

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.

Thursday, March 6, 2008.

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

Distinguished Guest.

There being no objection, the Chair (Mr. Rosenberg) handed the gavel to Mr. Panagiotakos for the purpose of an introduction. Mr. Panagiotakos then introduced his two dear friends from Lowell, Massachusetts, George Behrakis and Michael Kuenzler. The Senate welcomed them with applause.

Petition.

Mr. O'Leary presented a petition (accompanied by bill, Senate, No. 2535) of Robert A. O'Leary and Eric Turkington (by vote of the regional council of Dukes County) for legislation to authorize the county commissioners of the county of Dukes County to borrow money to replace the roof of a certain courthouse [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Municipalities and Regional Government. Sent to the House for concurrence.**

Reports of Committees.

By Mr. Marzilli, for the committee on Tourism, Arts and Cultural Development, on petition (accompanied by bill, Senate, No. 2008), an Order relative to authorizing the joint committee on Tourism, Arts and Cultural Development to make an investigation and study of a certain current Senate document relative to tourism (Senate, No. 2532);
Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. McGee, for the committee on Labor and Workforce Development, on petition, a Bill relative to the joint labor and management committee (Senate, No. 1095);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1057), a Bill to establish employment leave and safety remedies to victims of domestic violence, stalking and sexual assault (Senate, No. 2528) (Representative Garry of Dracut dissenting);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1103), a Bill to protect social workers from work related injuries (Senate, No. 2529);

By Mr. Galluccio, for the committee on Public Service, on petition, a Bill relative to certain employees of the Massachusetts Department of Fire Services (Senate, No. 1435);

By the same Senator, for the same committee, on petition, a Bill relative to teacher retirement (Senate, No. 1513);

By the same Senator, for the same committee, on petition, a Bill relative to creditable service for teachers (Senate, No. 1541);

By the same Senator, for the same committee, on petition, a Bill relative to defining employees classified in group 4 (Senate, No. 1565, changed in line 3 by striking the words "associate probation officers" and in line 6 by striking the words "associate court officer");

By the same Senator, for the same committee, on Senate, Nos. 1579 and 1638, a Bill relative to the retirement of University of

Massachusetts police (Senate, No. 1638);

By the same Senator, for the same committee, on petition, a Bill adjusting the pension wages of Robert B. Noonan, a retired teacher in the Chelmsford school system (Senate, No. 1642);

By the same Senator, for the same committee, on petition, a Bill authorizing the chief of police to the Massachusetts Bay Transportation Authority Police Department to appoint police cadets under certain circumstances to the police department of said authority summary (Senate, No. 2207, changed by adding at the end of section 1 the following words: "Notwithstanding the forgoing, after 15% of the total number of appointments in any calendar year are made pursuant to the provisions of this act, no additional appointments shall be made hereunder unless and until there are no veterans on the eligible list");

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1683), a Bill concerning the treatment of separated individuals relative to health insurance coverage (Senate, No. 2527); and

By the same Senator, for the same committee, on petition, a Bill relative to nonpublic school service (printed as House, No. 2438);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Augustus, for the committee on Election Laws, on petition, a Bill relative to the administration of political action committees organized by not-for-profit corporations, trade unions, trade associations or chambers of commerce (Senate, No. 438);

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

Committee Discharged.

Ms. Resor, for the committee on Environment, Natural Resources and Agriculture, reported, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 473) of Stephen M. Brewer for legislation to promote alternative energy on farms; and

Of the petition (accompanied by bill, House, No. 788) of Peter V. Kocot and others relative to agricultural production and profitability;

And recommending that the same severally be referred to the Senate committee on Ways and Means.

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

Severally sent to the House for concurrence in the discharge of the joint committee.

PAPERS FROM THE HOUSE.

A communication from the Clerk of the House of Representatives, informing the Senate of the following changes in committees:

Changes in House Standing Committees.

The Speaker announced changes in the House standing committees on Personnel and Administration and Steering Policy and Scheduling.

The membership of said committees is as follows:

Personnel and Administration.	
<i>Representatives:</i>	
Miceli of Wilmington	McMurtry of Dedham
Linsky of Natick	O'Day of West Boylston
Kujawski of Webster	Ross of Wrentham
Stanley of West Newbury	Barrows of Mansfield
Atkins of Concord	Evangelidis of Holden
Fresolo of Worcester	Webster of Hanson
Provost of Somerville	

Steering, Policy and Scheduling.	
<i>Representatives:</i>	
Donato of Medford	Sannicandro of Ashland
Spiliotis of Peabody	Welch of West Springfield
Casey of Winchester	_____ of _____
Eldridge of Acton	Hill of Ipswich
Peisch of Wellesley	Poirier of North Attleborough
Guyer of Dalton	

Changes in Joint Standing Committees.

