
(b) The Green Building Plan for the Commonwealth Commission shall include following individuals or their appointees: the Commissioner of the Department of Energy Resources, the Director of Housing and Community Development, the Secretary of Environmental Affairs, the Secretary of Administration and Finance, an appointee of the President of the Senate, an appointee of the Speaker of the House, an appointee of the Minority leader of the Senate, an appointee of the Minority leader of the House, the Lieutenant Governor, an appointee of Worcester Polytechnic Institute, an appointee of the Chancellor of the University of Massachusetts at Lowell, an appointee of the President of Massachusetts Institute of Technology, the director of the Massachusetts Technology Collaborative, an appointee of the Commissioner of the Department of Revenue, a representative of the Massachusetts Municipal Association, and a representative of the Boston Society of Architects. The Lieutenant Governor shall chair the committee but shall have no vote except in case of a tie vote.
(c) The committee shall issue a report on its findings no later than December 31, 2008."

After debate, the amendment was adopted.

Ms. Candaras, Ms. Resor, Messrs. Brewer and Buoniconti moved that the bill be amended by adding the following new sections after Section 89 and all subsequent sections be numbered accordingly:

"SECTION 90. Section 1 of chapter 775 of the acts of 1975 is hereby amended by striking out the definition of 'electric power facilities' or 'electric power facility', as inserted by section 2 of chapter 129 of the acts of 1988, and inserting in place thereof the following 2 definitions:—

'Energy facilities' or 'energy facility', electric power facilities, electric power facility, or any system or facility, or any interest in, or right to the use of, services derived from these facilities, facility or system or any part of a facility or system, including any

energy conservation system, system for the production of renewable energy, or alternative energy facility for the manufacture, generation, transmission, distribution, transformation, transportation, storage, purchase, sale, exchange or interchange or conservation of energy or any byproducts or ancillary products or services by any means whatsoever, including but not limited to vehicles, personal or real property and any facility for processing refuse, or other materials into fuel with or without other byproducts, or facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing, or disposal of fuel and other material of any kind for any of these purposes, as necessary to carry out the purposes of this act.

‘Energy’, electricity, electric power, electric capacity, electric energy, natural gas, liquified natural gas, LP air gas, propane air, synthetic natural gas, oil, steam, coal, water, wind, battery, or any byproducts, derivatives, services, ancillary products or ancillary services, including but not limited to reactive power/voltage control, loss compensation, scheduling and dispatch, load following, system protection service and energy imbalance service, emissions allowances, or the transmission, transportation, storage, purchase, sale, exchange or interchange of energy capacity, either electric or other, distribution, disposal, decommissioning thereof, or the transmission, transportation, storage, disposal, decommissioning or distribution of any byproducts thereof.

SECTION 91. Section 5 of said chapter 775 is hereby amended by striking out clauses (h) and (i) and inserting in place thereof the following clauses:—

(h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein, with or without consideration and notwithstanding whether the real or personal property is needed by or useful to the corporation, all upon such terms and conditions as the corporation shall determine;

(i) to pledge or assign any money, fees, charges, or other revenue of the agency, or any real or personal property and any proceeds derived by the corporation from the sale of energy or property, the purchase of any insurance or condemnation award.

SECTION 92. Said section 5 of said chapter 775 is hereby further amended by striking out clauses (k) to (p), inclusive, and inserting in place thereof the following clauses:—

(k) to borrow money and issue its bonds as provided in this act and to provide a pooled loan program on behalf of and for the benefit of its members, to make loans to its members and to enter into leases on behalf of its members, both as lessee or lessor;

(l) to purchase energy at wholesale, including but not limited to all or a portion of the capacity and output of energy facilities and steam, whether or not produced by an electric power facility;

SECTION 93. Clause (s) of said section 5 of said chapter 775 is hereby amended by striking out the word ‘fancions’ and inserting in place thereof the following word:— functions.

SECTION 94. Said section 5 of said chapter 775 is hereby further amended by striking out clause (t) and inserting in place thereof the following 3 clauses:—

(t) to enter into contracts determined by the corporation to be necessary or for the prudent management of the corporation’s assets, funds, debts, or fuels, including without limitation, interest rate swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, leases, or other risk management instruments; and

(u) to exercise and perform all or a part of its powers and functions through 1 or more wholly-owned or partly-owned corporations or other entities; and

(v) to do all things necessary, convenient or desirable to carry out the purposes of this act or the powers expressly granted or necessarily implied in this act.

SECTION 95. Said section 6 of chapter 775 is hereby further amended by striking out subsections (b) and (c) and inserting in place thereof the following 3 subsections:—

(b) Neither the obligations of the corporation nor the obligations of any member or non-member cities and towns or districts, authorities, or departments of the commonwealth or political subdivisions under the capacity and output contracts shall be included in computing the borrowing capacities of the cities and towns or districts, authorities, departments of the commonwealth or political subdivisions. Such obligations of cities and towns having municipal electric departments established under said chapter 164 or a special act shall be treated as expenses of operating their electric plants and shall constitute special obligations of the cities and towns, payable solely from the revenues and other moneys derived by the cities and towns from their electric departments or systems, the liability of these cities and towns from other funds being limited to obligations undertaken by them to pay for the energy used by them.

(c) A city or town shall be obligated to fix, revise, and collect fees and charges for energy and other services, facilities and commodities furnished or supplied through its electric department or systems at least sufficient to provide revenues adequate to meet its obligations under any contracts with the corporation and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on all bonds issued by the city or town for energy-related purposes.

A city or town shall be obligated to fix, revise and collect fees and charges for energy and other services, facilities and commodities furnished or supplied through its electric department or system at least sufficient to provide revenues adequate to meet its obligations under any such output and capacity contract and to pay any and all other amounts payable from or constituting a charge and lien upon these revenues, including amounts sufficient to pay the principal of and interest on all bonds issued by the city or town for energy-related purposes.

SECTION 96. Section 9 of said chapter 775 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The corporation may, subject to the approval of the department, borrow money by the issue of its bonds for any of its corporate purposes. Bonds may be issued under this section as mortgage bonds, as general obligations of the corporation or as a special obligation payable solely from particular funds. Without limiting the generality of the foregoing, these bonds may be issued for project costs, prepayment of fuel, transmission or transportation of fuel, or the corporation's share of project costs of energy facilities or long-term purchases of rights to use energy facilities which may include interest before and during the carrying out of any project and for a reasonable period after that time, prepayments under contracts for the purchase of energy, or services related thereto, stranded investment costs, early termination costs of any energy project, decommissioning costs, reserves for debt service or other capital or current expenses that may be required by a trust agreement or resolution securing bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

SECTION 97. Subsection (a) of section 10 of said chapter 775 is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:— In the discretion of the corporation, but subject to approval by the department, any bonds issued under this act may be secured by a resolution of the board or by a trust agreement between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, and this trust agreement shall be in a form and executed in a manner that may be determined by the corporation. The trust agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the corporation, including the revenues from any facilities already existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing or later coming into existence and whether then held or later acquired by the corporation, and the proceeds thereof.

SECTION 98. Subsection (b) of said section 10 of said chapter 775 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The corporation is authorized to fix, revise, and collect fees and charges for energy and other services, facilities, and commodities furnished or supplied by it, but no costs, losses or benefits of any such endeavor shall be allocated to any other endeavor unrelated to it.”

After debate, the amendment was adopted.

Mr. Petruccelli moved that the bill be amended by striking out Section 60 and inserting in place thereof the following:

“SECTION 60. Said Chapter 164 is hereby further amended by striking out section 96, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:

Section 96. Electric and gas companies subject to this chapter and their holding companies may, notwithstanding any other provisions of this chapter or of any general or special law, consolidate or merge with one another, or may sell and convey their properties to another of such companies or to a wholesale generation company and such other company may purchase such properties, provided that such purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called therefor, by vote of the holders of at least two thirds of each class of stock outstanding and entitled to vote on the question of each of the contracting companies, and that the department, after notice and a public hearing, has determined that such purchase and sale or consolidation or merger, and the terms thereof, are consistent with the public interest. The purchase or sale of properties by, or the consolidation or merger of, wholesale generation companies shall not require departmental approval. The merger or consolidation of holding companies that has been filed and approved by the Federal Energy Regulatory Commission prior to the effective date of this section shall not be subject to the requirements of this section.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-nine minutes before three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 160**]:

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconiti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38
NAYS — 0.	

Mr. Rosenberg in the Chair, the yeas and nays having been completed at twenty-six minutes before three o’clock P.M., the amendment was adopted.

Mr. Petrucelli moved that the bill be amended by striking out Section 7 and inserting in place thereof the following:

“SECTION 7. Chapter 25 of the General Laws is hereby amended by inserting after section 5D the following section:—

Section 5E. The department shall periodically audit all gas and electric companies subject to its jurisdiction, including, but not limited to, review of the following documents: (i) all financial statements, the balance sheet, the income statement, the statement of cash flows, the statement of retained earnings, the notes to the financial statements and the information in the annual return to the department; (ii) documents concerning the reconciling mechanisms related to rates, prices or charges, merger, acquisition or consolidation related costs and savings 3 years following the merger, acquisition or consolidation; and, (iii) documents concerning service quality measure statistics and the service quality performance at least every 3 years or whenever service quality penalties equal or exceed 50 percent of the maximum. Upon written complaint of the attorney general requesting an independent audit of any company subject to the department’s jurisdiction, the department shall commence a proceeding within 30 days of receipt of the complaint for the purpose of ordering the requested audit in a reasonable time. The results of any audit so ordered shall be filed promptly with the department and each audit shall be paid by the company that is the subject of the audit.”

After remarks, the amendment was adopted

Ms. Menard moved that the bill be amended by striking the first two paragraphs in section 3 and inserting in place thereof the following:—

“SECTION 3. Chapter 12 of the General Laws is hereby amended by striking out section 11E, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:

Section 11E. (a) The attorney general may participate, appear and intervene in any regulatory or judicial proceedings, federal or state, in which the interests of ratepayers in the Commonwealth may be involved, including, but not limited to, a matter affecting utility services rendered or involving the rates, charges, prices, tariffs or practices of an electric, gas, generator, transmission, telephone, telegraph, or voice over internet protocol company doing business in the commonwealth. The attorney general shall have standing to intervene in all proceedings before the department of public utilities and department of telecommunications and cable.”

The amendment was *rejected*.

Messrs. Creedon, Joyce and Timilty moved that the bill be amended by adding at the end of the bill the following new section:—

“SECTION . Section 3 of Chapter 40A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended, in line 60, by inserting after the word “public”, the following new language:— ; provided, further, that for the purpose of this section, an energy facility, electric generating facility or power plant fueled, in whole or in part, by coal, oil, natural gas or nuclear power shall not be considered a public service corporation.”

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95.

SECTION 1. Terms used in sections 2 and 3 and sections 14 to 21, inclusive, shall have the meanings assigned to them in section 3 of chapter 25A of the General Laws.

SECTION 1A. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006, the sum set forth in section 2A is hereby appropriated from the General Fund unless specifically designated otherwise in this act or in said appropriation acts, for the several purposes and subject to the conditions specified in this act or in said appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2006. The sum appropriated in said section 2A shall be in addition to any amounts previously appropriated and made available for the purposes of that item.

SECTION 2A.

2030-1001 For the purchase and repair of office of environmental law enforcement motor vehicles; provided, that not less than 20 per cent of new motor vehicle purchases shall be hybrid or alternative fuel vehicles; prior appropriation continued 2,500,000.

SECTION 2½. To provide funding for the Energy Independence Grant Fund, for the purpose of encouraging the purchase, lease, aftermarket conversion and use of hybrid and alternative energy vehicles, including heavy, medium and light duty vehicles that utilize either a single fuel or dual fuel, by cities and towns, school districts and regional transit authorities. The sums set forth in section 3 shall be distributed pursuant to a grant program developed and administered by the division of energy resources. The development of the plan shall be conducted in consultation with regional transit authorities established pursuant to chapter 161E of the General Laws. The grant program shall facilitate the development of an alternative fuel infrastructure. The sums set forth in section 3, for the several purposes and subject to the conditions specified in this act, are hereby made available subject to the laws regulating the disbursement of public funds and approval thereof.

SECTION 3.

DIVISION OF ENERGY RESOURCES.

7006-1003 For the planning, design and construction of alternative fuel refueling stations on the site of land owned or controlled by the commonwealth or a regional transit authority with a minimum useful life of 5 years, and for financial assistance to cities and towns, school districts and regional transit authorities for the acquisition of alternative fuel vehicles and hybrids with a minimum useful life of 3 years; provided, that the commonwealth or a regional transit authority may enter into agreements or contracts with providers and distributors of alternative fuels necessary to carry out the purposes of this act 10,000,000.

SECTION 4. To meet a portion of the expenditures necessary in carrying out section 3, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of \$10,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on

their face, Alternative Energy, Energy Independence Act of 2005, and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2030. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29.

SECTION 4A. Chapter 21A of the General Laws is hereby amended by adding the following section:—

Section 3F. The commissioner shall annually, on or before November 15, publish a list of vehicles sold within the commonwealth which are eligible to receive an exemption from certain percentages of the sales tax and the percentage reduction in the sales tax assessed under section 2 of chapter 64H to which they shall be entitled in the following taxable year.

The commissioner shall establish a list and provide a schedule of sales tax exemptions for vehicles based upon their fuel mileage ratings as determined by the United States Environmental Protection Agency, based on a formula annually updated which reflects: (a) a vehicle's mileage relative to other vehicles within its passenger seating class; and (b) the percentage of the vehicle that is American-made.

The commissioner shall provide exemptions for the following classes of vehicles: 2 and 4-passenger vehicles, 5-passenger vehicles and vehicles that seat 6 or more passengers.

The commissioner shall design the list so that no vehicle which is less than 60 percent as efficient, for 2 to 4 and 5-passenger vehicles, and 70 percent as efficient, for 6-passenger and more vehicles, as the best vehicle in its respective class receives the sales tax exemption. The commissioner may, after issuing a draft determination and holding a public hearing, raise the level below which a vehicle shall not qualify for benefits.

The list shall be made available for public comment not later than November 1 of each year and the commissioner shall determine what shall be included on the final list. The final list shall be distributed to boards of assessors and tax collectors within each municipality.

SECTION 5. Section 3 of chapter 25A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting in their appropriate alphabetical sequence the following definitions:

'Aftermarket conversion', a converted vehicle originally designed to operate on gasoline that has been altered to run on an alternative fuel exclusively or in combination with gasoline.

'Alternative fuel refueling station', any platform that provides for the delivery of alternative fuels.

'Alternative fuel vehicle', a vehicle powered by alternative fuel. An alternative fuel vehicle shall have the following attributes:

- (1) the capability of operating only on an alternative fuel;
- (2) original use commencing with the taxpayer; and
- (3) acquisition by the taxpayer for use or lease, but not for resale.

'Alternative fuels', biodiesel, electricity, ethanol, hydrogen, methanol, natural gas and propane.

'Biodiesel', renewable fuel that can be manufactured from vegetable oils, animal fats, or recycled restaurant greases, including both biodiesel blends and pure forms, including B20 20 per cent neat biodiesel and 80 per cent diesel.

'Electricity', transportation fuel to power battery electric and fuel cell vehicles.

'Ethanol', an alcohol-based alternative fuel produced by fermenting and distilling starch crops that have been converted into simple sugars. Specifically, blends such as 85 per cent ethanol and 15 per cent gasoline, E85, shall be considered an alternative.

'Heavy duty vehicle', a vehicle with a gross vehicle weight rating, GVWR, equal to or greater than 40,001 pounds GVWR.

‘Hybrid vehicle’, (1) a vehicle which draws propulsion energy from onboard sources of stored energy which are both: (i) an internal combustion or heat engine using combustible fuel; and (ii) a rechargeable energy storage system; (2) a vehicle which, in the case of a passenger automobile, medium duty passenger vehicle or light truck: (i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year; (ii) for 2004 and later model vehicles, has received a certificate that the vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle; and (iii) and achieves an increase of 10 per cent fuel efficiency as compared to the average vehicle of its class as defined by the federal Environmental Protection Agency.

‘Hydrogen’, a fuel which is in a gaseous state at atmospheric pressure and ambient temperatures containing low levels of carbon monoxide and carbon dioxide for use in combustion engines and fuel cell electric vehicles.

‘Light duty vehicle’, a vehicle with a gross vehicle weight rating, GVWR, of 0 to 10,000 pounds.

‘Medium duty vehicle’, a vehicle with a gross vehicle weight rating, GVWR, of 10,001 to 40,000 pounds.

‘Methanol’, a wood alcohol used as an alternative fuel in flexible fuel vehicles that run on M85, a blend of 85 per cent methanol and 15 per cent gasoline.

‘Natural gas’, applications as stored onboard a vehicle as compressed natural gas, CNG, at 3,000 or 3,600 pounds per square inch or as liquefied natural gas, LNG, at typically 20 to 150 pounds per square inch.

‘Propane’, liquefied petroleum gas, LPG.

‘Regional transit authority’, as established pursuant to chapter 161 and chapter 161b.

SECTION 6. Section 11B of chapter 25A of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:—

When purchasing new motor vehicles, the commonwealth shall purchase hybrid or alternative fuel vehicles to the maximum feasible extent at a rate of not less than 5 per cent annually for all new motor vehicle purchases in order that, taking into account the existing number of such vehicles owned and operated by the commonwealth, not less than 50 per cent of the motor vehicles owned and operated by the commonwealth are hybrid or alternative fuel vehicles by the year 2010.

