

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, July 17, 2008.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Resor and Ms. Fargo for the purpose of an introduction. Ms. Resor then introduced Benjamin Papapietro of Sudbury, Massachusetts. Ben was recognized for his bravery in assisting passengers after the Green Line trolley crash on May 28, 2008. Ms. Fargo also praised Ben for his heroic efforts and presented him with a Senate Citation. He was accompanied by his parents, Lisa and Joe, as well as Representative Thomas Conroy. The Senate applauded his courageous efforts and he withdrew from the Chamber.

There being no objection, the President handed the gavel to Mr. Tolman for the purpose of an introduction. Mr. Tolman then introduced a group of students from Saint Columbkille's Elementary School in Brighton, Massachusetts. The students were on a class field trip to the State House and learning about the different aspects of government and its history. They were accompanied by Representative Kevin Honan who also spoke and led the Senate in applause welcoming the students to the State House.

Reports of a Committee.

By Mr. Petrucci, for the committee on Municipalities and Regional Government, on the recommitted petition, a Bill to amend the town charter of Sandwich (Senate, No. 2680) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill relative to the town of Kingston (Senate, No. 2690) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill authorizing the town of Kingston to install, finance and operate wind energy facilities (Senate, No. 2691) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill relative to the appointment of the board of assessors, town collector and town treasurer in the town of Orange (Senate, No. 2788) [Local approval received];

Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Committee Discharged.

Mr. Downing, for the committee on Ethics and Rules, reported, asking to be discharged from further consideration of the House Bill relative to equality in the MassHealth program (House, No. 4107),— **and recommending that the same be referred to the Senate committee on Ways and Means.**

Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4975) of George N. Peterson, Jr., and Edward M. Augustus, Jr., (by vote of the town)

for legislation to establish the position of town manager of the town of Upton under the jurisdiction of the board of selectmen of said town; and

Petition (accompanied by bill, House, No. 4976) of George N. Peterson, Jr., and Edward M. Augustus, Jr., (by vote of the town) for legislation to repeal the law establishing a department of finance in the town of Upton;

Severally to the committee on Municipalities and Regional Government.

Bills

Authorizing and directing the Commissioner of Capital Asset Management and Maintenance to convey certain land in the town of Westport (House, No. 4949,— on House, No. 4664); and

Establishing the Massachusetts Creative Economy Council (House, No. 4965,— on House, No. 4227);

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

Bills

Authorizing the consolidation of certain public hearings (House, No. 3234,— on petition); and

Relative to kayak safety (House, No. 4981,— on House, No. 2382) ;

Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

A Bill relative to affordable housing in the town of Chelmsford (House, No. 4758,— on petition) [Local approval received],— was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Recess.

There being no objection, at four minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess; and at five minutes past three 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.

Communications.

The Clerk read the following communications:

COMMONWEALTH OF MASSACHUSETTS
SENATE MAJORITY LEADER
STATE HOUSE, BOSTON 02133-1053

July 16, 2008.

William Welch, Clerk
Massachusetts State Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

Due to a previously scheduled doctor's appointment, I was unable to vote on several matters that came before the Senate on July 15, 2008. Had I been present, I would have voted in the following manner:

- Yes, S. 2804
- No, Amendment #2 to H. 4811
- No, Amendment #4 to H. 4811
- No, Amendment #6 to H. 4811
- No, Amendment #8 to H. 4811
- No, Amendment #9 to H. 4811
- No, Amendment #11 to H. 4811
- Yes, H. 4811

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for July 15, 2008. Thank you in advance for your attention to this important matter.

Frederick E. Berry,
Majority Leader.

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

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

July 15, 2008.

William Welch, Clerk
Massachusetts State Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

Due to a previous commitment, on July 10, 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:

Yes, H. 4706, An Act Relative to Early Education and Care.

Yes, H. 4864, An Act Establishing and Funding the Massachusetts Broadband Institute.

Yes, Amendment #114 relative to S. 2790 An Act Financing Improvements to the Commonwealth's Transportation System.

Yes, Amendment #188 relative to S. 2790 An Act Financing Improvements to the Commonwealth's Transportation System.

Yes, H. 4846, An Act Financing Improvements to the Commonwealth's Transportation System,

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for July 10, 2008. Thank you in advance for your attention to this important matter.

Cynthia S. Creem,
State Senator.

On motion of Ms. Jehlen, the above communication was ordered printed in the Journal of the Senate.