The Speaker announced changes in the joint standing committees on Bonding, Capital Expenditures and State Assets, Children, Families and Persons with Disabilities, Community Development and Small Business, Consumer Protection and Professional Licensure, Education, Elder Affairs, Higher Education, the Judiciary, Municipalities and Regional Government, Public Safety and Homeland Security, State Administration and Regulatory Oversight, Telecommunications, Utilities and Energy and Transportation.

The membership of said committees on the part of the House is as follows:

Bonding, Capital Expenditures and State Assets.	
<i>Representatives:</i>	
Flynn of Bridgewater	Spiliotis of Peabody
Murphy of Burlington	Canessa of New Bedford
Malia of Boston	Provost of Somerville
Atsalis of Barnstable	Poirier of North Attleborough
Falzone of Saugus	Polito of Shrewsbury
Scibak of South Hadley	

Children Families and Persons with Disabilities.	
<i>Representatives:</i>	
Coakley-Rivera of Springfield	Sannicandro of Ashland
Galvin of Canton	Richardson of Framingham

Atkins of Concord	_____ of _____
Nyman of Hanover	Lepper of Attleboro
L'Italien of Andover	Rogeness of Longmeadow
Grant of Beverly	

Community Development and Small Business.	
<i>Representatives:</i>	
Walsh of Lynn	Speranzo of Pittsfield
Welch of West Springfield	Turner of Dennis
Callahan of Sutton	McCarthy of East Bridgewater
Eldridge of Acton	Polito of Shrewsbury
L'Italien of Andover	Gifford of Wareham
Sciortino of Medford	

Consumer Protection and Professional Licensure.	
<i>Representatives:</i>	
Rodrigues of Westport	Wallace of Boston
Khan of Newton	Calter of Kingston
Kafka of Stoughton	O'Day of West Boylston
Straus of Mattapoisett	Humason of Westfield
Kane of Holyoke	Ross of Wrentham
Spiliotis of Peabody	

Education.
<i>Representatives:</i>

Haddad of Somerset	Sandlin of Agawam
Creedon of Brockton	Basile of Boston
Wolf of Cambridge	_____ of _____
Peisch of Wellesley	Perry of Sandwich
Walz of Boston	Ross of Wrentham
Rice of Gardner	

Elder Affairs.	
<i>Representatives:</i>	
Reinstein of Revere	Allen of Boston
Kafka of Stoughton	Fernandes of Milford
Atkins of Concord	D'Amico of Seekonk
Ayers of Quincy	Poirier of North Attleborough
Lantigua of Lawrence	Frost of Auburn
Provost of Somerville	

Higher Education.	
<i>Representatives:</i>	
Murphy of Lowell	Calter of Kingston
Speliotis of Danvers	DeNatali of Fitchburg
Sullivan of Fall River	_____ of _____
Callahan of Sutton	Humason of Westfield
Donelan of Orange	Peterson of Grafton
Pignatelli of Lenox	

The Judiciary.	
<i>Representatives:</i>	
O'Flaherty of Chelsea	Keenan of Salem
Finegold of Andover	Walz of Boston
Naughton of Clinton	Fernandes of Milford
Murphy of Weymouth	Evangelidis of Holden
Peisch of Wellesley	Webster of Hanson
Curran of Springfield	

Municipalities and Regional Government.*Representatives:*

Pedone of Worcester	O'Day of West Boylston
Walsh of Boston	McMurtry of Dedham
Patrick of Falmouth	_____ of _____
Canessa of New Bedford	Barrows of Mansfield
Guyer of Dalton	Smola of Palmer
Peake of Provincetown	

Public Safety and Homeland Security.*Representatives:*

Costello of Newburyport	Alicea of Charlton
Naughton of Clinton	DeNatali of Fitchburg
Toomey of Cambridge	_____ of _____
Ayers of Quincy	Perry of Sandwich
Donelan of Orange	Hill of Ipswich
Rush of Boston	

State Administration and Regulatory Oversight.*Representatives:*

Cabral of New Bedford	Rush of Boston
Kennedy of Brockton	Rice of Gardner
Khan of Newton	Brownsberger of Belmont
Fallon of Malden	Gifford of Wareham
Linsky of Natick	Hill of Ipswich
Patrick of Falmouth	

Telecommunications, Utilities and Energy.