The division of operational services shall forward to the division of energy resources all requests for motor vehicle acquisitions by agencies of the commonwealth. The division shall thereafter report to the division of operational services regarding the availability of a hybrid or alternative fuel vehicle that will feasibly achieve the intended use designated by the requesting agency.

The division shall develop a system of protocols for reporting to the division of operational services for the acquisition of alternative fuel vehicles and hybrids, including identifying the potential for acquisition of heavy, medium and light-duty vehicles, based on the anticipated mileage and usage of such vehicles, and the effectiveness of single fuel or dual fuel alternative fuel vehicles for the particular purpose identified. The division shall submit in writing to the secretary of administration and finance, the clerks of the senate and house of representatives and the joint committee on state administration and regulatory oversight an annual statement detailing the progress, as well as any additional information relevant to the acquisition of hybrid or alternative fuel vehicles by the commonwealth.

SECTION 7. Said chapter 25A is hereby further amended by inserting after section 11H the following 2 sections:—

Section 11I. There shall be established and set up on the books of the Commonwealth an Energy Independence Grant fund to be used, subject to appropriation for the purpose of encouraging the purchase, lease, aftermarket conversion and use of hybrid and alternative fuel vehicles, including heavy, medium and light duty vehicles that use either a single fuel or dual fuels, by cities and towns, school districts and regional transit authorities. The grants may be used for the purpose of matching federal grants. In addition, the grants may be expended pursuant to cooperative purchasing agreements with other entities. Funds expended shall, to the extent possible, maximize reimbursement from federal or other sources. The fund shall consist of any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited to it. The fund shall encourage, support and foster the development of hybrid and alternative fuel vehicles in order to promote increased autonomy from fossil fuels, to mitigate the fiscal impact of the high cost of fuel on cities and towns and to provide environmental benefits through the reduction of carbon dioxide and carbon monoxide emissions.

Section 11J. (a) The division shall receive applications for grants from the fund from cities and towns, school districts and regional transit authorities and award grants to assist any of them in the purchase or lease of hybrid and alternative fuel vehicles

or for the aftermarket conversion of conventional fuel vehicles for municipal or regional transit purposes. The division shall develop a scoring system to serve as the basis for the evaluation and the determination of awarding grants pursuant to this section. The scoring system shall determine the maximum grant amount available for a specific application. The scoring system shall be based upon the type of vehicle being acquired or retrofitted, the cost, the type of use anticipated, fuel economy, range and the anticipated useful life of a vehicle and shall employ the federal standards set forth in the Corporate Average Fuel Economy provision of the Energy Policy Conservation Act of 1975 and any other applicable federal standards. The scoring system shall designate the amount of assistance available to a municipality, school district or regional transit authority based upon those factors and the division may award grants up to that amount commensurate with said factors. In awarding grants, the division shall give consideration to applications from cities and towns, school districts and regional transit authorities from diverse geographic regions. A city or town, school district or regional transit authority which is awarded a grant under this program shall submit an annual report to the division identifying and detailing: (1) the type of the hybrid or alternative fuel vehicle purchased, leased or converted; (2) the usage and any cost savings to the city or town, school district or regional transit authority associated with the reduction of use of standard gasoline from the use of the vehicle; and (3) any environmental benefits from, but not limited to, the reduction in emissions.

(b) A city or town, school district or regional transit authority shall apply for a fund grant in the manner specified by the commissioner.

(c) The division shall promulgate policies, rules and regulations to implement this section. The commissioner shall file the policies, rules and regulations with the joint committee on state administration and regulatory oversight for review and comment not later than 30 days before the effective date of any policies, rules and regulations.

(d) Not less than \$100,000 shall be expended from the fund for the Massachusetts Maritime Academy for a pilot program to utilize wind energy technology to create on-site, hydrogen-based electricity to reduce the high cost of energy at public institutions of higher education. The academy shall use the funds to develop a hydrogen-based, fuel cell powered tug boat.

SECTION 8. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after subparagraph 9 the following subparagraph:—

(9½) For taxable years beginning on or after January 1, 2006, in the case of an individual who purchases a hybrid or alternative fuel vehicle, as those terms are defined in section 3 of chapter 25A, there shall be a deduction in the amount of \$2,000 for a single person, for a person who qualifies as a head of household under section 2(b) of the Code or for a husband and wife in the taxable year in which the purchase is made. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the deduction.

SECTION 9. Section 31A of chapter 63 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘fishing’ in lines 4 and 24, the following words:— or a corporation primarily engaged in the development, construction or operation of an alternative fuel refueling station, and the development of alternative fuels, as those terms are defined in section 3 of chapter 25A.

SECTION 10. Said chapter 63 is hereby further amended by inserting after section 31C the following 2 sections:—

Section 31C½. A corporation which maintains a motor vehicle fleet equal to or in excess of 50 vehicles, including those of carriers licensed pursuant to chapter 159B, and purchases, leases or performs an aftermarket conversion, as that term is defined in section 3 of chapter 25A, of a conventional fuel vehicle to an alternative fuel vehicle, as that term is defined in said section 3 of said chapter 25A, and maintains the alternative fuel vehicle, and which corporation is a domestic or foreign corporation under subparagraph 1 or 2 of section 30, may receive a credit against its excise due under this chapter. The amount of the credit shall be equal to 50 per cent of the difference between the purchase price or the cost of the aftermarket conversion of the alternative fuel vehicle and the listed purchase price of a gasoline-powered vehicle of like quality during the taxable year of the purchase. A corporation which does not maintain at least 10 per cent of its fleet as alternative fuel vehicles or hybrid vehicles, as those terms are defined in said section 3 of said chapter 25A, shall not be eligible for the credit.

Section 31C¾. A corporation, licensed as a common carrier of passengers under chapter 159A, which maintains a motor vehicle fleet equal to or in excess of 25 vehicles and purchases, leases or performs an aftermarket conversion, as that term is defined in section 3 of chapter 25A, of a conventional fuel vehicle to an alternative fuel vehicle, as that term is defined in section 3 of chapter 25A, and maintains the alternative fuel vehicle, and which corporation is a domestic or foreign corporation under subparagraph 1 or 2 of section 30, may receive a credit against its excise due under this chapter. The amount of the credit shall be equal to fifty per cent of the difference between the purchase price or the cost of the aftermarket conversion of the alternative fuel vehicle and the listed purchase price of a gasoline-powered vehicle of like quality during the taxable year of the purchase, as hereinafter provided. A corporation which does not maintain at least 10 per cent of its fleet as alternative fuel vehicles or hybrid vehicles, as those terms are defined in said section 3 of said chapter 25A, shall not be eligible for the credit.

SECTION 11. Section 4 of chapter 64E of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by

striking out, in lines 9 and 10, the words ‘19.1 per cent of the average price computed to the nearest tenth of one per cent per gallon’ and inserting in place thereof the following words:— 25 per cent less than the rate on fuel set forth in chapter 64A.

SECTION 12. Section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the tenth paragraph the following paragraph:—

Upon application, the registrar shall furnish an energy independence placard or sticker bearing a designation to be determined by the registrar to any person who is the title or lease holder of a qualified hybrid or alternative fuel vehicle, as those terms are defined in section 3 of chapter 25A, and who meets the requirements of this paragraph. The placard or sticker shall be of a size and design to be determined by the registrar and shall be numbered and contain identifying features and specifications as the registrar considers appropriate. The authorized user shall permanently affix the placard or sticker to the vehicle so as to be readily visible in accordance with instructions provided by the registrar from time to time. The registrar may impose a reasonable fee for the costs associated with the processing of applications and the issuance of placards or stickers.

The Massachusetts Turnpike Authority shall make available to all holders of placards Fast Lane toll transponders and shall waive the initial application fee associated with the acquisition of the transponder. A city or town may, by by-law or ordinance, grant municipal parking at a reduced rate or without charge to holders of the energy independence placard or sticker.

SECTION 12A. Section 7A of said chapter 90, as so appearing, is hereby amended by inserting after the fifth paragraph the following paragraph:—

The emissions and maintenance inspection programs provided for in this section shall not apply to a qualified hybrid or alternative fuel vehicle or clean alternative fuel if the vehicle obtains a rating from the United States Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless remote sensing devices indicate the hybrid or alternative fuel vehicle may not meet current emissions standards. The commissioner shall promulgate such regulations as may be required to implement this exemption.

SECTION 12B. Section 142M of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting before the definition of ‘Commissioner’ the following definition:—

‘Clean alternative fuel vehicle’ shall mean natural gas, hydrogen or electricity when used as a motor vehicle fuel or propane when used as a motor vehicle fuel if such a vehicle meets the federal fleet emissions standards under the federal Clean Air Act or any emissions standards adopted by the commissioner of environmental protection as part of the commonwealth’s implementation plan under the Clean Air Act.

SECTION 13. (a) There shall be established at the University of Massachusetts, the Commonwealth Alternative Fuels Institute, for the purpose of researching and developing hybrid and alternative fuel vehicles and alternative fuels and any related technology and components involved in the production, conversion, operation and maintenance of hybrid and alternative fuel vehicles and hybrids.

(b) The Institute shall have among its primary goals the development and commercialization of the vehicles, fuels, equipment and technology for the purposes of deriving environmental benefits, reducing dependence on conventional fossil fuels and facilitating economic growth.

(c) The Institute shall be governed by policies and operating procedures developed and maintained by the president of the university and its board of trustees, together with the governing bodies of each subdivision of the university assigned to engage in the operations of the Institute.

(d) Subject to appropriation, the Institute shall engage in projects as determined to be feasible by its advisory board, and may issue requests for proposals and enter into cooperative research agreements in carrying out this act.

(e) There shall be an advisory board of the Institute, comprised of: the president of the University of Massachusetts or his designee, who shall also serve as the chairperson; the secretary of environmental affairs or his designee; the secretary of economic affairs or his designee; the secretary of transportation or his designee; the general manager of the Massachusetts Bay Transportation Authority or his designee; a representative of the regional transit authorities; 3 members to be appointed by the governor, 1 of whom shall represent the business community, 1 of whom shall have expertise in environmental issues and 1 of whom shall represent consumers; 2 members appointed by the president of the university, each having expertise in relevant science and technology; 1 member of the senate and 1 member of the house of representatives. Each appointed member shall serve for a term of 3 years, and shall be eligible to be appointed for consecutive terms.

(f) The Institute shall undertake a comprehensive industry needs assessment, in consultation with the advisory board, of businesses engaged in the research, development or production of alternative fuel vehicles and hybrids, alternative fuels and related components and technologies. The assessment, which shall be completed not later than 6 months after the effective date

of this act, shall include, but not be limited to the following:

- (1) the identities of industry participants and a characterization of their business activities involving hybrid and alternative fuel vehicles and related technologies and components;
- (2) current or projected impediments to the growth and development of industry participants;
- (3) feasible means by which state government, including the commonwealth's institutions of higher education, may assist industry participants;
- (4) potential collaborative efforts between the commonwealth and industry participants, including industry-sponsored research and development and the securing of public and private research funds;
- (5) potential sources and uses of federal government funding for research and development including, but not limited to, funding opportunities contained in any federal renewable or alternative energy legislation.

SECTION 14. The Massachusetts Turnpike Authority shall develop a plan, in consultation with the executive office of transportation, for the availability of alternative fuel at each fueling facility or service terminal on the Massachusetts Turnpike. The plan shall provide for availability not later than January 1, 2012. Should the authority determine that facilitating the availability is not feasible, it shall report the findings, together with the reasons therefor, to the house and senate committees on ways and means and the joint committee on transportation not later than January 31, 2006.

SECTION 15. (a) The commissioner of energy resources, in consultation with the secretary of administration and finance, the secretary of transportation, the general manager of the Massachusetts Bay Transportation Authority, a representative of the regional transit authorities, the secretary of economic affairs, the secretary of environmental affairs, and the operation services division, shall develop a statewide master plan for the advancement of hybrid and alternative fuel vehicles and related technology.

(b) The plan shall encompass a 10-year period beginning in 2007, and shall be divisible in increments of not less than 5 years. The plan shall take into account the geographic diversity of the commonwealth, its present and projected demographics, present and projected transportation needs and infrastructure, and current, emerging and foreseeable alternative fuel and vehicle technologies.

(c) The plan may establish goals for areas such as the purchase and use of hybrid and alternative fuel vehicles and hybrids by the commonwealth, its political subdivisions, private commercial fleets and citizens, the development of fueling facilities, and technologies, and the production, import action or distribution of alternative fuels.

(d) In addition, the plan shall identify strategies and corresponding methods of achieving its identified goals together with necessary administration and legislative actions. The plan shall be reported to the clerks of the senate and house of representatives not later than 18 months following the effective date of this act.

SECTION 16. The secretary of administration and finance through the division of operational services, in consultation with the commissioner of energy resources, shall enter into contracts and agreements with the manufacturers or providers of hybrid or alternative fuel vehicles as may be necessary for the purchase or lease of the vehicles, or aftermarket conversion equipment or technologies in order to comply with this act.

SECTION 17. The commissioner of energy resources shall annually develop a directory of alternative fuel vehicles, equipment and services available for purchase by public entities.

The directory shall include vehicles available for heavy, medium and light duty usage, as well as the spectrum of alternative fuels available, as defined in section 3 of chapter 25A of the General Laws, and the appropriate applications, estimated costs, and positive and negative aspects of each vehicle and fuel. To the extent possible, the directory shall contain photographs of the available vehicles.

The directory shall be produced and promulgated in a manner reasonably devised to assist in promoting awareness and the utilization of alternative fuel vehicles by the commonwealth and its political subdivisions and shall be made available to municipalities and agencies of the commonwealth to assist in the identification and acquisition of hybrid and alternative fuel vehicles. The catalog shall be made available to nongovernment entities but the commissioner may impose a reasonable fee consistent with the cost of reproducing the catalog.

SECTION 18. The secretary of economic affairs, in consultation with the executive office of transportation and the division of energy resources, shall evaluate the feasibility and desirability of any methods which could be utilized by the commonwealth in

order to provide incentive for or incubate the production of alternative fuel vehicles and equipment within its borders. The evaluation shall include, but not be limited to, the potential economic benefits of the production, including job growth, and the potential environmental benefits associated with the production and increased distribution of alternative fuel vehicles and equipment in the commonwealth.

The secretary shall report the findings of the evaluation, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, to the clerks of the senate and house of representatives not later than 1 year after the effective date of this act.

SECTION 19. Not later than December 31 of each year, the Massachusetts Bay Transportation Authority shall file with the clerks of the senate and house of representatives and the joint committee on economic development and emerging technologies a report indicating its utilization of hybrid and alternative fuel vehicles and related technologies. The report shall include, but not be limited to, the increased costs or savings, if any, associated with the use of the vehicles, the amount of fuel used and conserved by the use of the vehicles, the emissions rates for the vehicles and other vehicles in the fleet and the positive and negative factors, if any, associated with their use.

The report shall identify any impediments to the use of the vehicles and technologies and shall include any legislative recommendations to address those impediments.

SECTION 20. The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the division of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the mass purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but not be limited to, the potential cost savings to be derived from the system, the cost of its administration, appropriate purchasers to participate in the system and the probability of its utilization by those purchasers.

The operational services division shall report the findings of the study, and its recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives not later than 1 year after the effective date of this act.

SECTION 20A. There shall be a special commission to report on the expanded use of biodiesel fuel in the commonwealth. The commission shall consist of 1 member to be appointed by the department of environmental protection; 1 member to be appointed by the department of telecommunications and energy; 1 member to be appointed by the division of energy resources; 2 members to be appointed by the senate president; 1 member to be appointed by the senate minority leader; 2 members to be appointed by the speaker of the house of representatives; 1 member to be appointed by the minority leader of the house of representatives; and members to be appointed by the governor to provide appropriate consumer, environmental, and industry representation. The commission shall submit a report and recommendations to the secretary of environmental affairs; office of commonwealth development; the joint committee on telecommunications, utilities, and energy; the joint committee on environment, natural resources and agriculture; the joint committee on state administration and regulatory oversight; and the house and senate clerks by June 30, 2006. The commission shall conduct a study of the current impediments in state and federal law and regulation to the certification, licensure and availability for sale in the commonwealth of highly efficient diesel passenger vehicles under the California LEV II standards and potential methods to address such impediments. It shall also examine barriers and opportunities for widespread use of biodiesel and low-sulfur biodiesel fuels for motor vehicles, heating, and other appropriate uses in the commonwealth. From this study the commission shall submit a plan for the expanded use of biodiesel and low-sulfur biodiesel fuels in the commonwealth and proposals for new regulations and laws to expand the use of biodiesel where feasible and appropriate.

SECTION 21. Hybrid and alternative fuel vehicles which display a special identifying placard issued under section 12 may travel in high occupancy vehicle or HOV lanes. This section shall expire 3 years following the effective date of this act.

SECTION 22. Section 8 shall be in effect for taxable years 2006 to 2010, inclusive.

SECTION 23. Section 10 shall be in effect for taxable years 2005 to 2015, inclusive.

SECTION 24. Section 11 shall be in effect for taxable years 2005 to 2010 inclusive.”
After debate, the amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Chapter 21A of the General Laws is hereby amended by adding the following section:—

Section 3F. The commissioner shall annually, on or before November 15, publish a list of vehicles sold within the commonwealth which are eligible to receive an exemption from certain percentages of the sales tax and the percentage reduction in the sales tax assessed under section 2 of chapter 64H to which they shall be entitled in the following taxable year.