<i>Representatives:</i>	
Dempsey of Haverhill	Campbell of Methuen
Kane of Holyoke	Puppolo of Springfield
Patrick of Falmouth	Basile of Boston
Keenan of Salem	Smola of Palmer
Forry of Boston	deMacedo of Plymouth
Moran of Boston	

Transportation.	
<i>Representatives:</i>	
Wagner of Chicopee	Fernandes of Milford
Fennell of Lynn	Sandlin of Agawam
Timilty of Milton	Smith of Everett
Canessa of New Bedford	Basile of Boston
Flanagan of Leominster	Loscocco of Holliston
Natale of Woburn	Humason of Westfield,—
Sciortino of Medford	was placed on file.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4583) of Michael A. Costello (by vote of the town) relative to limiting the use of eminent domain in the town of Amesbury; and

Joint petition (accompanied by bill, House, No. 4584) of Rachel Kaprielian and Steven A. Tolman (by vote of the town) authorizing the appointment to the Board of Trustees of the public library in the city known as the town of Watertown.

Severally to the committee on Municipalities and Regional Government.

A Bill relative to nursing facility and long term care claims (House, No. 1134,— on House, Nos. 1134 and 1135),— **was read and, under Senate Rule 26; referred to the committee on Ethics and Rules.**

Reports

Of the committee on Financial Services, asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 3771) of Michael A. Costello and others for legislation to require that certain consumer reporting agencies provide annual credit reports to consumers free of charge,— **and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure.**

Of the petition (accompanied by bill, House, No. 4421) of Cory Atkins that the town of Concord be authorized to establish a post-retirement group insurance trust fund,— **and recommending that the same be referred to the committee on Public Service.**

Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.

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

The Senator from Hampden and Hampshire, Mr. Knapik, led the Chair (Mr. Rosenberg), members, guests and employees in reciting the pledge of allegiance to the flag.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—
Resolutions (filed by Messrs. Antonioni and Brewer and Ms. Resor) “congratulating the Gardner High School Girl’s Swim Team on the occasion of winning its fifteenth consecutive state championship”;
Resolutions (filed by Mr. Augustus) “recognizing the fiftieth anniversary of The Grafton News”; and
Resolutions (filed by Mr. Hart) “congratulating visiting master chefs from Ireland, Northern Ireland and Canada for their participation in Irish culinary cultural events.”

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill relative to town employees of the town of West Tisbury (House, No. 4102),— **was read a second time and, after remarks, was ordered to a third reading.**

The House Bill authorizing the town of Tewksbury to lease land conveyed for cemetery and recreation purposes (House, No. 4135),— **was read a second time and, after remarks, was ordered to a third reading.**

The House Bill relative to administrative oversight of the hiring process in the town of West Boylston (House, No. 4099),— **was read a second time and, after remarks, was ordered to a third reading.**

The Senate Bill relative to the appointment of executive secretaries and town managers (Senate, No. 1204) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time.**

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at three o’clock P.M., on motion of Mr. Timilty, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 184**]:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Candaras, Gale D.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Downing, Benjamin B.	Panagiotakos, Steven C.
Fargo, Susan C.	Petrucelli, Anthony
Galluccio, Anthony D.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Jehlen, Patricia D.	Tarr, Bruce E.
Joyce, Brian A.	Timilty, James E.
Knapik, Michael R.	Tisei, Richard R.
Marzilli, Jim	Tolman, Steven A.
Menard, Joan M.	Tucker, Susan C.
Montigny, Mark C.	Walsh, Marian
Moore, Richard T.	Wilkerson, Dianne — 36.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	McGee, Thomas M. — 3.
Brown, Scott P.	

The yeas and nays having been completed at eleven minutes past three o’clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

The Senate Resolve providing for an investigation and study by a special commission relative to the establishment of a statewide law enforcement training program (Senate, No. 1342, amended) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Augustus moved that the resolve be amended by inserting after the words “the Massachusetts Chiefs of Police Association,” the following words:— “the Massachusetts Coalition of Police,”.

The amendment was adopted.

Ms. Creem moved that the resolve be amended in the first paragraph, by adding the following 2 sentences:— “The commission shall also study and make recommendations relative to the training provided to law enforcement officers in handling incidents involving persons with mental illness. The commission shall conduct at least 1 public hearing.”

The amendment was adopted.

The resolve (Senate, No. 1342, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill increasing the local property tax relief to nonprofit veterans’ organizations in certain cities and towns (House, No. 3045) (its title having been **changed by the committee on Bills in the Third Reading**),— was read a third time and, after remarks, was passed to be engrossed, in concurrence.

The engrossed Bill further regulating employee compensation (see Senate, No. 1059) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was laid before the Senate,— **the question being on passing the bill to be re-enacted.**

After debate, Mr. Knapik moved that the matter be laid upon the table; and, in accordance with the provisions of Senate Rule 24, the motion to lay on the table was placed in the Orders of the Day for the next session.

The Senate Bill relative to the Massachusetts Global Warming Solutions Act (Senate, No. 2531),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Hart moved that the bill be amended by inserting after section 9 the following section:—

“SECTION 9A. Chapter 30 of the General Laws, as so appearing, is hereby amended by inserting after section 39S the following section:—

Section 39T. (a) For the purposes of this section only, the following terms shall have the following meanings:

‘Best Available Retrofit Technology’, technology, verified by the United States Environmental Protection Agency or California Air Resources Board for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies that is applicable to the particular engine and application, as determined by the department. Such technology shall in no event result in a net increase in the emission of nitrogen oxides.

‘Heavy-duty vehicle’, any vehicle powered by diesel fuel and having a gross vehicle weight of greater than 14,000 pounds.

‘Ultra low sulfur diesel fuel’, diesel fuel having sulfur content of 0.0015 per cent of sulfur or less.

(b) A heavy-duty vehicle that is owned or operated by or on behalf of, or leased by or operating under a contract with, an agency or authority of the commonwealth or a regional public authority shall be powered by ultra low sulfur diesel fuel.

(c) A heavy-duty vehicle that is operating under a contract with an agency of the commonwealth or with a regional public authority or an authority of the commonwealth with more than half of its governing body appointed by the governor shall utilize best available retrofit technology for reducing the emission of pollutants. The commissioner of environmental protection shall promulgate regulations for the implementation of this subsection

(d) The commissioner shall adopt such regulations as he deems necessary to carry out this section including, but not limited to, provisions for waivers upon a written finding by the commissioner that best available retrofit technology for reducing the emissions of pollutants as required by subsection (c) is not available for an individual vehicle or a class of vehicles.

(e) The commissioner shall report annually to the governor and the general court on the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology as required under this section. The report shall include, but not be limited to, for each state agency and public authority subject to this section the following information:

(1) the total number of motor vehicles owned or operated by the agency or authority;

(2) the number of motor vehicles that were powered by ultra low sulfur diesel fuel;

(3) the total number of diesel fuel-powered motor vehicles owned or operated by the agency or authority that are heavy-duty vehicles;

(4) the number of vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle;

(5) the number of motor vehicles equipped with an engine certified to the applicable 2007 United States Environmental Protection Agency standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or any subsequent standard for particulate matter that is at least as stringent; and

(6) all waivers, findings and renewals of such findings which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by an agency or authority; specific information concerning the availability of ultra low sulfur diesel fuel.

(h) The department shall, to the extent practicable, coordinate with regions which have proposed or adopted heavy duty emission inspection programs to promote regional consistency in such programs.

The regulations to be promulgated by the commissioner of environmental protection pursuant to subsection (c) of section 39T of

chapter 30 of the General Laws, shall include procedures for compliance according to the following schedule:

- (1) at least 33 per cent of the vehicles subject to said subsection (c) of said section 39T of said chapter 30 shall employ best available retrofit technology not later than December 31, 2008;
- (2) at least 66 per cent of the vehicles subject to said subsection (c) of said section 39T of said chapter 30 shall employ best available retrofit technology not later than December 31, 2009; and
- (3) not later than December 31, 2010, all vehicles subject to said subsection (c) of said section 39T of said chapter 30 shall employ best available retrofit.

SECTION _____. Section 39T of chapter 30 of the General Laws shall not apply to:

- (1) vehicles subject to leases or public works contracts entered into or renewed prior to July 1, 2008;
- (2) vehicles specially equipped for emergency response by a state authority, office of emergency management, sheriff's office, police department or fire department;
- (3) timber harvesting equipment, including harvesters, wood chippers, log skidders and other processing equipment used exclusively off highway for timber harvesting and logging purposes, and farm equipment;
- (4) on-road vehicles sold as new in compliance with the 2007 Heavy-duty Highway Diesel standards promulgated by the United States Environmental Protection in 2001 and published in the Federal Register at 66 Fed. Reg. 5002 on January 18, 2001, or
- (5) non-road vehicles sold as new in compliance with the Tier 4 Non-road Diesel Standards promulgated by the United States Environmental Protection Agency and published in the Federal Register at 69 Fed. Reg. 38958 on June 29, 2004."