The commissioner shall establish a list and provide a schedule of sales tax exemptions for vehicles based upon their fuel mileage ratings as determined by the United States Environmental Protection Agency, based on a formula annually updated which reflects: (a) a vehicle's mileage relative to other vehicles within its passenger seating class; and (b) the percentage of the vehicle that is American-made.

The commissioner shall provide exemptions for the following classes of vehicles: 2 and 4-passenger vehicles, 5-passenger vehicles and vehicles that seat 6 or more passengers.

The commissioner shall design the list so that no vehicle which is less than 60 percent as efficient, for 2 to 4 and 5-passenger vehicles, and 70 percent as efficient, for 6-passenger and more vehicles, as the best vehicle in its respective class receives the sales tax exemption. The commissioner may, after issuing a draft determination and holding a public hearing, raise the level below which a vehicle shall not qualify for benefits.

The list shall be made available for public comment not later than November 1 of each year and the commissioner shall determine what shall be included on the final list. The final list shall be distributed to boards of assessors and tax collectors within each municipality."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at three minutes before three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 5 — nays 33*) [**Yeas and Nays No. 161**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian

Joyce, Brian A.	Wilkerson, Dianne — 33.
McGee, Thomas M.	

The yeas and nays having been completed at one minute past three o'clock P.M., the amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Section 1 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting in their appropriate alphabetical sequence the following definitions:

‘Alternative fuel vehicle’, a vehicle powered by alternative fuel. An alternative fuel vehicle shall have the following attributes:

- (1) the capability of operating only on an alternative fuel;
- (2) original use commencing with the taxpayer;
- (3) acquisition by the taxpayer for use or lease, but not for resale;
- (4) use of alternative fuel for a significant portion of the total fuel used for propulsion energy for the vehicle.

‘Alternative fuels’, an energy source used to power a vehicle that does not qualify as fuel under the definition of fuel under Section 1 of Chapter 64A. ‘Hybrid vehicle’, (1) a vehicle which draws propulsion energy from onboard sources of stored energy which are both: (i) an internal combustion or heat engine using combustible fuel; and (ii) a rechargeable energy storage system; (2) a vehicle which, in the case of a passenger automobile, medium duty passenger vehicle or light truck: (i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year; (ii) for 2004 and later model vehicles, has received a certificate that the vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle; and (iii) and achieves an increase of 10 per cent fuel efficiency as compared to the average vehicle of its class as defined by the federal Environmental Protection Agency.”

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by striking Section 1 in its entirety and replacing it with the following section:—

“SECTION 1. (a) Section 9A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:—

“When purchasing new motor vehicles, the commonwealth shall purchase hybrid or alternative fuel vehicles, to the maximum feasible extent consistent with the ability of said vehicles to perform their intended duties, at a rate of not less than 5 per cent annually for all new motor vehicle purchases in order that, taking into account the existing number of such vehicles owned and operated by the commonwealth, not less than 50 per cent of the motor vehicles owned and operated by the commonwealth are hybrid or alternative fuel vehicles by the year 2018. All vehicles purchased by the commonwealth shall have above-average fuel efficiency for a new vehicle within its size class as determined by the federal government, except where no qualifying vehicle is able to perform the intended duties of the vehicle.

The division of operational services shall forward to the division of energy resources all requests for motor vehicle acquisitions by agencies of the commonwealth. The division of energy resources shall thereafter report to the division of operational services regarding the availability of a hybrid or alternative fuel vehicle that will feasibly achieve the intended use designated by the requesting agency.

The division of capital asset management, in consultation with the division of energy resources, shall develop a system of protocols for the acquisition of alternative fuel vehicles and hybrids, including identifying the potential for acquisition of heavy, medium and light-duty vehicles, based on the anticipated mileage and usage of such vehicles, and the effectiveness of single fuel or dual fuel alternative fuel vehicles for the particular purpose identified.

The division of energy resources shall submit in writing to the secretary of administration and finance, the clerks of the senate and house of representatives and the joint committee on state administration and regulatory oversight an annual statement detailing the progress, as well as any additional information relevant to both the acquisition of hybrid or alternative fuel vehicles by the commonwealth and the acquisition of vehicles with above-average fuel efficiency by the commonwealth.

(b) The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the division of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the mass purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but not be limited to, the potential cost savings to be derived from the system, the cost of its administration, appropriate purchasers to participate in the system and the probability of its utilization by those purchasers.

The operational services division shall report the findings of the study, and its recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives not later than 1 year after the effective date of this act.”

The amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Chapter 25A is hereby further amended by inserting after section 11H the following 2 sections:—

Section 11I. There shall be established and set up on the books of the Commonwealth an Energy Independence Grant Fund to be used, subject to appropriation for the purpose of encouraging the purchase, lease, aftermarket conversion and use of hybrid and alternative fuel vehicles, including heavy, medium and light duty vehicles that use either a single fuel or dual fuels, by cities and towns, school districts and regional transit authorities. The grants may be used for the purpose of matching federal grants. In addition, the grants may be expended pursuant to cooperative purchasing agreements with other entities. Funds expended shall, to the extent possible, maximize reimbursement from federal or other sources. The fund shall consist of any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited to it. The fund shall encourage, support and foster the development of hybrid and alternative fuel vehicles in order to promote increased autonomy from fossil fuels, to mitigate the fiscal impact of the high cost of fuel on cities and towns and to provide environmental benefits through the reduction of carbon dioxide and carbon monoxide emissions.

Section 11J. (a) The division shall receive applications for grants from the fund from cities and towns, school districts and regional transit authorities and award grants to assist any of them in the purchase or lease of hybrid and alternative fuel vehicles or for the aftermarket conversion of conventional fuel vehicles for municipal or regional transit purposes. The division shall develop a scoring system to serve as the basis for the evaluation and the determination of awarding grants pursuant to this section. The scoring system shall determine the maximum grant amount available for a specific application. The scoring system shall be based upon the type of vehicle being acquired or retrofitted, the cost, the type of use anticipated, fuel economy, range and the anticipated useful life of a vehicle and shall employ the federal standards set forth in the Corporate Average Fuel Economy provision of the Energy Policy Conservation Act of 1975 and any other applicable federal standards. The scoring system shall designate the amount of assistance available to a municipality, school district or regional transit authority based upon those factors and the division may award grants up to that amount commensurate with said factors. In awarding grants, the division shall give consideration to applications from cities and towns, school districts and regional transit authorities from diverse geographic regions. A city or town, school district or regional transit authority which is awarded a grant under this program shall submit an annual report to the division identifying and detailing: (1) the type of the hybrid or alternative fuel vehicle purchased, leased or converted; (2) the usage and any cost savings to the city or town, school district or regional transit authority associated with the reduction of use of standard gasoline from the use of the vehicle; and (3) any environmental benefits from, but not limited to, the reduction in emissions.

(b) A city or town, school district or regional transit authority shall apply for a fund grant in the manner specified by the commissioner.

(c) The division shall promulgate policies, rules and regulations to implement this section. The commissioner shall file the policies, rules and regulations with the joint committee on state administration and regulatory oversight for review and comment not later than 30 days before the effective date of any policies, rules and regulations.”

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after subparagraph 9 the following subparagraph:—

(9½). For taxable years beginning on or after January 1, 2006, in the case of an individual who purchases a hybrid or alternative fuel vehicle, as those terms are defined in section 3 of chapter 25A, there shall be a deduction in the amount of \$2,000 for a single person, for a person who qualifies as a head of household under section 2(b) of the Code or for a husband and wife in the taxable

year in which the purchase is made. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the deduction.”

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Section 31A of chapter 63 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘fishing’, in lines 4 and 24, the following words:—or a corporation primarily engaged in the development, construction or operation of an alternative fuel refueling station, and the development of alternative fuels, as those terms are defined in section 3 of chapter 25A.”

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Chapter 63 is hereby amended by inserting after section 31C the following 2 sections:—

Section 31C½. A corporation which maintains a motor vehicle fleet equal to or in excess of 50 vehicles, including those of carriers licensed pursuant to chapter 159B, and purchases, leases or performs an aftermarket conversion, as that term is defined in section 3 of chapter 25A, of a conventional fuel vehicle to an alternative fuel vehicle, as that term is defined in said section 3 of said chapter 25A, and maintains the alternative fuel vehicle, and which corporation is a domestic or foreign corporation under subparagraph 1 or 2 of section 30, may receive a credit against its excise due under this chapter. The amount of the credit shall be equal to 50 per cent of the difference between the purchase price or the cost of the aftermarket conversion of the alternative fuel vehicle and the listed purchase price of a gasoline-powered vehicle of like quality during the taxable year of the purchase. A corporation which does not maintain at least 10 per cent of its fleet as alternative fuel vehicles or hybrid vehicles, as those terms are defined in said section 3 of said chapter 25A, shall not be eligible for the credit.

Section 31C¾. A corporation, licensed as a common carrier of passengers under chapter 159A, which maintains a motor vehicle fleet equal to or in excess of 25 vehicles and purchases, leases or performs an aftermarket conversion, as that term is defined in section 3 of chapter 25A, of a conventional fuel vehicle to an alternative fuel vehicle, as that term is defined in section 3 of chapter 25A, and maintains the alternative fuel vehicle, and which corporation is a domestic or foreign corporation under subparagraph 1 or 2 of section 30, may receive a credit against its excise due under this chapter. The amount of the credit shall be equal to fifty per cent of the difference between the purchase price or the cost of the aftermarket conversion of the alternative fuel vehicle and the listed purchase price of a gasoline-powered vehicle of like quality during the taxable year of the purchase, as hereinafter provided. A corporation which does not maintain at least 10 per cent of its fleet as alternative fuel vehicles or hybrid vehicles, as those terms are defined in said section 3 of said chapter 25A, shall not be eligible for the credit.”

The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by striking out the wording and inserting in place thereof the following wording:—

“SECTION 95. Chapter 64A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city or town which having consumed the same for any municipal purpose shall be exempt from the excise established by this chapter.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at fourteen minutes past three o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 8 – nays 30*) [**Yeas and Nays No. 162**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	Menard, Joan M.

Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 33.
McGee, Thomas M.	

The yeas and nays having been completed at eighteen minutes past three o’clock P.M., the amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the tenth paragraph the following paragraph:—

Upon application, the registrar shall furnish an energy independence placard or sticker bearing a designation to be determined by the registrar to any person who is the title or lease holder of a qualified hybrid or alternative fuel vehicle, as those terms are defined in section 3 of chapter 25A, and who meets the requirements of this paragraph. The placard or sticker shall be of a size and design to be determined by the registrar and shall be numbered and contain identifying features and specifications as the registrar considers appropriate. The authorized user shall permanently affix the placard or sticker to the vehicle so as to be readily visible in accordance with instructions provided by the registrar from time to time. The registrar may impose a reasonable fee for the costs associated with the processing of applications and the issuance of placards or stickers.

The Massachusetts Turnpike Authority shall make available to all holders of placards Fast Lane toll transponders and shall waive the initial application fee associated with the acquisition of the transponder. A city or town may, by by-law or ordinance, grant municipal parking at a reduced rate or without charge to holders of the energy independence placard or sticker.”
The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown move to amend the bill by adding at the end the following additional section:—

“SECTION 95. The Massachusetts Turnpike Authority shall develop a plan, in consultation with the executive office of transportation, for the availability of alternative fuel at each fueling facility or service terminal on the Massachusetts Turnpike. The plan shall provide for availability not later than January 1, 2014. Should the authority determine that facilitating the availability is not feasible for any reason, including the status of leases the Massachusetts Turnpike Authority has with tenants of the Massachusetts Turnpike, it shall report the findings, together with the reasons therefore, as well as the status of similar plans or projects of adjacent states, if any, to the house and senate committees on ways and means and the joint committee on

transportation not later than January 31, 2009.”

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. (a) The commissioner of energy resources, in consultation with the secretary of administration and finance, the secretary of transportation, the general manager of the Massachusetts Bay Transportation Authority, a representative of the regional transit authorities, the secretary of economic affairs, the secretary of environmental affairs, and the operation services division, shall develop a statewide master plan for the advancement of hybrid and alternative fuel vehicles, as defined in Section 1 of Chapter 90, and related technology.

(b) The plan shall encompass a 10-year period beginning in 2010, and shall be divisible in increments of not less than 5 years. The plan shall take into account the geographic diversity of the commonwealth, its present and projected demographics, present and projected transportation needs and infrastructure, and current, emerging and foreseeable alternative fuel and vehicle technologies, and may establish goals for areas such as the purchase and use of hybrid and alternative fuel vehicles, as well as the production, import action or distribution of alternative fuels.

(c) In addition, the plan shall identify strategies and corresponding methods of achieving its identified goals together with necessary administration and legislative actions. The plan shall be reported to the clerks of the senate and house of representatives not later than 18 months following the effective date of this act.”

The amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. The commissioner of energy resources shall annually develop a directory of alternative fuel vehicles, equipment and services available for purchase by public entities.

The directory shall include vehicles available for heavy, medium and light duty usage, as well as the spectrum of alternative fuels available, as defined in section 3 of chapter 25A of the General Laws, and the appropriate applications, estimated costs, and positive and negative aspects of each vehicle and fuel. To the extent possible, the directory shall contain photographs of the available vehicles.

The directory shall be produced and promulgated in a manner reasonably devised to assist in promoting awareness and the utilization of alternative fuel vehicles by the commonwealth and its political subdivisions and shall be made available to municipalities and agencies of the commonwealth to assist in the identification and acquisition of hybrid and alternative fuel vehicles. The catalog shall be made available to nongovernment entities but the commissioner may impose a reasonable fee consistent with the cost of reproducing the catalog.”

The amendment was *rejected*.

Messrs. Buoniconti and Pacheco moved that the bill be amended in line 2249 of section 77 by striking out the words “6 month” and inserting in place thereof the following:— “12 month”; in line 2250 of section 77 after the word “meters” by inserting the words:— “including, but not limited to, advanced smart meters with two-way mesh network capacity”; in line 2259 of section 77 by striking out the words ‘6 month’ and inserting in place thereof:— “12 month”; in line 2259 of section 77 by striking out the words “a minimum of” and inserting in place thereof:— “up to”; and in line 2261 of section 77 by striking out the words “peak loads” and inserting in place thereof:— “average loads”.

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown, moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the division of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the mass purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but not be limited to, the potential cost savings to be derived from the system, the cost of its administration, appropriate purchasers to participate in the system and the probability of its utilization by those purchasers.

The operational services division shall report the findings of the study, and its recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives not later then 1 year after the effective date of this act.”

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown, moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. Hybrid and alternative fuel vehicles which display a special identifying placard issued under section 12 may travel in high occupancy vehicle or HOV lanes. This section shall expire 3 years following the effective date of this act.”
The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown, moved that the bill be amended in section 21 by adding at the end the following phrase:— “, including residential combined heat and power systems of 10 Kw or less and commercial combined heat and power systems of 60 Kw or less.”

The amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown, moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. (A) Part B of section 3 of said chapter 62, as so appearing, is hereby amended by inserting after paragraph 9 the following paragraph:—

(9½). (a) For taxable years beginning on January 1, 2008, in the case of an individual who purchases a hybrid or alternative fuel vehicle there shall be a deduction in the amount of \$2,000 for a single person, for a person who qualifies as a head of household under subsection (b) of section 2 of chapter 62 or a married couple in the taxable year in which the purchase is made. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the deduction.

(b) For taxable years beginning on January 1, 2008, in the case of an individual who installs in his house a combined heat and power system, there shall be a deduction in the amount of \$5,000 for a single person, for a person who qualifies as a head of household under subsection (b) of section 2 of chapter 62 or a married couple in the taxable year in which the purchase is made. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the deduction.

(B) Chapter 63 of the General Laws is hereby amended by inserting after section 38T the following section:—

SECTION 38U. In determining the net income subject to tax under this chapter a domestic or foreign business corporation that installs a combined heat and power system may deduct up to \$15,000 paid or incurred during the taxable year with respect to each such installation.”

The amendment was *rejected*.

Mr. Berry moved that the bill be amended in section 83 subsection (i), by inserting after the word “state” the following:— “or community”.

After remarks, the amendment was adopted.

Mr. Berry moved that the bill be amended in section 15 by striking subsection (e) in section 11F and inserting in place thereof the following:—

“(e) On or before June 30, 2008, the Division shall determine the actual percentage of kilowatt-hour sales to end-use customers in the commonwealth which was derived from Class II generating sources in 1998. On or before January 1, 2009, every retail supplier shall annually provide to end-use customers in the commonwealth, generation attributes from Class II energy facilities in the amount equal to the percent of the kilowatt hour sales from Class II energy generating sources in 1998, and shall provide at least that percentage of Class II generation attributes each year thereafter. Such minimum percentage requirement for kilowatt-hour sales from Class II energy generating sources may be adjusted by the department as necessary to promote the continued operation of existing energy generating resources that meet the requirements of subsection (d), and may be met through kilowatt-hour sales to end-use customers from any energy generating source meeting the requirements of said subsection (d). For purposes of calculating a retail supplier’s minimum percentage of kilowatt-hour sales of Class II renewable energy generating sources, retail supplier’s annual, kilowatt-hours sales to end-use customers shall be net of kilowatt-hours of energy that such retail supplier is obligated to purchase in that year pursuant to an agreement that was entered into prior to October 1, 2007. The department shall establish and maintain regulations outlining procedures by which each retail supplier shall annually submit for the department’s review a filing illustrating the retail supplier’s compliance with the requirements of this section.”
The amendment was *rejected*.

Mr. Downing moved that the bill be amended by inserting the following sections at the end thereof:

“SECTION 95. Chapter 94 is hereby amended by inserting after section 249H the following section:

Section 249H½. (1) As used in this subsection, the following terms shall have the following meanings:

‘Biodiesel fuel’, a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats and meeting American society for testing and materials specification D6751 for biodiesel fuel (B100) blend stock for distillate fuels.

‘BQ-9000’, the national biodiesel accreditation program for producers and marketers of biodiesel fuel, operated by the national biodiesel accreditation commission.

‘Deputy Director’, the deputy director of the division of standards.

‘Division’, the division of standards in the office of consumer affairs and business regulation.

‘Feedstock(s)’, the raw material used to produce a fuel.

‘Marketer’, an entity engaged in the business of the distribution and sale of biodiesel and/or biodiesel blends.

‘Full life-cycle greenhouse gas emissions’, the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant indirect emissions from land use changes), as determined by the division of energy resources, related to the full fuel life-cycle, including all stages of fuel and feedstock and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

(2) All petroleum-distillate #2 fuel offered for sale to end-users, retail sellers, or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in residential, commercial, or industrial heating applications, must contain at least 2.0 percent biodiesel fuel by volume by July 1, 2010.

All such fuel must contain at least 3.0 percent biodiesel fuel by volume by July 1, 2011, 4.0 percent biodiesel fuel by volume by July 1, 2012, and 5.0 percent biodiesel fuel by volume by July 1, 2013. Biodiesel fuel used to comply with this section must yield a ‘substantial’ reduction of full lifecycle greenhouse gas emissions, including direct and indirect impacts on land use and other factors related to greenhouse gas emissions, per unit of delivered energy in comparison to the petroleum fuel displaced.

The division of energy resources, in consultation with the department of environmental protection, and pursuant to regulations it shall promulgate under sections 6(8) and 12 of chapter 25A, shall determine what constitutes ‘substantial’ level of greenhouse gas reductions on a lifecycle basis and examine the potential impacts on other air pollutants. In determining the lifecycle greenhouse gas reductions achieved by particular biodiesel supplies, and in determining what constitutes ‘substantial’ reduction, the division shall utilize ‘best practices’ available from other sources, including state governments, interstate organizations, academic researchers, national governments, and the European Union.

The division may delay these implementation dates based on its determination, in consultation with the division of energy resources, that providing sufficient supplies of the required biodiesel blends to end-use consumers is not feasible due to lack of supply, lack of blending facilities, or unreasonable cost. If the division delays implementation as provided in the preceding sentence, the deputy director of the division shall file a report within 30 days of such decision with the clerk of the Senate, the clerk of the House of Representatives, the House and Senate Committees on Ways and Means, the Joint Committee on Telecommunications, Utilities and Energy, the Joint Committee on Environment, Natural Resources and Agriculture and the Joint Committee on Transportation explaining the reasons for any such decision to delay implementation.

(3) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall furnish samples of such products to the division and permit the entry and inspection by the division of the premises of such manufacturers or distributors, and the inspection of biodiesel fuel stored thereon.

(4) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall provide documentation satisfactory to the division that such fuel yields a “substantial” reduction of full lifecycle greenhouse gas emissions, including direct and indirect impacts on land use and other factors related to greenhouse gas emissions, per unit of delivered energy in comparison to the petroleum fuel displaced.

(5) Manufacturers of biodiesel fuel that is sold in the commonwealth must hold BQ-9000 accreditation, must submit documentation of this accreditation to the division by November 1, 2009, and must submit documentation to the division showing that their accreditation remains current every 2 years thereafter,

(6) The division shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for marketers of biodiesel fuel and petroleum-based motor fuel blended with biodiesel fuel operating in the

commonwealth. If the division concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the division shall promulgate regulations to implement an accreditation requirement.

(7) The division shall promulgate regulations to implement the provisions of this subsection.

(8) No person shall sell or offer to sell in the commonwealth heating fuel, including biodiesel fuel that does not conform to the provisions of this section.

(9) Notwithstanding any of the provisions of section 249H of this chapter, failure to comply with subsection (8) of this section shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

SECTION 96. Chapter 94 is hereby amended by inserting after section 295G the following section:

Section 295G½. (1) As used in this section, the following words and terms shall have the following meanings:

‘Biodiesel fuel’, a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats and meeting American society for testing and materials specification D6751 for biodiesel fuel (B 100) blend stock for distillate fuels.

‘BQ-9000’, the national biodiesel accreditation program for producers and marketers of biodiesel fuel, operated by the national biodiesel accreditation commission.

‘Deputy Director’, the director of the division of standards.

‘Division’, the division of standards in the office of consumer affairs and business regulation.

‘Feedstock(s)’, the raw material used to produce a fuel.

‘Marketer’, an entity engaged in the business of the distribution and sale of biodiesel and/or biodiesel blends.

‘Full life-cycle greenhouse gas emissions’, the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant indirect emissions from land use changes), as determined by the division of energy resources, related to the full fuel life-cycle, including all stages of fuel and feedstock and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

(2) All diesel motor fuel offered for sale to end-users, retail sellers, or to any other entity that will be providing diesel motor fuel directly to end-users in the commonwealth, must contain at least 2.0 percent biodiesel fuel by volume by July 1, 2010. All such diesel motor fuel must contain at least 3.0 percent biodiesel fuel by volume by July 1, 2011, 4.0 percent biodiesel fuel by volume by July 1, 2012, and 5.0 percent biodiesel fuel by volume by July 1, 2013. Biodiesel fuel used to comply with this section must yield a ‘substantial’ reduction of full lifecycle greenhouse gas emissions, including direct and indirect impacts on land use and other factors related to greenhouse gas emissions, per unit of delivered energy in comparison to the petroleum fuel displaced.

The division of energy resources, in consultation with the department of environmental protection, and pursuant to regulations it shall promulgate under sections 6(8) and 12 of chapter 25A, shall determine what constitutes a ‘substantial’ level of greenhouse gas reductions on a lifecycle basis and examine the potential impacts on other air pollutants. In determining the lifecycle greenhouse gas reductions achieved by particular biodiesel supplies, and in determining what constitutes ‘substantial’ reduction, the division shall utilize ‘best practices’ available from other sources, including state governments, interstate organizations, academic researchers, national governments, and the European Union.

The division may delay these implementation dates based on its determination, in consultation with the division of energy resources, that providing sufficient supplies of the required biodiesel blends to end-use consumers is not feasible due to a lack of supply, lack of blending facilities, or unreasonable cost. If the division delays implementation as provided in the preceding sentence, the deputy director of the division shall file a report within 30 days of such decision with the clerk of the Senate, the clerk of the House of Representatives, the House and Senate Committees on Ways and Means, the Joint Committee on Telecommunications, Utilities and Energy, the Joint Committee on Environment, Natural Resources and Agriculture and the Joint Committee on Transportation explaining the reasons for any such decision to delay implementation.

(3) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall provide documentation satisfactory to the division that such fuel yields a “substantial” reduction of full lifecycle greenhouse gas emissions, including direct and indirect impacts on land use and other factors related to greenhouse gas emissions, per unit of delivered energy in comparison to the petroleum fuel displaced.

(4) Manufacturers of biodiesel fuel that is sold in the commonwealth must hold BQ-9000 accreditation, must submit documentation of this accreditation to the division by November 1, 2009, and must submit documentation to the division showing that their accreditation remains current every 2 years thereafter.

(5) The division shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for marketers of biodiesel fuel and petroleum-based motor fuel blended with biodiesel fuel operating in the commonwealth. If the division concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the division shall promulgate regulations to implement an accreditation requirement.

(6) The division shall promulgate regulations to implement the provisions of this section.

(7) No person shall sell or offer to sell in the commonwealth motor fuel, including biodiesel fuel, that does not conform to the provisions of this section.

(8) Failure to comply with subsection (7) of this section shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.”

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended in subsection (m) of section 44 by inserting at the end of the first sentence the following:— “provided, however, that the provisions of the IECC shall not apply to one or two-family dwellings until adopted by the board.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended in section 9 by inserting after subsection (c) the following subsection:—

“(d) The department shall no longer collect and no consumer shall be charged the mandatory charge prescribed in subsection (a) of this section on or after January 1, 2013.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-seven minutes before four o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 7 — nays 30*) [**Yeas and Nays No. 163**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — 7.
Moore, Richard T.	
NAYS.	
Antonioni, Robert A.	Joyce, Brian A.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela

Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Walsh, Marian
Jehlen, Patricia D.	Wilkerson, Dianne — 30.
ABSENT OR NOT VOTING.	
Panagiotakos, Steven C. — 1.	

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

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting after section 94 the following sections:—

“SECTION 95. Section 1. The chief of the office of commonwealth development is hereby authorized and directed to implement a Green Building Initiative. Said initiative shall achieve the following:—

(a) Improve the energy efficiency of state buildings by requiring a 20 per cent reduction of grid based energy usage by state buildings by the year 2020, based on 2005 usage levels.

(b) Development of a technical assistance program to assist cities and towns regarding methods to increase energy efficiency and reduce grid based energy usage in municipal buildings.

The chief shall annually report to the clerk of the senate, the clerk of the house, the house and senate committee's on ways and means, and the joint committee on environment, natural resources and agriculture any and all progress made in improving energy efficiency in the commonwealth's buildings, the current energy efficiency usage statistics in relation to the benchmarks as well as any and all impediments to achieving said benchmarks in the appropriated timeframe no later than April 1 of each year.

Section 2. Within the office of commonwealth development there shall be established a green building certification program. Certification, to the minimum standards prescribed in this act, shall be required newly constructed buildings and for all buildings undergoing major renovations by the Commonwealth.

(a) For buildings projects that are 20,000 sq. ft. and larger; but less than 50,000 sq. ft. certified as LEED-NC 2.2, (LEED-EB 2.0 for major renovations), as defined by the U.S. Green Building Council.

(b) For buildings 20,000 sq. ft. and less, certified as LEED-NC 2.2, (LEED-EB 2.0 for major renovations) or surpass the Massachusetts energy code requirements by at least 20%.

(c) For buildings 50,000 sq. ft. and larger, certified as LEED-NC 2.2, (LEED-EB 2.0 for major renovations) and surpass the Massachusetts energy code requirements by at least 20%. Additionally, the possibility of on-site power generation should be evaluated and where economically and viable shall be pursued.

Section 3. (a) Notwithstanding any general or special law to the contrary, any city or town who receives a grant or any other form of financial assistance from the Commonwealth toward the construction or major renovation of a municipal building may receive incentive points for the construction of a green building certified as LEED-NC 2.2, (LEED-EB 2.0 for major renovations) or better. Incentive points may be allocated up to 2% of the total project cost for qualifying projects, subject to appropriation.

(b) The office of commonwealth development shall provide technical assistance to cities and towns for the construction of energy efficient buildings. Said assistance shall include identification of energy efficient technologies, assistance in the identification of any federal funds available for the design and construction of energy efficient buildings.

Section 4. Chapter 63 of the General Laws, as appearing in the 2004 official edition, is hereby amended by adding after section 38P the following new section:—

Section 38Q. ‘Credit against amount excise due, energy efficient construction’.

(a) Any corporation who newly construct or perform major renovations on buildings greater than 20,000 sq. ft. and that are certified as LEED-NC 2.2, (LEED-EB 2.0 for major renovations) or greater shall be granted a credit of up to 100,000 dollars or 10 per cent of the total construction cost, whichever amount is the lesser, against its excise due under this chapter.

(b) The credit allowed herein may be amortized over ten years.

(c) The credit allowed herein for any taxable year shall not reduce the excise to less than the amount due under subsection (b) of section thirty-two, subsection

(b) of section thirty-nine, or section sixty-seven and under any act in addition thereto.

(d) The credit allowed under this section is limited to one hundred percent of a corporation’s first twenty-five thousand dollars of excise, as determined before the allowance of any credits, plus seventy-five percent of the corporation’s excise, as so determined in excess of twenty-five thousand dollars. The commissioner of revenue shall promulgate regulations similar to those authorized under section 38(c)(2)(B) of the Internal Revenue Code for purposes of apportioning the twenty-five thousand dollars amount among members of a controlled group. Nothing in this section shall alter the provisions of section thirty-two C, as it affects other credits under this chapter.

Section 5. Section 10 of chapter 40A of the General Laws, as appearing in the 2004 official edition, is hereby amended by adding in line 12 after the words ‘petitioner or appellant,’ the following:— or the petitioner has constructed a building which has been given a LEED NB-2,2 certification or greater, as defined by the U.S. Green Building Council, in which case the petitioner shall be eligible for a height variance of up to three floors; provided further, that a LEED NB-2.2 certification or greater shall make the petitioner eligible for a density variance of up to .20 FAR.

Section 6. Chapter 63 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after section 38Q the following new section:—

Section 38R. ‘Credit against amount of excise due, energy efficient technologies’.

(a) Any corporation who purchases durable equipment, which meets standards set forth by the U.S. Department of Energy, or energy star qualified products, shall receive a credit of 10 per cent of the purchase price of such equipment, up to a maximum amount of 10,000 dollars in any given taxable year, against its excise due under this chapter.

(b) The credit allowed herein for any taxable year shall not reduce the excise to less than the amount due under subsection (b) of section thirty-two, subsection (b) of section thirty-nine, or section sixty-seven and under any act in addition thereto.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at nineteen minutes before four o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 5 — nays 32*) **[Yeas and Nays No. 164]:**

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.

Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 32.
ABSENT OR NOT VOTING.	
Panagiotakos, Steven C. — 1.	

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

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by adding, after section 94, the following new section:—

“SECTION 95. Sales on the incremental price difference between a hybrid or alternative fuel vehicle, as defined by section 1 of chapter 62, and the same vehicle that uses traditional fuel shall be exempt from the tax imposed pursuant to chapter 64H of the General Laws for one year commencing on July 1, 2008. The commissioner of revenue, in consultation with the secretary of transportation and public works and the secretary of energy and environmental affairs, shall determine the exemption available pursuant to this paragraph based on the incremental price difference between a hybrid or alternative fuel vehicle and the same non-hybrid or traditional fuel vehicle available for purchase in the Commonwealth; provided, however, if the same non-hybrid or traditional fuel vehicle does not exist in order to determine said incremental price difference, a similar non-hybrid or traditional fuel vehicle shall be substituted.”.

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by striking out section 28 and inserting in place thereof the following section:—

“SECTION 28. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following subsection:—

(i) The corporation shall be assisted in the implementation of this section by an oversight board consisting of not more than 15 individuals, which shall include 1 member to be appointed by the speaker of the house, 1 member to be appointed by the president of the senate, 1 member to be appointed by the minority leader of the house, 1 member to be appointed by the minority leader of the senate, the secretary of housing and economic development or a designee, the attorney general or a designee, the secretary of energy and environmental affairs or a designee, the chair of the department of public utilities, the executive director of the Massachusetts Municipal Association or designee, and not more than 6 individuals appointed by the governor, from the recommendation submitted by the chair of the board relating to clause (i) of said section 4, with an interest in matters related to the general purpose and activities of the fund and the knowledge and experience in at least one of the following areas: electricity

distribution, generation, supply, or power marketing; the concerns of commercial and industrial ratepayers; residential ratepayers including, but not limited to, low-income ratepayers; economics, financial or investment consulting expertise relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable and clean energy issues. The board shall consult with the oversight board in discharging its obligations under this section.”

The amendment was adopted.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting after section 94 the following section:—

“SECTION 95. Not less than 20 per cent of all funds collected through section 9 of this bill shall be returned to cities and towns through grants for renewable energy or energy efficiency projects conducted by municipalities. Said program shall be administered by the department of public utilities within guidelines developed by the department so long as such projects achieve one or more of the following:

(i) at minimum 5 per cent of the energy used by the municipality would come from renewable energy sources funded through the grant; or

(ii) any energy efficiency programs result in a 10 per cent reduction in total energy consumption by the municipality within 3 years of the commencement of said project; or

(iii) any project that through renewable energy and efficiency improvements results in net reduction of the municipalities carbon footprint by 20 per cent over five years.

If there are insufficient eligible projects to utilize the portion of the funds collected for this purpose the department shall revert those funds and reallocate them for uses prescribed in section 9 of this bill.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by adding, after section 19, the following section:—

“SECTION 19A. Clause (i) of section 59 of chapter 40 of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:— provided further, notwithstanding the aforementioned provisions of this clause, any property having been improved with a renewable energy generating source, as defined by subsection (b) of section 11F of chapter 25A, or alternative energy generating source, as defined by subsection (a) of section 11F½ of chapter 25A, shall be designated a TIP zone;”.

After debate, the amendment was *rejected*.

Mr. Tisei moved that the bill be amended by inserting after section 94 the following section:—

“SECTION 95. The division of energy resources shall, in consultation with the executive office of energy and environmental affairs, evaluate different land areas for their suitability as future sites of nuclear power generation. Said evaluation shall also consider what current regulator impediments exist to the increase of nuclear power generation in the Commonwealth, as well as what if any actions may be taken to improve the economic feasibility of this low-emission form of power generation.”

After debate, the amendment was *rejected*.