The amendment was *rejected*.

Mr. Hart moved that the bill be amended by inserting after section 9 the following section:—

"SECTION 9A. Chapter 30 of the General Laws is hereby amended by inserting after section 39S the following section:—

Section 39T. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

'Best available retrofit technology', technology, verified by the United States Environmental Protection Agency or the California Air Resources Board for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies that is applicable to the particular classes of engines and applications, as determined by the department. Such technology shall not result in a net increase in the emission of nitrogen oxides.

'Level 2 Control', a Verified Diesel Emission Control Device that achieves a particulate matter (PM) emission reduction of 50% or more compared to uncontrolled engine emission levels.

'Level 3 Control', a Verified Diesel Emission Control Device that achieves a particulate matter (PM) emission reduction of 85% or more compared to uncontrolled engine emission levels, or that reduces emissions to less than or equal to 0.01 grams of PM per brake horsepower-hour. Level 3 Control includes repowering or replacing the existing diesel engine with an engine meeting United States Environmental Protection Agency's 2007 Heavy-duty Highway Diesel Standards, or in the case of a nonroad engine, an engine meeting the United States Environmental Protection Agency's Tier 4 Nonroad Diesel Standards.

(b) Any diesel powered waste collection and recycling vehicle that is contracted to perform the removal or transfer of municipal waste, including residential or commercial waste, or recycling services shall utilize best available retrofit technology for reducing the emission of pollutants. As of January 1, 2012, no waste collection or recycling vehicle may be permitted to register without proper demonstration of the required best available retrofit technology. The commissioner shall promulgate regulations including but not limited to the determination of best available retrofit technology for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies that is applicable to the particular classes of engines and applications, the provision of waivers upon written finding by the commissioner that best available retrofit technology for reducing the emissions of pollutants as required this subdivision is not available for an individual vehicle or class of vehicles, and the implementation of this subdivision specifying procedures for compliance according to the following schedule:

(1) Not less than 25 percent of the vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2008.

(2) Not less than 50 percent of the vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2009.

(3) Not less than 75 percent of the vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2010.

(4) All vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2011.

(c) On or before January 1, 2009 and every year thereafter, the Commissioner shall report to the Governor and Legislature on the use of level 3 and level 2 control retrofit technology on waste collection and recycling vehicles required under this section. The information contained in this report shall include, but not be limited to:

(1) the total number of diesel fuel-powered waste collection and recycling vehicles covered by this section;

(2) the number of such diesel vehicles that were powered by ultra low sulfur diesel fuel;

(3) the total number of diesel fuel-powered waste collection and recycling vehicles having a gross vehicle weight rating of more than 14,000 pounds;

(4) the number of such vehicles between and including model years 1994 and 2006;

(5) the number of such vehicles between and including model years 1994 and 2006 that utilized level 3 control retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle;

- (6) the number of such vehicles in model years 1993 and earlier;
 - (7) the number of such vehicles in model years 1993 and earlier that utilized level 2 control retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle;
 - (8) the number of diesel waste collection and recycling vehicles that are equipped with an engine certified to the applicable 2007 United States Environmental Protection Agency standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent United States Environmental Protection Agency standard for particulate matter that is at least as stringent; and
 - (9) all waivers, findings, and renewals of such findings, which, for each waiver, shall include but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency and authority; specific information concerning the availability of ultra low sulfur diesel fuel.
- (d) This section shall not apply to:
- (1) any vehicle subject to a lease or public works contract entered into or renewed prior to July 1, 2008;
 - (2) any on-road vehicle sold as "new" in compliance with the United States Environmental Protection Agency's 2007 Heavy-duty Highway Diesel Standards promulgated by United States Environmental Protection Agency and published in the Federal Register at 66 Fed. Reg. 5002 on January 18, 2001, or
 - (3) any non-road vehicle sold as 'new' in compliance with the United States Environmental Protection Agency's Tier 4 Non-road Diesel Standards promulgated by United States Environmental Protection Agency and published in the Federal Register at 69 Fed. Reg. 38958 on June 29, 2004.
- (e) This section shall not apply, where federal law precludes the state from imposing the requirement of this section."
- The amendment was *rejected*.

Messrs. Galluccio and Tarr moved that the bill be amended by inserting after section 11 the following section:—

"SECTION 11A. (a) The secretary of energy and environmental affairs, in consultation with the climate change adaptation advisory board, shall develop an environmental efficiency disclosure form within 1 year after the effective date of this act setting forth environmentally-efficient building standards, designs and construction materials currently available that would reduce energy and utility consumption in a completed building or structure. The disclosure form shall be updated at least once annually to incorporate the latest energy conservation technologies.

(b) The secretary, in consultation with the climate change adaptation advisory board, shall establish a threshold for the value of the work being performed that would require submission of the disclosure form.

(c) The disclosure form shall be provided to each local building authority and shall be used as part of the building permit process established by the state building code, but no additional fees shall be imposed or collected in connection with the form. No building permit shall issue until the local building authority has received the completed disclosure form, signed until the pains and penalties of perjury by the property owner and any construction supervisor seeking to obtain a building permit.

(d) Within 90 days after the disclosure form and standards have been developed, the board of building regulations and standards shall adopt regulations requiring the submission of the disclosure form as part of the building permit process and shall conform the building code to the provisions of this section."

The amendment was adopted.

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

"SECTION 23. All regulations promulgated pursuant to this act shall be submitted to the clerks of the senate and house of representatives, the house and senate chairs of the joint committee on the environment, natural resources and agriculture, the house and senate chairs of the joint committee on telecommunications, utilities and energy and the chairs of the house and senate committees on ways and means not less than 60 days prior to their promulgation."

The amendment was adopted.

Messrs. Tarr and Downing moved that the bill be amended by striking out section 11 and inserting in place thereof the following section:—

"SECTION 11. The governor and the secretary of energy and environmental affairs shall, to the extent possible, develop and enter into an agreement among those states participating in the Regional Greenhouse Gas Initiative, for the purpose of implementing a Low Carbon Fuel Standard, hereinafter referred to as LCFS, for transportation fuels by June 30, 2010; provided, however, that, whenever possible:

- 1) the LCFS shall be measured on a full fuels cycle basis;
- 2) the LCFS may be met through market-based methods by which providers exceeding the performance required by a LCFS shall receive credits that may be applied to future obligations or traded to providers not meeting the LCFS;
- 3) the agreement shall establish a declining standard for greenhouse gas emissions measured in carbon dioxide-equivalent grams per unit of fuel energy sold, sufficient to achieve a 10 per cent reduction in the carbon content of all passenger vehicle fuels sold in participating states by 2020;
- 4) the states participating in the agreement shall examine the regulations and implementation of a low carbon fuel standard in California and other states and consider ways to coordinate and issue public findings on both such matters, and shall, if applicable, use the life-cycle analysis methods employed by the California Air Resources Board in the agreement to determine the carbon intensity of fuel."

The amendment was adopted.

Mr. Hedlund moved that the bill be amended by inserting after section 11 the following section:—

“SECTION 11A. Notwithstanding any general or special law or rule or regulation to the contrary, the executive office shall conduct a study into the legalization of zero emission 4-wheel neighborhood electric vehicles whose speed attainable in 1 mile is more than 20 miles per hour but not more than 25 miles per hour on a paved level surface.

The executive office shall file its report and recommendations, together with any drafts of legislation necessary to carry those recommendations into effect, by filing the same with the senate and house chairs of the joint committee on transportation not later than December 1, 2008.”

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting after section 11 the following new section:—

“SECTION 11A. The registry of motor vehicles shall include a section dedicated to the environmental impacts of vehicle idling and anti-vehicle idling advocacy as part of the official drivers’ manual.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by striking out section 9 and inserting in place thereof the following section:—

“SECTION 9. Section 1. The secretary of energy and environmental affairs, in consultation with the secretary of housing and economic 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 secretary shall annually report to the clerk’s of the house of representatives and 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 time frame no later than April 1 of each year commencing April 1 in the year following the adoption of this act.

Section 2. Within the executive office of energy and environmental affairs 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. Certification shall be granted to any buildings who achieve at minimum the energy efficiency requirements of the state building code by 30 per cent, or

(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.

The secretary require for certification that buildings be constructed to the greater of the aforementioned energy efficiency standards with respect to each project.

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 as certified under the provisions of subsection 2 of this section. Incentive points may be allocated up to 2 per cent of the total project cost for qualifying projects, subject to appropriation.