Mr. Petruccelli moved that the bill be amended in section 46 by striking out the following words:— “Steam distribution company,” any person, firm, partnership, association, private corporation organized under the laws of the commonwealth for the purpose of operating any plant or equipment or facilities for the manufacture, production, transmission, furnishing or distribution of steam to or for the public for compensation within the Commonwealth; provided however, that steam distribution company shall not mean: (i) an entity producing and distributing steam exclusively on private property and solely for the entity’s use or the use of the entity’s tenant, and not for distribution or sale; or (ii) a company that produces and sells steam as a bi-product of the production of electricity for sale in the wholesale electricity markets and does not own or operate pipelines off site of the generating facility for the distribution of steam., and inserting in place thereof the following words: “Steam distribution company,” any person, firm, partnership, association, private corporation operating any plant or equipment or facilities for the manufacture, production, transmission, furnishing or distribution of steam to or for the public for compensation within the Commonwealth; provided however, that steam distribution company shall not mean: (i) an entity producing and distributing steam exclusively on private property and solely for the entity’s use or the use of the entity’s tenant, and riot for distribution or sale; or (ii) a company that produces and sells steam as a bi-product of the production of electricity for sale in the wholesale electricity markets and does not own or operate pipelines off site of the generating facility for the distribution of steam.”

After remarks the amendment was adopted.

Ms. Resor and Mr. O'Leary moved that the bill be amended in section 38 subsection (n) (line 1325) by striking the word "ether,".
After remarks, the amendment was adopted.

Mr. Petrucci moved that the bill be amended in section 18A by striking out the following last sentence thereof:

"In no instance shall the individual steam distribution company assessment be made at a rate exceeding 0.2 per cent of such company's intrastate operating revenues."

After remarks, the amendment was adopted.

Ms. Resor and Ms. Chandler moved that the bill be amended by inserting in section 79, in line 2299, after the words "section 11F of chapter 25A of the General Laws." the following, "Said study shall include an investigation into the feasibility of removing and managing the residue of all contaminants, such as lead paint, preservatives, finishes and coatings, prior to use as a fuel as well as management options for using contaminated wood and a review of the environmental impacts of using such waste as fuel."

After remarks the amendment was adopted.

Ms. Resor, Mr. Tarr, Ms. Chandler, Mr. Pacheco, Ms. Fargo and Mr. Galluccio moved that the bill be amended by adding the following new section:—

"There shall be established a Commission on the Siting of Energy Production Facilities, for the purposes of developing environmental criteria with regard to siting or expansion of energy or energy storage facilities in the commonwealth, and reviewing and analyzing current regulations at the state and local levels for the development of energy production and transmission facilities in the Commonwealth, and making recommendations for any potential modifications, revisions or reforms.

In carrying out these purposes, the Commission shall consider the need to develop new and sustainable forms of renewable energy, such as those based on wind and solar energy, the authority of municipalities to regulate such development, the impacts upon communities of such development, the environmental impacts of such development including but not limited to impacts on biodiversity, including plant and animal species, and terrestrial, freshwater, and marine ecosystems, the balance between the benefits of renewable energy projects and their impacts, and the balance between the regulatory burden attached to developing such projects and their environmental and economic benefits to the Commonwealth and its political subdivisions.

Said Commission shall consist of the Secretary of Energy and Environmental Affairs or a designee who shall serve as the chair of the commission; the Secretary of Housing and Economic Development or a designee; the Commissioner of the Division of Energy Resources; the commissioner of the department of environmental protection or a designee; the commissioner of the department of conservation and recreation or a designee; the director of the office of coastal zone management or a designee; a member of the energy facilities siting board other than the secretary of energy and environmental affairs who shall be selected to serve on said commission by the governor; 3 members of the House of Representatives appointed by the Speaker, at least 1 of which shall represent the minority party; 3 members of the Senate appointed by the President, at least one of which shall represent the minority party; and the following members to be appointed by the Secretary of Energy and Environmental Affairs: 3 municipal officials representing communities of diverse size to be nominated by the mass municipal association; 1 member of the Massachusetts Municipal Association; 2 representatives of environmental organizations, one of which is a land and water conservation organization; 2 representatives of the alternative and renewable energy industry; 1 representative of the electric industry; 1 representative of the gas industry; and 2 representatives of ratepayers in the Commonwealth, 1 of which shall be appointed by the Speaker of the House of Representatives and 1 of which shall be appointed by the President of the Senate.

The Commission shall report its findings, together with any recommendations for legislative action, to the clerks of the House and Senate, the Joint Committee on Telecommunications, Utilities and Energy, and the House and Senate Committees on Ways and Means not later than 18 months after the effective date of this act."

After remarks, the amendment was adopted.

Ms. Jehlen and Mr. Galluccio moved that the bill be amended by striking out, in line 653, the following:—

"(iv) any facility which substitutes any portion of its fossil fuel source with an equal to or greater portion of an alternative, paper-derived fuel source approved by the department of environmental protection through a Beneficial Use Determination for the production of heat or power".

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by adding to section 37 after the words "tax per gallon shall be reduced" the following: — "until the year 2028".

The amendment was *rejected*.

Messrs. Creedon, Joyce, Timilty and Brown moved that the bill be amended by adding at the end of the bill the following new section:—

“SECTION _____. In the city of Brockton, or in the towns of West Bridgewater, East Bridgewater, Easton and Walpole no energy facility, electric generating facility or power plant shall be located in an area which is less than a mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2007 shall not be subject to the provisions of this act.”

The amendment was adopted.

Ms. Menard and Mr. Galluccio moved that the bill be amended by adding the following new section:—

“SECTION 95. Notwithstanding any general or special law to the contrary, the Commonwealth of Massachusetts is hereby prohibited from issuing any permits to new liquefied natural gas plants that are to be located within 1 mile of a school, hospital, or nursing home. The provisions of this act shall apply to all LNG import terminals constructed after January 1, 2007.”

Pending the question on adoption of the amendment, Mr. Galluccio moved that the bill be further amended by striking out all after the title and inserting in its place the following new section:—

“SECTION 95. Notwithstanding any general or special law to the contrary, the Commonwealth of Massachusetts is hereby prohibited from issuing any permits to new liquefied natural gas, oil, petroleum or fossil burning plants or facilities or storage, holding, transfer or handling facilities of any nature that are to be located within 1 mile of a school, hospital, or nursing home. The provisions of this act shall apply to an LNG import terminal constructed after January 1, 2007 and to any expansion of an existing terminal, operation, plant, farm or storage, holding, transfer or handling facility of any nature.”

The further amendment was *rejected*.

The pending amendment (Menard) was adopted.

Mr. Hedlund moved that the bill be amended by inserting in subsection (a) of section 2 at the end thereof following:—

“(iv) Higher Education construction projects shall include green buildings standards as included in the MA-CHPS Green Schools Guidelines.”

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by striking Section 36 in its entirety and replacing it with the following section:—

“SECTION 36. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (3B) and inserting in place thereof the following clauses:—

(3B) For energy conservation, alternative energy or renewable energy improvements to public buildings or facilities owned or leased by the city or town, or on property owned or leased by the city or town, 20 years.

(3C) For loans to homeowners for energy conservation, alternative energy or renewable energy improvements to residential properties, 20 years; provided, that repayment of these loans by homeowners shall be in the form of a betterment tax.”

The amendment was *rejected*.

Mr. O’Leary moved that the bill be amended, inserting at the end thereof the following new section:—

“SECTION _____. The department of public utilities in consultation with the division of energy resources shall hold a public hearing to examine the impacts on the competitive retail electricity marketplace through the existing electric utility default service adjustment mechanism. This public hearing shall include an examination of all costs that are recovered from ratepayers through this charge and recommend changes to insure that appropriate price signals are sent to the marketplace in order for customers to make informed decisions about their energy consumption based on price. The department of public utilities shall hold said public hearing not later than May 1st, 2008. The department of public utilities shall file a report of its findings, including any legislative or regulatory recommendations, with the joint committee on telecommunications, utilities and energy, and with the clerks of the house of representatives and the senate by June 1, 2008.”

After remarks, the amendment was adopted.

Messrs. O’Leary and Pacheco, Ms. Resor, Messrs. Moore and Tarr moved that the bill be amended, in section 9, by inserting after the words “be funded by”, in the third sentence, the following words:— “amounts generated by the distribution companies and municipal aggregators pursuant to the Forward Capacity Market program administered by ISO New England, by amounts

generated by the NOx Allowance Trading Program, and”.
The amendment was *rejected*.

Ms. Jehlen and Messrs. Augustus and Galluccio moved that the bill be amended by inserting the following section:—

“SECTION ____ . Chapter 25 of the General Laws is hereby amended by adding, after section 23, the following section:—

Section 24. A receipts fee of 0.5 cents per gallon shall be imposed at the point of sale on all dyed #1 distillate and all dyed #2 distillate regardless of sulfur content sold in Massachusetts. The fee shall be collected by a wholesale distributor on sales to a person other than a wholesale distributor. The fee will be on sales of all dyed #1 distillate and all dyed #2 distillate used by consumers who utilize the fuel for residential space or hot water heating. Exempt uses include fuel used by vessels, railroad, utilities, farmers and the military.

Such funds shall be deposited by the commissioner of administration in a separate account with the state treasurer pursuant to Section 4F of Chapter 7, which account shall be known as the Oil Heating Energy Efficiency Trust. The funds may be expended by the commissioner for the sole purpose of providing financial incentives for the replacement of old and inefficient oil heating systems, including any necessary tank replacement or integrated hot water system installation, or the ongoing clean and tune services to maintain the efficiency of the systems, in single and multi-family residential homes. Such systems replaced shall be at least 20 years old or operate at less than 80% combustion efficiency and will be replaced with the most modern and highest efficiency systems practicable, as determined by the program administrator designated pursuant to this section. The commissioner shall expend these funds at the direction of the secretary of the executive office of energy and environmental affairs, which shall designate a program administrator to deliver these services in a cost effective manner that is coordinated with other energy efficiency programs, including delivery of program services by retail home heating oil dealers. A program implementation plan shall be submitted by the program administrator to the Council for incorporation into the overall planning and implementation strategy in the commonwealth. At least 30% of the funds collected shall be spent on comprehensive low-income residential demand-side management and education programs. These programs shall be administered in conjunction with the low income weatherization funds administered by the department of housing and community development and program administrators and delivered through the low income weatherization and fuel assistance network.”

The amendment was *rejected*.

Mr. O’Leary moved that the bill be amended by inserting at the end thereof the following section:—

“SECTION ____ . Subsection (f)(1) of section 4E of chapter 40J, as so appearing, is hereby amended by inserting after the second sentence, the following new sentence:— “Such funds may also be used by a municipality or group of municipalities with an established load aggregation program under section 134 of chapter 164 in a service territory in which all consumers together have a peak load of at least [200 MW], for grants, loans, or other financial assistance to overcome barriers to renewable energy development, if consistent with the provisions of this section.”.

After debate, the amendment was adopted.

Messrs. O’Leary and Downing, Ms. Resor and Mr. Moore moved that the bill be amended, in section 37, by inserting after the word “substantial”, in the second sentence, the following words:— “reduction of full”; in said section 37, by striking out, after the word “lifecycle”, in the second sentence, the following words:— “reduction in” and in section 38, by striking subsection (a), and inserting in place thereof the following subsection:—

“(o) ‘Full life-cycle greenhouse gas emissions’, the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant indirect emissions from land use changes), as determined by the division of energy resources, related to the full fuel life-cycle, including all stages of fuel and feedstock and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.”.

After remarks, the amendment was adopted.

Mr. Baddour moved that the bill be amended in section 50, line 1715, by striking out the following:— “effective delivery of energy efficiency and demand side management”.

After remarks, the amendment was adopted.

Mr. Baddour moved that the bill be amended by striking out section (d) from lines 438 through 447 and inserting in place thereof the following:—

“(d) To the extent an electric or natural gas distribution company or municipal aggregator has not reasonably complied with the plan, the department shall be authorized to open an investigation. In any such investigation, the utility shall have the burden of proof to show whether it had good cause for failing to reasonably comply with the plan. If the utility does not meet its burden, the department may levy a financial penalty up to the product of \$0.05/kWh or \$1/therm times the shortfall of kWhs saved or therms

saved, as applicable, the amount of which shall depend upon the facts and circumstances and degree of fault, to Massachusetts Technology Park Corporation within 60 days after the end of the year in which the department levied the financial penalty. Said penalty shall not impact ratepayers. The assessment rate shall be adjusted each year after 2008 and shall be equal to the previous year's rates adjusted up or down according to the previous year's Consumer Price Index. The division of energy resources shall oversee the use of said funds by the Massachusetts Technology Park Corporation so as to maximize the amount of energy efficiency achieved."

After remarks, the amendment was adopted.

Mr. Baddour moved that the bill be amended in section 69, line 1976, by striking out "II" and "III"; and in section 69, line 1984, by striking out section (c) and substituting the following:

"(e) A Class I, II or III net metering facility or net metering customer shall not be: an 'electric utility'; 'generation company'; 'aggregator' or 'supplier'; 'energy marketer'; or 'energy broker' within the meaning of those terms as defined in sections 1 and 1F."

After remarks, the amendment was adopted.

Mr. Baddour moved that the bill be amended by striking section 51 in its entirety and inserting in place thereof the following new section:—

"SECTION 51. Section 1E of said chapter 164, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Each distribution, transmission, and gas company shall file a report with the department by March 1 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. The department shall be authorized to levy a penalty against any distribution, transmission, or gas company which fails to meet the service quality standards in an amount up to and including the equivalent of 2 per cent of such company's transmission and distribution service revenues for the previous calendar year.

Whenever a service quality penalty for a company equals or exceeds 50 per cent of the maximum for two consecutive years, the department shall be authorized to levy a penalty against said distribution, transmission, or gas company which fails to meet the service quality standards in the next succeeding year in an amount up to and including the equivalent of 4 per cent of such company's transmission and distribution service revenues for the previous year. Nothing in this section shall prevent the department from approving, after notice and a public hearing, a performance-based distribution service quality plan that includes penalties and/or incentives that exceeds but shall not be less than the maximum penalty amounts established herein; provided, however, that any such plan must be voluntarily proposed by said affected distributions, transmission or gas company as part of a settlement agreement or otherwise."

The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended, in section 11, by striking out, in line 439, the words "or municipal aggregator". The amendment was *rejected*.

Mr. O'Leary moved that the bill be amended in section 75, by inserting after the words "state waters," in the first sentence, the following words:— "in accordance with a comprehensive ocean management plan,".

After debate, the amendment was adopted.

Ms. Spilka moved that the bill be amended by inserting after section 36, the following section:—

"SECTION 36A: Chapter 59 of the General Laws is hereby amended by adding the following section:

Section 58B: (1) Property equipped with solar, geothermal, wind, water, or fuel cell energy systems for the purpose of heating, cooling or generating electrical energy, where said systems were installed on or after July 1, 2008, shall be exempt from ad valorem taxation in an amount that equals any positive amount obtained by subtracting the real market value of the property as if it were not equipped with such systems, from the real market value of the property so equipped.

(2) This section applies to tax years beginning prior to July 1, 2012.

(3) This section does not apply to property owned or leased by any individual or legal entity whose principal business activity is directly or indirectly the production, transportation or distribution of energy."

The amendment was *rejected*.

Mr. O'Leary, Ms. Resor, Messrs. Tarr, Montigny, Petrucci, Moore, Pacheco and Galluccio moved that the bill be amended inserting at the end thereof the following new sections:—

"SECTION 95. The general court finds and declares that:

- (a) Coastal population growth and rapid advances in technology and commerce have led to a significant increase in the demands on the commonwealth's ocean resources;
- (b) Ocean resources management in the commonwealth has historically been focused on particular resources or activities and public decisions about whether to allow certain activities in the commonwealth's ocean waters have been reactive and fragmented;
- (c) The commonwealth's ocean management policy must be adjusted to account for evolving needs and values, emerging technologies and evolving understanding and knowledge of ocean ecosystems to meet the commonwealth's public trust responsibilities;
- (d) Commercial and recreational fisheries are an integral and historic part of our culture and contribute substantial economic benefits to our citizens;
- (e) Regulation of these fisheries shall be, exclusively, by the Massachusetts division of marine fisheries and the relevant federal and interstate management agencies;
- (f) Stewardship of the commonwealth's ocean waters shall be carried out through an ocean management plan that protects, maintains and restores the abundance and diversity of native species and habitats and the health and productivity of coastal and marine ecosystems to fulfill the ecological, economic, educational, social, cultural, nutritional, recreational and other needs of present and future generations in a sustainable manner; and
- (g) The Massachusetts ocean management task force, through an active public process, has studied and made recommendations for improved stewardship of the commonwealth's ocean resources.

SECTION 96. Chapter 10 of the General Laws is hereby amended by inserting after section 35EE the following 2 sections:—

Section 35FF. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the secretary of energy and environmental affairs, as trustee, in consultation with the department of environmental protection, to be known as the Ocean Resources and Waterways Trust Fund. There shall be credited to the fund the revenue from the compensation or mitigation related to ocean development, the income derived from the investment of amounts credited to the fund and any appropriation or grant explicitly made to the fund. The priority for use of funds derived from compensation or mitigation for ocean development projects shall be to restore or enhance marine habitat and resources related to the impacts of the specific project related to the compensation or mitigation. The funds derived from compensation or mitigation related to public navigational impacts shall be dedicated to public navigational improvements, provided, that any funds for the enhancement of fisheries resources shall be directed to the Marine Fisheries Trust Fund to conduct the needed fisheries restoration and management programs, and any other amounts credited to the fund shall be used, without further appropriation, solely for the purposes of environmental enhancement, restoration and coordination of ocean resources by the secretary pursuant to this section, including the cost of employees or consultant services necessary to implement these priorities. Money remaining in the fund at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

Section 35GG. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the director of the division of marine fisheries, as trustee, to be known as the Marine Fisheries Trust Fund. There shall be credited to the fund the revenue from compensation or mitigation related to fisheries management, any income derived from the investment of amounts credited to the fund and any appropriation or grant explicitly made to the fund. Funds credited to the fund for compensation or mitigation related to fisheries management shall be expended without further appropriation for the preservation, enhancement, restoration or management of marine fisheries, Money remaining in the fund at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

SECTION 97. Section 4A of chapter 21A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word 'benefits' in line 15 the words:— of section 4C and.