(b) The executive office of energy and environmental affairs 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; and by inserting after section 10 the following section:—

SECTION 10A. Section 10 of chapter 40A of the General Laws, as so appearing, is hereby amended by inserting after the word ‘appellant’, in line 12, the following words:— 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, or said building shall achieve at minimum the energy efficiency requirements of the state building code by 30 per cent said building, whichever efficiency is greater, in which case the petitioner shall be eligible for a height variance of up to three floors; provided further, that such petitioner eligible for a density variance of up to .20 FAR.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by striking out section 4 and inserting in place thereof the following section:—

“SECTION 4. The secretary of energy and environmental affairs, in consultation with the secretary of housing and economic development and the secretary of labor and workforce development, shall issue a report detailing any barriers to the development,

attraction and retention of renewable energy and energy efficiency sectors, including manufacturing and research and development. The report shall include examinations of current tax and regulatory laws which may inhibit the development of such sectors, as well as access to capital and infrastructure. The report shall analyze and make recommendations for workforce development and training programs, including the promotion of growth of the clean energy economy by identifying and maintaining well-trained skilled workers and addressing emerging skills gaps in the clean energy industry. The report shall identify opportunities for training for low-income and disadvantaged adults. The secretary shall submit his report 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 6 months after the effective date of this act.”; and by striking out section 8.

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended, in section 7, by inserting after the word “Canada”, in line 173, the following:— “, China, India”.

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended, in section 7, in proposed section 7 of proposed chapter 21N, in subsection (e), by adding the following sentence:— “Determinations of what shall constitute a violation shall be clearly established by the secretary prior to the imposition of any civil administrative penalty.”

The amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting after section 11 the following section:—

“SECTION 11A. Notwithstanding any general or special law to the contrary, a provider of services certified under this section which contracts with an agency to provide services, shall not be subject to sections 52 to 56 of chapter 7 of the General Laws. The secretary of energy and environmental affairs, in consultation with the secretary of housing and economic development, shall certify a private services providers as a ‘Green Services Provider’ when the provider demonstrates that he has a plan in place to reduce the carbon footprint, which shall be the total amount of carbon dioxide and other greenhouse gases emitted over the full life cycle of a service, by not less than 10 per cent in a given year. In any year where the plan for such a reduction can be established such provider shall be certified.”

The amendment was *rejected*.

Mr. Marzilli moved that the bill be amended by inserting after section 11 the following section:—

“SECTION 11B. The department of highways shall evaluate highway lighting to explore cost-saving measures, such as replacing existing fixtures with lower-watt, full cut-off fixtures or eliminating lighting altogether, where appropriate, and report to the division of energy resources annually. The first report due under this section shall be submitted not later than August 31, 2008.”

The amendment was adopted.

Mr. Morrissey and Ms. Menard moved that the bill be amended, in section 7, in proposed chapter 21N, by striking out section 11. Pending the question on adoption of the amendment, Mr. O’Leary and Ms. Menard moved to amend the amendment (Morrissey/Menard) by striking out the text and inserting in place thereof the following:— “in section 7, in proposed chapter 21N, by striking out section 11 and inserting in place thereof the following section:—

Section 11. The commonwealth shall not issue permits for the construction of new base-load power plants, as defined by ISO New England, or expansion of an existing base-load power plant if the power plant would have an emissions rate of more than 1,100 lbs of carbon dioxide per megawatt-hour. Further, technologies for electric generation that qualify for energy portfolio standards shall have a net emissions rate which shall not exceed the emissions rate of a new natural gas combined cycle power plant, inclusive of all emissions related to thermal delivery, combustion, gasification, fuel processing and sequestration, whether or not such activities occur at the generating source or at another location. This section shall not apply to research and development projects approved by the secretary of energy and environmental affairs.”; and by inserting after section 19 the following section:

“SECTION 19A. Section 11 of chapter 21N of the General Laws shall not apply to existing base-load units that increase output without increasing carbon dioxide emissions.”

The further amendment was adopted.

The pending amendment (Morrissey/Menard) was the adopted, as amended. Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended, in section 10, by adding the following paragraph:—

“Such consideration shall be limited to regulatory decisions which shall have a direct and significant impact on greenhouse gas emissions or other climate or environmental impacts. Nothing in this section shall require the hiring of additional personnel solely for compliance with this section.”

After debate, the amendment was adopted.

The bill (Senate, No. 2531, amended) was then passed to be engrossed [For text of bill, printed as amended, see Senate, No. 2540].

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Engrossed Bill – Land Taking for Conservation, Etc.

An engrossed Bill authorizing the town of Templeton to exchange a parcel of conservation land for a larger parcel to be held for conservation purposes (see Senate, No. 2318) (which originated in the Senate), 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-three minutes past four o'clock P.M., as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 185**]:

YEAS.