SECTION 98. Said chapter 21A is hereby further amended by inserting after section 413 the following section:—

Section 4C. (a) The ocean waters and ocean-based development of the commonwealth, within the ocean management planning area described in this section, shall be under the oversight, coordination and planning authority of the secretary of energy and environmental affairs, in accordance with the public trust doctrine, as established by common law and codified in the Colonial Ordinances of 1641-47 and subsequent relevant statutes and cases, and in regular consultation with the members of the ocean management advisory commission and all other relevant agencies, on behalf of the people of the commonwealth pursuant to the authority vested in the secretary by sections 1 through 6 of this chapter. The secretary shall exercise this authority by promulgating an ocean management plan, which shall include maps, illustrations and other media setting forth, among other

things, the commonwealth's goals, policies and standards for ensuring its effective stewardship of the ocean waters held in trust for the benefit of the public. This stewardship shall be carried out in accordance with sound management practices and shall take into account the existing natural, social, cultural, historic and economic characteristics of the planning area; protect the public trust; value biodiversity and ecosystem health; protect special, sensitive or unique estuarine and marine life and habitats; address climate change and sea-level rise; respect the interdependence of ecosystems; coordinate uses that include international, federal, state and local jurisdictions; take into account the importance of the waters of the commonwealth to its citizens who derive livelihoods and recreational benefits from fishing; foster sustainable uses that capitalize on economic opportunity without significant detriment to the ecology or natural beauty of the ocean; preserve and enhance public access; support the infrastructure necessary to sustain the economy and quality of life for the citizens of the commonwealth; use the best available information and expertise; encourage public participation in decision-making; and adapt to our evolving knowledge and understanding of the ocean environment.

Nothing in this section shall be construed to alter the jurisdictional authority of the division of marine fisheries.

Ocean-based development, for the purposes of this section, shall include the creation, development and installation of permanent or temporary structures and the mining, removal or other exploitation of marine resources not currently subject to chapter 130, which shall remain in full force and effect.

(b) The geographic area subject to an ocean management plan shall include any waters and associated submerged lands of the ocean, including the seabed and subsoil, lying between the line designated as the 'Nearshore Boundary of the Ocean Management Planning Area', which is depicted on a plan dated January 31, 2006, prepared by the office of coastal zone management and maintained at the executive office of energy and environmental affairs and with the clerks of the House and the Senate, and the seaward boundary of the commonwealth. An ocean management plan may also address activities in adjacent seaward waters and, to the maximum extent consistent with federal law, shall apply to activities occurring in adjacent federal waters that are functionally connected or otherwise related to the management of resources within the ocean management planning area. An ocean management plan may take into account the different regional characteristics of the commonwealth's waters.

(c)(1) There shall be an ocean management advisory commission to assist the secretary in the development of an ocean management plan. This commission shall consist of 16 members: 2 members of the senate, 1 to be appointed by the president of the senate and 1 appointed by the minority leader of the senate; 2 members of the house of representatives, 1 to be appointed by the speaker of the house of representatives and 1 to be appointed by the minority leader of the house of representatives; the director of the office of coastal zone management or his designee; the director of the division of marine fisheries or his designee; and 10 members to be appointed by the governor as follows: 1 representative of a commercial fishing organization; 1 representative of a recreational fishing organization; 2 representatives of environmental organizations; 1 representative of a non-fishing, ocean-dependent industry; 3 mayors or members of a city council or board of selectmen of coastal municipalities of diverse size and location; and 2 directors of regional planning agencies. Members shall be appointed for a term of 3 years, except that, initially, 6 members appointed by the governor shall be appointed for terms of 2 years and 3 members appointed by the governor shall be appointed for terms of 1 year. The appointing authority may fill any vacancy that occurs in an unexpired term. The members of the ocean management commission shall be selected with due regard to coastal geographic distribution.

The commission shall annually elect a chairman and clerk, shall keep accurate records of its meetings and hearings and shall meet at least quarterly and at the call of the chairman. 8 members shall constitute a quorum to conduct business. The commission shall hold public meetings relative to matters within the jurisdiction of the ocean management plan and shall make recommendations to the secretary for the proper management and development of the plan. The secretary or his designee shall attend all meetings and hearings of the commission. The secretary shall ensure that the ocean management plan is consistent with the recommendations of the commission.

The Office of Coastal Zone Management and Division of Marine Fisheries shall provide technical support to the commission.

(2) There shall be an ocean science advisory council to assist the secretary in creating a baseline assessment, subject to clause (1) of the subsection (e), and any other scientific information necessary for the development of an ocean management plan. The council shall consist of 9 members, to be appointed by the secretary: 3 scientists from academic institutions, at least 1 of whom shall be from the School of Marine Science and Technology at the University of Massachusetts at Dartmouth; and at least 1 of whom shall be from the department of environment, earth & ocean science at the University of Massachusetts at Boston; 3 scientists from private nonprofit organizations, including 1 scientist designated by the Massachusetts Fishermen's Partnership; and 3 scientists from government agencies with demonstrated technical training and experience in the fields of marine ecology, geology, biology, ichthyology, mammalogy, oceanography or other related ocean science disciplines, at least 1 of whom shall be from the division of marine fisheries. The secretary shall serve as coordinator of the council. The council shall meet at such times as the secretary shall set, which shall be no less than once every 3 months to assist the secretary compile the scientific information necessary for the development of an ocean management plan.

(d) Upon the secretary's adoption of an ocean management plan, no structure, use or activities that could significantly alter the

ocean resources of the geographic area subject to an ocean management plan under subsection (b) may occur, except as allowed by subsections (j) and (k) if the structure, use or activity conforms to the applicable provisions of the ocean management plan and except for commercial and recreational fishing pursuant to chapter 130. The offices and departments of the executive office of energy and environmental affairs and the other agencies, departments, divisions, units, commissions, boards and authorities of the commonwealth shall enforce laws and regulations within their respective jurisdictions, conduct regulatory reviews, administer programs, disburse funds, perform or supervise construction activities and otherwise conduct their activities in a manner that ensures conformance with the applicable provisions of an ocean management plan and this section.

(e) The secretary shall develop, implement and enforce an ocean management plan by regularly consulting with the ocean management advisory commission and by performing duties that shall include, but not be limited to, the following:

(1) Creating, in consultation with the ocean science advisory council, a baseline assessment of the commonwealth's ocean resources and resource use that will serve as the basis for evaluating alternatives and choosing courses of action and that shall incorporate the best available engineering applications and scientific understanding of marine and ocean resources, including the identification of special, sensitive or unique estuarine and marine life and habitats, through research, mapping, monitoring, and consideration of public and agency input and other relevant natural, infrastructure, social, cultural, historic and economic planning information;

(2) Establishing an outreach and participation program which shall include early and continuing interaction with the public, the business sector, other interested groups and local, state, regional and federal officials as described in subsection (g), and regular consultation with the ocean management advisory commission, the ocean science advisory council, the department of environmental protection, the department of conservation and recreation, the department of public utilities, the energy facilities siting board, the executive offices of economic development and public safety, the highway department, the division of energy resources, the port authorities, the department of agricultural resources and other state and federal agencies having jurisdiction over resources or activities within or affecting the ocean management planning area to achieve maximum feasible compatibility with the plans, programs or projects for which such departments, divisions, boards and other agencies are responsible. A summary of the outreach and participation program shall be included in an ocean management plan;

(3) Identifying management measures, including but not limited to, setting performance standards, mitigation requirements and use limitations, as may be applicable to specific geographic areas, to be developed in a manner consistent with applicable state statutes and regulations that control or otherwise affect development or other ocean use in the planning area. These management measures shall be compatible, to the maximum extent feasible, with all applicable plans, programs and projects for which a state agency may be responsible. The division of marine fisheries, pursuant to chapter 130 and any other applicable general or special law, shall have sole responsibility for developing and implementing any fisheries management plans or fisheries regulations that the division determines to be necessary based on the best available scientific information. Marine fisheries shall be managed in compliance with the applicable rules and regulations of the division of marine fisheries and federal or interstate fishery management plans issued pursuant to chapter 130 or any other applicable general or special law and shall be integrated, to the maximum extent practicable, with an ocean management plan. Fisheries management plans shall be integrated with an ocean management plan in a manner that enhances the ability of the division of marine fisheries to fulfill its responsibilities and to avoid any alterations of the jurisdictional authority of the division of marine fisheries. Waterfowl hunting shall be managed in compliance with the rules and regulations of the division of fisheries and wildlife issued pursuant to chapter 131 or any other general or special law, and shall be integrated, to the maximum extent practicable, with an ocean management plan. Nothing contained in this section shall prohibit the transiting of commercial fishing and recreational boats in Massachusetts ocean waters;

(4) Implementing a specific strategy to ensure effective application of the identified management measures within the planning area in question. Implementation arrangements may include, as appropriate, memoranda of understanding or other instruments of agreement to ensure coordination between the secretary and other relevant state agencies;

(5) Establishing a time period during which an ocean management plan is to remain effective and a proposed date, not to exceed 5 years from the date of plan adoption, on which re-evaluation of the plan will commence for purposes of renewal and amendment. The re-evaluation process shall include, but not be limited to, an opportunity for public comments, informational meetings and public meetings, as described in subsection (g). An ocean management plan shall remain in effect until a renewed or amended ocean management plan is adopted; and

(6) Creating other such elements as may be considered appropriate by the secretary to serve the purposes of this section.

(f) Within 6 months of the passage of this act, the commission, in consultation with regional planning agencies, shall appoint working groups to advise the commission on ocean protection and management goals and objectives and strategies. The working groups shall be comprised of members of the general public, the business sector, local, state, regional, and federal officials and other interested groups for the following geographic areas: the coastal region north of Boston that is not considered an Ocean Sanctuary; Cape Cod Ocean Sanctuary, Cape Cod Bay Ocean Sanctuary, Cape and Islands Ocean Sanctuary, North Shore Ocean Sanctuary, and South Essex Ocean Sanctuary, as described in the section 13 of chapter 132A; the region within the Cape and

Islands Ocean Sanctuary comprised of all the waters of Buzzards Bay bordered by the mainland of the commonwealth on the west, Cape Cod and the Elizabeth Islands on the east and the Massachusetts and Rhode Island ocean boundary on the south; and the region within the Cape and Islands Ocean Sanctuary comprised of all the state waters of Nantucket Sound and Vineyard Sound, bordered on the west by the Elizabeth Islands, on the North by Cape Cod, on the east by Monomoy Island, and on the south by Nantucket Island and Martha's Vineyard Island.

(g) The secretary shall provide the public the opportunity to receive notice of the contents of a proposed ocean management plan, to make public comments about the plan and to participate in public meetings about the plan at the local and regional levels, in consultation with the Massachusetts association of regional planning agencies. The Secretary shall provide interested parties with the opportunity to present data, views or arguments for a period of at least 60 days in regard to a proposed ocean management plan or any proposed amendment to or renewal of the plan in writing, in accordance with section 3 of chapter 30A, and shall make such proposed amendments or plans available for a public review and comment period through notice in the Environmental Monitor and at least 1 newspaper of general circulation in each of the 5 administrative regions defined in the Massachusetts coastal zone management plan, commonly known as the North Shore, South Shore, South Coast, metropolitan Boston and Cape Cod and the Islands regions. For a proposed ocean management plan, the secretary shall conduct at least 1 public meeting, in consultation with the Massachusetts association of regional planning agencies, in each of the 5 administrative regions defined in the Massachusetts coastal zone management plan. For a proposed amendment to an ocean management plan, the secretary shall conduct at least 1 public meeting, in consultation with the Massachusetts association of regional planning agencies, in each of the administrative regions that would be directly affected by the proposed amendment. At the conclusion of such public process, and after consideration of public comments received during the public comment period, the secretary may adopt an ocean management plan or any amendments thereto, and notice thereof shall be published in the next available edition of the Environmental Monitor and the Massachusetts Register. The secretary shall file a copy of the ocean management plan and any amendments thereto with the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on the environment, natural resources and agriculture at least 90 days before the ocean management plan or any amendments thereto are to take effect.

(h) The secretary shall reconsider the decision to adopt an ocean management plan, any portion thereof or any amendment thereto only if information which has been overlooked or misunderstood requiring such reconsideration is presented by the planning representative of a local government, a state agency or 10 or more citizens of the commonwealth in a written petition submitted within 21 days of the secretary's decision. The secretary's decision shall be final 21 days after it is issued if no request for reconsideration is timely filed. A petition for reconsideration shall include a clear and concise statement of the specific objections to the secretary's decision and the relief sought, including any specific changes that are proposed for consideration. The secretary shall respond in writing to such petition within 21 days of the close of the petition period and shall set forth the basis for such response including the reasons for any modification of the decision. Decisions on requests for reconsideration shall be final upon a date specified by the secretary in the response to the request for reconsideration, and in any case, not longer than 21 days after the response. After the secretary's decision becomes final, notice thereof shall be published in the next available edition of the Environmental Monitor and the Massachusetts Register.

(i) Judicial review of the secretary's approval of an ocean management plan or any amendment thereto shall be as provided in section 7 of chapter 30A. Such action shall be commenced within 30 days of the publication of notice of the ocean plan or amendment in the Massachusetts Register or, if a request for reconsideration is filed, within 30 days of publication of notice of the secretary's decision on the request for reconsideration. A person may not commence such action unless the issue complained of was raised by that person in writing during the public comment period on the ocean plan or amendment. An issue may be raised for judicial review upon a showing that it is material and that it was not reasonably possible with due diligence to have raised it during the public comment period.

(j) Notwithstanding any other provisions of this section, the following activities are prohibited between the mean low water mark and the seaward boundary of the commonwealth:

(1) constructing or operating offshore or floating electric generating stations in areas designated as an ocean sanctuary by section 13 of chapter 132A, except:

(i) on an emergency and temporary basis for the supply of energy when the electric generating station is otherwise consistent with an ocean management plan; or

(ii) for small-scale renewable energy systems, as defined by the ocean management plan, in areas other than the Cape Cod Ocean Sanctuary, established by section 13 of chapter 132A, when the small-scale renewable energy system is otherwise consistent with an ocean management plan;

(A) The ocean management plan shall include standards and criteria for siting small-scale offshore renewable energy facilities, including but not limited to compatibility with existing uses, appropriateness of technology and scale, environmental protection, public safety and community benefit.

(B) In regions where regional planning agencies are provided regulatory authority, a regional planning agency may review small-scale offshore renewable energy projects as developments of regional impact based on the standards and criteria set forth in its regional policy plan. A person aggrieved by a decision of a regional planning agency relating to an offshore renewable energy project may appeal the decision to the energy facilities siting board, hereinafter referred to as the board. The board shall conduct an adjudicatory proceeding as defined in chapter 30A of the General Laws. The board shall make findings as to whether the offshore renewable energy project complies with the standards and criteria set forth in the ocean management plan. The decision of the regional planning agency shall not be disturbed unless the board finds on the record that the decision of the regional planning agency was arbitrary or capricious. The board's decision shall be subject to judicial review pursuant to section 5 of chapter 25 of the General Laws.

(2) dumping or discharging commercial, municipal, domestic or industrial wastes in areas designated as an ocean sanctuary by section 13 of chapter 132A, except as may be allowed pursuant to sections 16 and 16A to 16F, inclusive, of chapter 132A and their implementing regulations, as may be amended, and except for the discharge of bait and fish offal customarily associated with fishing;

(3) incinerating solid waste material or refuse on or in vessels moored or afloat;

(4) extracting stone, sand, gravel or other minerals, gases or oils from the seabed or subsoil; except for dredging for maintenance or other navigational purposes, including but not limited to slips, moorings and maintenance or expansion of boat access, outside of the geographic area described in subsection (b); and, if consistent with any applicable provisions of an ocean management plan, except for dredging for maintenance or other navigational purposes within the geographic area described in subsection (b), shore protection, beach restoration or for facilities and activities undertaken or required by a public agency for the purposes of decontamination, response actions, or capping or disposal of polluted aquatic sediments;

(5) building or operating commercial advertising in areas designated as an ocean sanctuary by section 13 of chapter 132A; and

(6) building or long-term mooring of a structure on the seabed or subsoil in the area designated as the Cape Cod Ocean Sanctuary by section 13 of chapter 132A, except as allowed in clauses (1) and (4) to (7), inclusive, of subsection (k).

(k) In the areas within the geographic area described in subsection (b), the following activities are allowed, to the extent they are not prohibited by subsection

(j), if the activity has met all applicable requirements of other local, state and federal laws and regulations and is consistent with an applicable ocean management plan:

(1) beach nourishment, channel and shore protection structures and dredging for maintenance and navigational purposes;

(2) the operation, maintenance, repair or construction of infrastructure facilities used in the transmission or distribution of electricity, natural gas, water or telecommunications services, including pipelines, cables and conduits, except in the area designated as the Cape Cod Ocean Sanctuary by section 13 of chapter 132A;

(3) industrial liquid coolant discharge and intake systems, except in the area designated as the Cape Cod Ocean Sanctuary by section 13 of chapter 132A;

(4) facilities for aquaculture;

(5) moorings, floats and rafts held by bottom anchor for the purpose of vessel docking or mooring, and ramps attached thereto;

(6) docks, piers, wharves or other filled or pile-supported structures contiguous with the existing land mass;

(7) environmental restoration or mitigation activities required by certificate of the secretary of energy and environmental affairs;

(8) dumping or discharging commercial, municipal, domestic or industrial wastes, in areas not designated as an ocean sanctuary by section 13 of chapter 132A; and

(9) temporary scientific and educational facilities.