Antonioni, Robert A.	Brewer, Stephen M.
Augustus, Edward M., Jr.	Buoniconti, Stephen J.
Baddour, Steven A.	Candaras, Gale D.
Chandler, Harriette L.	Morrissey, Michael W.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Downing, Benjamin B.	Panagiotakos, Steven C.
Fargo, Susan C.	Petrucelli, Anthony
Galluccio, Anthony D.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Hedlund, Robert L.	Spilka, Karen E.
Jehlen, Patricia D.	Tarr, Bruce E.
Joyce, Brian A.	Timilty, James E.
Knapik, Michael R.	Tisei, Richard R.
Marzilli, Jim	Tolman, Steven A.
Menard, Joan M.	Tucker, Susan C.
Montigny, Mark C.	Walsh, Marian
Moore, Richard T.	Wilkerson, Dianne — 36.

NAYS — 0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	McGee, Thomas M. — 3.
Brown, Scott P.	

The yeas and nays having been completed at twenty-six minutes past four 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 Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows: The Senate Sill authorizing the establishment of the Whitin Resevior Watershed District in the town of Douglas (Senate, No. 2344) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House Bill establishing a charter for the town of Medway (House, No. 4460),— was read a third time and passed to be engrossed, in concurrence.

Reports of Committees.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert S. Creedon, Jr. for legislation relative to veterans' benefits.

Senate Rule 36 was suspended, on motion of Ms. Walsh, and the report was considered forthwith. Joint Rule 12 was

suspended; and the petition (accompanied by bill) was referred to the committee on Municipalities and Regional Government.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Edward M. Augustus, Jr., George N. Peterson, Jr. and Richard T. Moore for legislation relative to retirement benefits for Richard Greco.

Senate Rule 36 was suspended, on motion of Ms. Walsh, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4585) of Daniel E. Bosley that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the city of North Adams to said city;

Under suspension of Joint Rule 12, to the committee on Bonding, Capital Expenditures and State Assets.

Petition (accompanied by bill, House, No. 4586) of Ronald Mariano relative to the establishment of the South Shore Tri-Town Development Corporation and, the redevelopment of the former Naval Air Station in South Weymouth;

Under suspension of Joint Rules 12 and 9, to the committee on Community Development and Small Business.

Petition (accompanied by bill, House, No. 4588) of Robert Clavin for legislation to authorize the taking of striped bass by spearing;

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

Petition (accompanied by bill, House, No. 4587) of Robert P. Spellane and others relative to health care cost in the Commonwealth;

Under suspension of Joint Rule 12, to the committee on Health Care Financing.

Engrossed Bill.

An engrossed Bill providing for recall elections in the town of Wrentham (see Senate, No. 2290) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

The House Bill relative to child abuse and neglect (House, No. 4333, amended), came from the House with the endorsement that the House had NON-concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2520, printed as amended; and by striking out the title and inserting in place thereof the following title: "An Act to protect the children of the Commonwealth".

On motion of Ms. Spilka, the Senate insisted in its amendment, and concurred in the appointment of a committee of conference; and Senators Spilka, Rosenberg and Knapik were appointed to the committee on the part of the Senate. The bill was returned to the House endorsed accordingly.

Order Adopted.

On motion of Mr. Tolman,—

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

Moment of Silence.

At the request of the Chair (Mr. Rosenberg), the members, guests and employees stood in a moment of silence and reflection to the memory of Florence Rubin.

Adjournment in Memory of Florence Rubin.

The Senator from Middlesex and Norfolk, Ms. Creem, requested that when the Senate adjourns today, it adjourn in memory of Florence Rubin of Newton, Massachusetts.

Florence Rubin, 83, died of a heart attack Tuesday, February 26, 2008. She was a community activist of such magnitude that Newton Mayor Theodore Mann declared May 20, 1977 Florence Rubin Day when she retired from the Massachusetts League of Women Voters Presidency. For more than 50 years, Mrs. Rubin led organizations and urged citizen participation in political, judicial and school associations. Four years ago, the Boston Bar Association honored her for her "outstanding commitment to democracy and justice" for her tireless efforts in developing the Middlesex Multi-Door Courthouse, which offers more time-efficient alternatives to litigation, such as mediation and arbitration. Florence Rubin was a woman who clearly cared about making our community a better place. She will be missed by her family and friends in Newton and beyond.

Accordingly, as a mark of respect to the memory of Florence Rubin, at twenty-six minutes before five o'clock P.M., on motion of Mr. Buoniconti, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.