(l)(1) In the areas within the geographic area described in subsection (b), commercial and recreational fishing are allowable, subject to the exclusive jurisdiction of the division of marine fisheries. A component of an ocean management plan which regulates commercial or recreational fishing shall be developed, promulgated and enforced by the division of marine fisheries pursuant to its authority under chapter 130.

(2) A component of an ocean management plan which does not have as its primary purpose the regulation of commercial or recreational fishing but which has an impact on such fishing shall minimize negative economic impacts on commercial and recreational fishing. Prior to inclusion in an ocean management plan, a component with such a reasonably foreseeable impact shall be referred to the division of marine fisheries, which shall respond to the secretary, pursuant to paragraph (3), in a timely and efficient manner.

(3) The director of the division of marine fisheries shall evaluate a component referred to him under paragraph (2) for its impact on commercial and recreational fishing and, if possible, develop and recommend to the secretary any suggestions or alternatives to mitigate or eliminate any adverse impacts. The secretary and the ocean management advisory commission shall consider the response of the director in determining whether the component shall be included in the ocean management plan. If the secretary does not adopt a suggestion or recommended alternative, he shall certify in writing the reasons therefore and append the certification to the ocean management plan. If the division does not respond to the secretary within 30 days, the failure to timely respond shall be considered a response by the director that the referred component poses no adverse negative economic impact on commercial and recreational fishing.

(4) The director of division of marine fisheries, subject to the approval of the marine fisheries advisory commission, shall have sole authority for the opening and closing of areas within the geographic area described in subsection (b) for the taking of any and all types of fish, pursuant to section 17A of chapter 130. Nothing in this section shall limit the authority of the director under section 17 of chapter 130 or any other provision thereto.

(m) A project that has filed a chapter 91 license application and received a determination of completeness from the department of environmental protection or, if the project is subject to review pursuant to section 61 of chapter 30, has received a certificate of adequacy regarding a draft environmental impact report from the secretary, shall be governed by the ocean management plan in effect at the time of filing.

(n) The secretary may promulgate regulations to implement, administer and enforce this section and may interpret this section and any regulations adopted hereunder consistent with his power to enforce the laws of the commonwealth.

SECTION 99. Section 12A of chapter 132A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:— Upon the adoption of an ocean management plan pursuant to section 4C of chapter 21A, this section and sections 12C, 14 to 16, inclusive, and 18 shall cease to be effective. Before a plan is adopted, in the case of any differences between the requirements of section 15 and 16 of chapter 132A and paragraphs (j) and (k) of section 4C of chapter 21A, the provisions of sections 15 and 16 of chapter 132A shall control.

SECTION 100. Section 12B of said chapter 132A, as so appearing, is hereby amended by striking out, in line 3, the words ‘Act, the Massachusetts Ocean Sanctuaries Act’.

SECTION 101. Said Section 12B of said chapter 132A, as so appearing, is further amended by striking out, in lines 13 and 14, the words “environmental management” and inserting in place thereof the following words:— environmental protection.

SECTION 102. Section 16A of said chapter 132A, as so appearing, is hereby amended, in lines 1 and 7 by striking out the words “section fifteen” and inserting in place thereof the following words:— clause (2) of paragraph (j) of section 4C of chapter 21A.

SECTION 103. A project shall not be subject to the requirements of section 4C of chapter 21A if, prior to the date of approval of the first ocean management plan as authorized by section 4C of chapter 21A of the General Laws, the project has 1) filed a chapter 91 license application and received a written determination of completeness by the department of environmental protection; or 2) if the project is subject to review pursuant to section 61 of chapter 30 of the General Laws, received a certificate of adequacy regarding a final environmental impact report from the secretary; or 3) if the project is subject to jurisdiction of the energy facilities siting board, received both a final decision from the energy facilities siting board and a certificate of adequacy regarding a draft environmental impact report from the secretary. A project not subject to section 4C of chapter 21A must comply with sections 12A to 16F, inclusive, and 18 of chapter 132A of the General Laws, as the sections were in effect immediately prior enactment of section 4C of chapter 21A.

SECTION 104. The secretary of energy and environmental affairs shall report annually to the joint committee on environment, natural resources and agriculture identifying management measures established and the progress made in creating an ocean management plan pursuant to section 4C of chapter 21A of the General Laws, until a plan is first adopted.

SECTION 105. The secretary of energy and environmental affairs shall develop, adopt and implement an ocean management plan within 24 months of the effective date of section 5. Upon adoption, an ocean management plan shall be formally incorporated into the Massachusetts coastal zone management program, as referenced in section 4A of chapter 21A of the General Laws.

SECTION 106. The secretary of energy and environmental affairs, in consultation with the department of environmental protection, the department of conservation and recreation and the division of marine fisheries, shall examine the establishment or renegotiation of fees, licenses, permits, rents, leases and the adjustment or development of other revenue sources for the purposes of funding ocean resource enhancement or restoration. Nothing in this section shall provide for a salt-water fishing license or any similar fees or user permits for salt water fishing. The secretary shall report the findings of his examination to the general court and shall recommend the establishment of fees, licenses, permits, rents, leases and the adjustment or development of other revenue sources, as authorized by subsection (n) of section 4C of chapter 21A of the General Laws, by submitting a report, including any proposed legislation, to the joint committee on environment, natural resources and agriculture and the house and senate committees on ways and means within 1 year of the effective date of section 5.”

Pending the question on adoption of the amendment, Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved to further amend the amendment by inserting at the end thereof the following:—

“SECTION 95. The division of energy resources shall conduct a review of and thereafter issue a report detailing any current regulatory impediments to the siting and development of large scale wind energy projects; projects which generate on average in excess of 75 megawatts of electricity. Said review shall also consider what if any changes to permitting laws and regulations could be made which would expedite the development of such projects to increase the Commonwealth’s availability of renewable energy. Said report shall be filed with the clerks of the House of Representatives and the Senate later than July 31, 2008.”
After remarks, the further amendment was *rejected*.

After further remarks, the pending amendment (O’Leary) was adopted.

Messrs. O’Leary, Augustus, Pacheco, Moore and Knapik moved that the bill be amended, in section 26, by inserting after the word “geothermal;” the following words:— “solar domestic hot water;”.

After debate, the amendment was adopted.

Messrs. Morrissey, O’Leary, McGee, Brewer and Pacheco moved that the bill be amended, in section 11, by striking out, in line 455, the words “and (xi)” and inserting in place thereof the following words:— “, (xi) the Massachusetts Technology Park Corporation and (xii).”

After remarks, the amendment was adopted.

Mr. Morrissey moved that the bill be amended by striking out section 55 and inserting in place thereof the following:—

“SECTION 55. Section 47C of said chapter 164, as so appearing, is hereby amended by adding the following subsection:—

(1) The activities of a municipal lighting plant cooperative shall not be imputed to its individual members and the provision of energy brokering and other energy-related services by a municipal lighting plant cooperative to retail customers without any accompanying sale of electricity to such retail customers shall not constitute the supply of generation services by its members for the purposes of subsection (b) of section 47A.”

After remarks, the amendment was adopted.

Mr. Morrissey moved that the bill be amended in subsection 139(d) of section 69 by adding, after the second sentence, the following new sentence:— “A distribution company may elect not to allocate such credits and instead may purchase said net metering credits from the facility at the rates provided for herein.”

After remarks, the amendment was adopted.

Mr. O’Leary moved that the bill be amended in section 11, in the third sentence (line 493) of section 22 (d), by striking out the word “company’s” and inserting in place thereof the following text:— “program administrator’s”; and, in section 69, in the fifth sentence (line 2071) of subsection (c), by inserting after the word, “Laws,” the following words:— “as applicable”.

After remarks, the amendment was adopted.

Mr. Buoniconti moved that the bill be amended in the second sentence of paragraph (f) of section 48 by inserting after the words “producing renewable energy,” the following words:— “except as approved by the department.”

The bill is hereby further amended in the third sentence of paragraph (f) of section 48 by inserting after the words “generation facilities with the department,” the following words:— “, including a proposal for the recovery of costs incurred relating to said generation facilities.”

The amendment was *rejected*.

Messrs. Morrissey and Tarr and Ms. Creem moved that the bill be amended by striking out Section 17 and inserting in place thereof the following new section:—

“SECTION 17. Said chapter 25A is hereby further amended by inserting after section 11I the following section:—

Section 11J. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

‘Generator’, the person that owns directly or indirectly or has title to the output from the renewable energy generating source that is located in a control area external to the ISO-NE Control Area.

‘Person’ (any individual, corporation, limited liability company, general or limited partnership, trust, association or other entity.

(b) A renewable energy generating source as described in section 11F that is physically located in or relocated to a control area external to the ISO New England (‘ISO-NE’) control area may qualify as an eligible renewable energy generating source under section 11F, provided however, that the renewable energy generated by such renewable energy generating source was delivered into and used by consumers within the ISO-NE control area.

(c) The delivery of renewable energy into the ISO-NE control area as described in subsection (b) shall not qualify under the renewable portfolio standard, notwithstanding such delivery into the ISO-NE control area, unless the Generator of such renewable energy: (i) initiates the import transaction pursuant to a spot market sale to ISO-NE or under a bilateral sales contract with a purchaser of the renewable energy located in the ISO-NE control area by properly completing a North American Electric Reliability Corporation tag from the Generator in the external control area to either a node or zone in the ISO-NE control area; and

(ii) complies with all ISO-NE rules and regulations required to schedule and deliver the renewable energy generating source’s energy or capacity into the ISO-NE control area.

(d) During any period during which the generator, or any person under contract with the Generator, is delivering renewable energy from the renewable energy generating source into the ISO-NE control area, and notwithstanding compliance with subsection (b), the renewable energy generated by the renewable energy generating source that is eligible for the renewable portfolio standard shall be limited to the lesser of the following: (i) the renewable energy actually generated by the renewable energy generating source; or (ii) the renewable energy actually scheduled and delivered into the ISO-NE control area by the Generator.

(e) The division through duly adopted regulations may require such other requirements as it deems appropriate consistent with this section; and by inserting at the end thereof the following 2 new sections:—

“SECTION _____. The division of energy resources shall conduct a study of the economic and environmental impacts on the renewable portfolio standard of requiring Generators as defined in section 11J of chapter 25A to commit their renewable energy generating sources to the ISO-NE control area as a capacity resource. The division shall submit its findings, including proposed recommendations and regulations if applicable, and proposed legislation, if any, to the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy no later than March 1, 2009. If the division finds that such a requirement is positive with respect to economic and environmental impacts, it shall promulgate regulations implementing said requirement.

SECTION _____. The division of energy resources shall conduct a study of the economic and environmental impacts on the renewable portfolio standard of requiring that the renewable portfolio standard credit applicable to the eligible renewable energy as determined under subsection (d) of section 11J of chapter 25A shall be reduced by any net exports of energy or renewable energy made during the same period from the ISO-NE control area by (i) the person seeking renewable portfolio credit for such renewable energy, (ii) any affiliate of such person, or (iii) any other person under contract with such person to export energy from the ISO-NE control area and deliver such energy directly or indirectly to such person.

The division shall submit its findings, including proposed recommendations and regulations if applicable, and proposed legislation, if any, to the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy no later than March 1, 2010. If the division finds that such a requirement is positive with respect to economic and environmental impacts, it shall promulgate regulations implementing said requirement.”

After remarks, the amendment was adopted.

Mr. Morrissey moved that the bill be amended by striking out section 48 entirely and inserting in place thereof the following new section:—

“SECTION 48. Section 1A of said chapter 164, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:—

(f) Nothing in this section and sections 1B to 1H, inclusive, shall be deemed to preclude an electric company or a distribution

company from constructing, owning and operating one or more generation facilities that produce renewable energy, as defined in section 1 of this chapter 164, provided that such company may not own or operate more than 25 megawatts of such facilities before January 1, 2009, and 50 megawatts on and after January 1, 2010. No electric company or distribution company may recover costs associated with the construction, ownership or operation of a generating facility producing renewable energy unless the renewable energy is produced from solar resources constructed by or for the electric company or distribution company and without obtaining prior approval of costs from the department. Upon the filing by an electric company or a distribution company of a petition for pre-approval of cost recovery for a solar energy generating facility, the department shall determine whether the proposal is, in the department's judgment, consistent with the Commonwealth's energy policy, and could be used to satisfy, in part, the renewable energy portfolio standard requirements set forth in chapter 25, section 11F. The department shall issue an order within 6 months from the date of filing by the electric company or distribution company. The department may adopt such rules and regulations as may be necessary to implement this subsection."

After remarks, the amendment was adopted.

Mr. Buoniconti moved that the bill be amended by striking section 7 and inserting in place thereof the following new section:—

"SECTION 7. Chapter 25 of the General Laws is hereby amended by inserting after section 5D the following section:—

Section 5E. Upon written complaint by the attorney general of the commonwealth requesting any independent or department audit of the rate components of any company subject to the jurisdiction of said department, the department shall commence a proceeding within 30 days of receipt of said complaint to determine whether to order such requested audit. If cause for an audit is shown through this proceeding, the department shall order said audit in a reasonable amount of time. The results of any audit so ordered shall be filed promptly with the department of public utilities and the audits shall be paid for by the company that is the subject of the audit.

The department may, from time to time, audit all companies subject to the jurisdiction of said department, including, but not limited to, review of the following documents: (i) all financial statements, the balance sheet, the income statement, the statement of cash flows, the statement of retained earnings, the notes to the financial statements and the information in the annual return to the department; (ii) all reconciling mechanisms related to rates, prices or charges, merger, acquisition or consolidation related costs and savings three years following the merger, acquisition or consolidation; and (iii) service quality measure statistics and the service quality performance at least every 3 years or whenever service quality penalties equal to or exceed 50 percent of the maximum."

The amendment was *rejected*.

Messrs. Rosenberg, Brewer, Knapik and Tarr moved that the bill be amended in section 69 by adding after section 143 a new section:—

"SECTION XXX. Agricultural Net Metering.

(a) In this section, unless context otherwise requires, the following words shall have the following meanings:

Agriculture, shall be defined as defined under Chapter 128 Section 1A. Where necessary the Commissioner of the Department of Agricultural Resources shall determine if a business is an Agricultural Business.

Annualized Period, a period of 12 consecutive months beginning on the first day of the first full monthly billing period of the Agricultural business after which the Agricultural Net Metering Facility is interconnected and is generating electricity.

Agricultural Net Metering Facility, a Renewable Energy generating facility operated as part of an Agricultural business that generates electricity that does not have a generation capacity of more than two thousand (2000) kilowatts and is located on land owned or controlled by the Agricultural business and is used to provide energy to one or more metered accounts of the business.

Net Metering, the process whereby an Agricultural business is credited at the full retail rate for the difference between electricity delivered by an electric distribution company and the electricity generated by the Agricultural Net Metering Facility of the Agricultural business up to the total amount of the electricity used by the Agricultural business, and whereby at the end of the annualized period, the Agricultural business is compensated for any excess electricity generated at the supplier's avoided cost of wholesale power.

Renewable Energy, for the purposes of this section, energy generated from any one of the following; solar photovoltaic or solar thermal electric energy; wind energy; fuel cells utilizing renewable fuels; naturally flowing water and hydroelectric; reduced emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. After conducting administrative proceedings, the division of energy resources, in consultation with the Department of Agriculture, may add technologies or technology categories to the above list.

(b) All distribution companies and supplier-providers shall offer net metering to any customer who is an agricultural business and utilizes an Agricultural Net Metering Facility to generate electricity on the customer's side of the meter.

For the purposes of this section any individually metered locations serviced by the same distribution company or supplier-provider that are owned or controlled by the agricultural business and are located within 25 miles of the Agricultural Net Metering Facility shall be treated as one account if the Agricultural Business so desires. Net Metering shall occur on the entire account.

Distribution companies and supplier-providers are prohibited from imposing special or additional fees on Agricultural businesses utilizing Net Metering, such as, but not limited to, backup charges, stand-by charges, minimum transformer charges, interconnection fees, transportation charges on energy credited within an Annualized Period, or from requiring additional controls or liability insurance as long as the Agricultural Net Metering Facility complies with the applicable interconnection, safety, and power quality standards.

The Division of Renewable Energy shall, in consultation with the Department of Agricultural Resources promulgate resolutions as needed to assure the intent of this section to promote the use of renewable energy production on farms.”

The amendment was adopted.

Mr. Timilty moved that the bill be amended in the first sentence of the first paragraph of section 49 by inserting after the words “participating non-utility providers”, the following words:— “, which may be provided by the utility through its website”; and in the first sentence of the second paragraph of section 49 by striking the words “with each customer’s utility bill” and inserting in place thereof the following words:— “on the utility’s website”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 49, by inserting at the end thereof the following new sentence:—

“For electric suppliers who have chosen the complete billing method, the electric distribution company shall make timely payments to such suppliers in accordance with the following terms. The distribution company shall; (i) bill all of the of the electric supplier’s customers in a service class according to complete billing, (ii) pay such suppliers the full amounts due such suppliers from customers for generation services in a time period consistent with the average payment period of the participating class of customer, less a percentage of such amounts that reflects the average of the uncollectible bills for the participating customer classes of the electric distribution company and other reasonable development, operating or any carrying costs incurred, as approved by the department. Each distribution company shall file a compliance plan, complete with an effective date, within 3 months of the passage of this legislation.”

The amendment was adopted.

Mr. Tisei and Mr. Tarr moved that the bill be amended by inserting after section 94 the following:—

“SECTION 95. Section 4E of chapter 40J is hereby amended by inserting at the end thereof the following subsection:—

(m) The Division of Energy Resources shall develop an energy efficiency certification program for cities and towns. The division shall provide such technical assistance to help the towns develop energy efficiency plans which over the course of five years shall reduce any city or towns energy consumption by 20 per cent, reductions in consumption may be achieved through efficiency or increased usage of renewable energy sources. Any approved plan shall have benchmarks to be achieved within each year of the plan in order for compliance to be maintained.

Any city or town certified as having a plan for energy efficiency and determined by the division to be meeting the incremental benchmarks as specified in said plan shall be eligible to receive funds from the fund. Any city or town which has an energy efficiency certification and has an increase in total energy costs by more than 10 per cent from one fiscal year to the next may receive, subject to approval by the board, a grant not to exceed one half of the total cost increase being borne by the city or town.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at six minutes past five o’clock P.M., on motion of Mr. Brown, as follows, to wit (*yeas 5 — nays 33*) [**Yeas and Nays No. 165**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.

Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 33.
McGee, Thomas M.	

The yeas and nays having been completed at ten minutes past five o’clock P.M., the amendment was *rejected*.

Messrs. Tisei and Tarr moved that the bill be amended by striking the second paragraph of section 65.
The amendment was *rejected*.

Messrs. Tisei and Tarr moved that the bill be amended by striking in section 52 the words “and fourth paragraphs” and inserting in place thereof the word :— “paragraph”.

After remarks, the amendment was adopted.

Messrs. Tisei and Tarr moved that the bill be amended by inserting after section 94 the following section:—

“SECTION 95. The department of housing and community development, shall make recommendations regarding what supplemental state funds, if any, shall be expended for the federal Low Income Home Energy Assistance Program, pursuant to 42 U.S.C. Section 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane, natural gas and electricity and other primary or secondary heating sources; provided, however, that any recommended expenditures in addition to any federal funding shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with said federal program. The recommendations shall include recommended funding levels and funding sources. The department of housing and community development shall submit its recommendations to the joint committee on telecommunications, utilities and energy on or before October 1, 2008, and on each subsequent October 1.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at a quarter past five o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 166**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38
NAYS — 0.	

The yeas and nays having been completed at eighteen minutes past five o’clock P.M., the amendment was adopted.

Messrs. Tisei and Tarr moved that the bill be amended by striking in section 49 the words “or (iv) seeking information regarding energy efficiency.”

The amendment was *rejected*.

Messrs. Knapik, Tisei, Tarr, Brown, Moore, Buoniconti, Timilty and Brewer moved that the bill be amended by inserting the following new, section:—

“SECTION X. Notwithstanding any general or special law, rule regulation to the contrary, for taxable year 2008, there shall be deducted from adjusted gross income in determining income: up \$800 cost of home heating oil, natural gas, propane, electricity, and wood fuel. Deduction available single persons if taxpayer’s is equal or less than \$50,000, joint filers who qualify as a head household \$75,000.

(a) The deductions may be used only for the cost of home heating oil, natural gas, propane, electricity, and wood fuel purchased between November 1, 2007 and March 31, 2008 and November 1, 2008 and March 31, 2009.

(b) Any taxpayer entitled to a deduction under this section may apply the deduction in taxable year 2008 for purchases made in 2007 and 2008. If the taxpayer does not take the full \$800 deduction in taxable year 2007, the taxpayer may take the remainder in taxable year 2008 for purchases made in 2008 through March 31, 2008.

(c) The commissioner of revenue shall promulgate rules and regulations necessary to implement this section. The commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who owns a condominium or a cooperative dwelling and for whom such purchases are accounted for in a common area fee or special assessment against such costs as may be reasonably attributed to the percentage ownership share of the condominium or cooperative dwelling costs; and provided further, that the commissioner shall also include in such rules and regulations eligibility provisions for a taxpayer who rents a residential dwelling and for whom such purchases are accounted for in the rent and provisions that account for multiple renters in a residential dwelling. The department shall file a copy of any rules and regulations with the Clerks of the Senate and House of Representatives and with the joint committee on revenue.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at a twenty-seven minutes before six o’clock P.M., on motion of Mr. Knapik, as follows, to wit (*yeas 7 — nays 31*) [**Yeas and Nays No. 167**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Knapik, Michael R.	Tucker, Susan C. — 7.
Moore, Richard T.	
NAYS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Walsh, Marian
Jehlen, Patricia D.	Wilkerson, Dianne — 31.
Joyce, Brian A.	

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

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by inserting at the end the following additional section:—

“SECTION 95. Subject to appropriation, no less than \$10,000,000 shall be expended for the planning, design and construction of

alternative fuel refueling stations on the site of land owned or controlled by the commonwealth or a regional transit authority with a minimum useful life of 5 years, and for financial assistance to cities and towns, school districts and regional transit authorities for the acquisition of alternative fuel vehicles and hybrids with a minimum useful life of 3 years; provided, that the commonwealth or a regional transit authority may enter into agreements or contracts with providers and distributors of alternative fuels necessary to carry out the purposes of this act; further, subject to appropriation, no less than \$10,000,000 shall be expended for the planning, design, and construction of green buildings substantially in compliance with LEED-silver standards.”
The amendment was *rejected*.

Messrs. Baddour and Tarr moved that the bill be amended, by adding at the end thereof the following new section:—

“SECTION ____ . Section 3 of Chapter 25A of the General Laws, as so appearing, by inserting after the definition of “energy management services”, the following new definition:—

‘marine or hydrokinetic energy’, electrical energy from: (i) waves, tides, and currents in oceans, estuaries, and tidal areas; (ii) free flowing water in rivers, lakes, and streams; (iii) free flowing water in man-made channels; or (iv) differentials in ocean temperature (ocean thermal energy conversion).”

In section 15 by striking out in subsection (c) of section 11F the words “or (viii) geothermal energy”, and inserting in place thereof the following:— “(viii) marine or hydrokinetic energy as defined in section 3; or (ix) geothermal energy.”;

In section 15 by striking out in subsection (d) of section 11F the words “or (viii) geothermal energy”, and inserting in place thereof the following:— “(viii) marine or hydrokinetic energy as defined in section 3; or (viii) geothermal energy”;

And by adding at the end thereof the following section:—

“SECTION ____ . Section 4E of Chapter 40J of the General Laws, as so appearing, is hereby amended in subsection (f)(1) by inserting after the words “tidal energy;” the following:— marine or hydrokinetic energy as defined in section 3 of chapter 25A;.”
After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by striking the fifth paragraph of section 75 and inserting in place thereof the following:—

“An electric distribution company shall sell such purchased energy into the wholesale spot market, and shall sell such purchased RECs through a competitive bid process. Notwithstanding the foregoing, the department shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs hereunder, and may issue reports making recommendations for legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.”

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended, in section 11 in paragraph (1) of subsection (b) of the proposed section 21 of chapter of the General Laws by adding the following sentence: “preparation and costs of said electric efficiency investment and natural gas efficiency investment plans shall not financially impact or be passed through to rate payers.”
The amendment was *rejected*.

Mr. Pacheco moved that the bill be amended in section 15, by inserting a new subsection:—

“(j) Renewable energy certificates used for complying with the Massachusetts RPS, or the associated energy, while available to the complying electric supplier for use with any federal renewable portfolio standard to the extent permitted by such a standard, may not be used for, banked, or sold or transferred to any other company or affiliate for use in, complying with any state or federal renewable portfolio standard based on any other load obligation.”

After remarks, the amendment was adopted.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended by adding at the end the following additional section:—

“SECTION 95. (a) There shall be established at the University of Massachusetts, the Commonwealth Alternative Fuels Institute, for the purpose of researching and developing hybrid and alternative fuel vehicles and alternative fuels and any related technology and components involved in the production, conversion, operation and maintenance of hybrid and alternative fuel vehicles and hybrids.

(b) The Institute shall have among its primary goals the development and commercialization of the vehicles, fuels, equipment and technology for the purposes of deriving environmental benefits, reducing dependence on conventional fossil fuels and facilitating

economic growth.

(c) The Institute shall be governed by policies and operating procedures by adding at the end thereof developed and maintained by the president of the university and its board of trustees, together with the governing bodies of each subdivision of the university assigned to engage in the operations of the Institute.

(d) Subject to appropriation, the Institute shall engage in projects as determined to be feasible by its advisory board, and may issue requests for proposals and enter into cooperative research agreements in carrying out this act.

(e) There shall be an advisory board of the Institute, comprised of: the president of the University of Massachusetts or his designee, who shall also serve as the chairperson; the secretary of environmental affairs or his designee; the secretary of economic affairs or his designee; the secretary of transportation or his designee; the general manager of the Massachusetts Bay Transportation Authority or his designee; a representative of the regional transit authorities; 3 members to be appointed by the governor, 1 of whom shall represent the business community, 1 of whom shall have expertise in environmental issues and 1 of whom shall represent consumers; 2 members appointed by the president of the university, each having expertise in relevant science and technology; 1 member of the senate and 1 member of the house of representatives. Each appointed member shall serve for a term of 3 years, and shall be eligible to be appointed for consecutive terms.

(f) The Institute shall undertake a comprehensive industry needs assessment, in consultation with the advisory board, of businesses engaged in the research, development or production of alternative fuel vehicles and hybrids, alternative fuels and related components and technologies. The assessment, which shall be completed not later than 6 months after the effective date of this act, shall include, but not be limited to the following:

(1) the identities of industry participants and a characterization of their business activities involving hybrid and alternative fuel vehicles and related technologies and components;

(2) current or projected impediments to the growth and development of industry participants;

(3) feasible means by which state government, including the commonwealth's institutions of higher education, may assist industry participants;

(4) potential collaborative efforts between the commonwealth and industry participants, including industry-sponsored research and development and the securing of public and private research funds;

(5) potential sources and uses of federal government funding for research and development including, but not limited to, funding opportunities contained in any federal renewable or alternative energy legislation.”

The amendment was *rejected*.

Messrs. Petruccelli and Galluccio moved that the bill be amended by inserting after section 1 the following section:

“SECTION 1A. Chapter 30 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 36A the following section:—

Section 36B. The commissioner of administration shall establish and enforce regulations governing the fuel efficiency standards that all vehicles must meet. The average fuel consumption, for the entire fleet of passenger vehicles owned or leased by the Commonwealth, except those vehicles used for emergency purposes, security purposes, and special services, shall be equal to or more efficient than the US Corporate Average Fuel Economy (CAFE) Standards as established by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA)”.

After debate, the amendment was adopted.

Ms. Resor, Mr. Downing, Ms. Chandler, Messrs. O’Leary, Brewer, Pacheco and Tarr moved that the bill be amended in section 15 by striking out clause (vi) in subsection (c) of section 11F, and inserting in place thereof the following clause:—

“(vi) energy resulting from new hydroelectric facilities regulated by FERC, or incremental energy from increased capacity or efficiency improvements at existing hydroelectric facilities regulated by FERC, so long as such energy from new facilities or from increased capacity and efficiency does not involve pumped storage of water and meets low impact standards as established by the department of environmental protection in consultation with the division and the department of fish and game; provided that only energy from new facilities up to 25 megawatts or attributable to improvements that incrementally increase capacity by up to 25 megawatts at an existing hydro electric facility shall be considered new renewable energy;”.

The amendment was adopted.

Ms. Fargo and Mr. Augustus, Ms. Chandler and Mr. Galluccio moved that the bill be amended by inserting after section xx the

following section:—

“SECTION XX. The division of energy resources shall conduct a study of the fiscal impact, viability, statutory and regulatory barriers and long-term results of establishing and operating municipal owned electric utilities. The study shall provide a general overview of the impact and effect of establishing and operating a municipal owned utility with regard to municipalities, investor owned utility currently supplying electricity to municipalities, and affected consumers. In addition, the study shall make recommendations: (i) to address any existing inequities or other barriers preventing the establishment of municipal owned electric utilities in current statutes or regulations, and (ii) for a procedure for a municipality to divest its ownership of electric utility assets to a non-municipal electric utility.

There shall be a commission that shall advise the commissioner of the division of energy resources with respect to such study. The commission shall be comprised of the commissioner or a representative who shall serve as chair, and eight other members: Four representatives to be chosen by the executive director of the Massachusetts Municipal Association, provided that three representatives are from municipalities that are interested in establishing a municipal electric utility; a representative from the office of the attorney general to be chosen by the attorney general; a representative from the department of public utilities to be chosen by the commissioner of such department; and two representatives to be appointed on a voluntary basis by the commissioner, provided that one appointee is an executive from an investor owned utility, and the other is an executive of an existing municipal electric utility. The division of energy resources shall submit the study to the house and senate chairs of the joint committee on telecommunications, utilities and energy, and the chief executive officer of each municipality within one year of the effective date of this act.”

After remarks, the amendment was adopted.

Recess.

There being no objection, at a quarter before six o'clock P.M., the Chair (Mr. Rosenberg) declared a recess; and at one minute past seven o'clock P.M., the Senate reassembled, the President in the Chair.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting after section 94 the following section:—

“SECTION 95. Section 6 of chapter 64H, as most recently amended by chapter 260 of the acts of 2006, is hereby further amended by adding at the end thereof the following new paragraph:—

‘(xx) Sales of any ENERGY STAR product. For the purpose of this paragraph, “ENERGY STAR product” shall mean a product that is clearly labeled as such and rated for energy efficiency under the ENERGY STAR program established in section 324A of the Energy Policy and Conservation Act, as it may be amended from time to time, and regulated by the Environmental Protection Agency.’.”

The amendment was *rejected*.

Messrs. Rosenberg and O’Leary move to amend the bill in section 4 by adding at the end of paragraph (a) the following new text: “Components scored by the program shall include, but not be limited to: fixtures, heating, ventilation, air conditioning, building envelope and insulation, lighting, and hot water systems.”

The amendment was adopted.

Messrs. Timilty, Panagiotakos, and Morrissey moved that the bill be amended in section 4, by inserting in line 132 after the word “to” the following word:—

“reasonably”; by inserting at the end of subsection (c) the following sentence:— “These regulations shall provide waivers, including but not limited to those by potential buyers, of the home energy audit conducted under the home energy scoring program and that any construction improvements included within the audit are not required to be performed;” and by inserting the following section:—

“Sec . Any regulations adopted under section 97A of chapter 13 of the General Laws shall not take effect before January 1, 2010.”

The amendment was adopted.

Mr. Panagiotakos moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. (a) Section 9A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:—

When purchasing new motor vehicles, the commonwealth shall purchase hybrid or alternative fuel vehicles, to the maximum feasible extent consistent with the ability of said vehicles to perform their intended duties, at a rate of not less than 5 per cent

annually for all new motor vehicle purchases in order that, taking into account the existing number of such vehicles owned and operated by the commonwealth, not less than 50 per cent of the motor vehicles owned and operated by the commonwealth are hybrid or alternative fuel vehicles by the year 2018. The average fuel consumption, for the entire fleet of passenger vehicles owned or leased by the Commonwealth, except those vehicles used for emergency purposes, security purposes, and special services, shall be equal to or more efficient than the US Corporate Average Fuel Economy (CAFE) Standards as established by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency.

The division of operational services shall forward to the division of energy resources all requests for motor vehicle acquisitions by agencies of the commonwealth. The division of energy resources shall thereafter report to the division of operational services regarding the availability of a hybrid or alternative fuel vehicle that will feasibly achieve the intended use designated by the requesting agency.

The division of capital asset management, in consultation with the division of energy resources, shall develop a system of protocols for the acquisition of alternative fuel vehicles and hybrids, including identifying the potential for acquisition of heavy, medium and light-duty vehicles, based on the anticipated mileage and usage of such vehicles, and the effectiveness of single fuel or dual fuel alternative fuel vehicles for the particular purpose identified.

The division of energy resources shall submit in writing to the secretary of administration and finance, the clerks of the senate and house of representatives and the joint committee on state administration and regulatory oversight an annual statement detailing the progress, as well as any additional information relevant to both the acquisition of hybrid or alternative fuel vehicles by the commonwealth and the acquisition of vehicles by the commonwealth whose average fuel consumption is equal to or more efficient than the US Corporate Average Fuel Economy (CAFE) Standards as established by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency.

(b) The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the division of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the mass purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but not be limited to, the potential cost savings to be derived from the system, the cost of its administration, appropriate purchasers to participate in the system and the probability of its utilization by those purchasers.

The operational services division shall report the findings of the study, and its recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives not later than 1 year after the effective date of this act.”;

By striking out section 1A and inserting in place thereof the following section:—

“SECTION 1A. Chapter 30 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 36A the following section:—

Section 36B. The commissioner of administration shall establish and enforce regulations governing the fuel efficiency standards that all vehicles must meet.”; and

In section 90, by striking out the figure “48” and inserting the following figure:— “47”

The amendment was **adopted**.

The bill, as amended, was then ordered to a third reading and, pursuant to an order previously adopted, read a third time. After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at a quarter past seven o’clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 168**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.

Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38
NAYS — 0.	

The yeas and nays having been completed at twenty minutes past seven o’clock P.M., the bill (Senate, No. 2468, printed as amended) was passed to be engrossed.
Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Morrissey,—

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

On motion of Mr. Panagiotakos, at twenty-one minutes past seven o’clock P.M., the Senate adjourned to meet on the following day at eleven o’clock A.M.