PAPERS FROM THE HOUSE.
Emergency Preambles Adopted.

An engrossed Bill establishing a sick leave bank for Shannon Crouse, an employee of the Trial Court (see House, No. 4866, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 10 to 0.

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Mary Mercurio, an employee of the Department of Social Services (see House, No. 4868, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble, was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 11 to 0.

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services (see House, No. 4882, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 8 to 0.**

The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Authorizing the city of Cambridge to abate certain fiscal year 2003 real property taxes (see House, No. 4081);

Relative to the leasing of certain property in the city of Waltham (see House, No. 4636); and

Further protecting children (see House, No. 4811, amended).

Engrossed Bills — Land Takings for Conservation. Etc.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to transfer control of a certain parcel of land in the town of Lexington (see House, No. 4202) (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 fourteen minutes past three o'clock P.M., as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 279**]:

YEAS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at seventeen minutes past three 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.

An engrossed Bill authorizing the granting of an easement by the town of Sharon (see House Bill, printed in House, No. 4738) (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 minutes past three o'clock P.M., as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 280**]:

YEAS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at twenty-one minutes past three 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.

Engrossed Bills Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill requiring the Department of Revenue to report preliminary tax revenue (see House, No. 4958), being the text contained in Section 8 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900) [for message, see attachment C of House, No. 4957],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment, as follows:

Striking out all after the enacting clause and inserting in place thereof the following:

“Section 6 of chapter 14 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

8. Shall prepare and submit a bimonthly report of preliminary tax revenue collected each month. The commissioner shall submit these reports to the governor, the chair and ranking member of the house committee on ways and means and the chair and ranking member of the senate committee on ways and means, on or before the third business day following the fifteenth day of each month and on or before the third business day of the following month; provided, however, that the commissioner shall

submit the report for June on the day after the department completes the processing of June tax revenues.”.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

After remarks, the question on the adoption of the Governor’s recommendation of amendment was determined by a call of the yeas and nays, at twenty-nine minutes past three o’clock P.M., as follows, to wit (*yeas 0 — nays 36*) [**Yeas and Nays No. 281**]:

YEAS. — 0.	
NAYS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

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

The House amendment was then considered; and it was adopted, in concurrence.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill establishing the regional efficiency assistance grant fund (see House, No. 4960), being the text contained in Section 94 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900) [for message, see attachment E of House, No. 4957],—
came from the House with the endorsement that the House had rejected the amendment recommended by the Governor.
The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Panagiotakos, and the Governor’s amendment was considered forthwith and

rejected, in concurrence.

Sent to the House for re-enactment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill requiring a report of expenditure of the Division of Capital Management and Maintenance (see House, No. 4961), being the text contained in Section 107 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900), which had been returned by His Excellency the Governor with recommendation of amendment [for message, see attachment F of House, No. 4957],— **came from the House with the endorsement that the House had rejected the amendment recommended by the Governor.**

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The question on the adoption of the Governor's recommendation of amendment was determined by a call of the yeas and nays, at seven minutes before four o'clock P.M., as follows, to wit (*yeas 0 — nays 36*) [**Yeas and Nays No. 282**]:

YEAS. — 0.	
NAYS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at four minutes before four o'clock P.M., the Governor's amendment was rejected, in concurrence.

Sent to the House for re-enactment.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To the Office of the Chief of the Marblehead Fire Department (Senate, No. 2758); and

Authorizing the city of Fall River to increase the pension payable to Dennis O'Neil (House, No. 3980);

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

The Senate Bill preserving publicly assisted affordable housing (Senate, No. 782),— **was read a second time.**

Pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2799), and pending the main question on ordering the bill to a third reading, Ms. Tucker moved that proposed new draft be amended in section 4(a), by inserting after the words “provided the owner complies with this section”; the following:—“Thereafter, the owner again shall be subject to the notice provision of subsection (c) of section (2).”

After remarks, the amendment was adopted.

Ms. Tucker moved that the proposed new draft be further amended in section 1 in the definition of “Regulatory Agreement”, by striking the words “and which shall not be applied to limit an owner from receiving any rents otherwise allowable under federal law” and inserting the following:— “provided that in any project that is eligible for participation in the HUD mark up to market program, the restriction, insofar as it relates to the limiting of the level of rents, shall not apply to units covered by a section 8 housing assistance payment contract so long as such contract is effective.”

After remarks, the amendment was adopted.

The pending Ways and Means new draft, as amended, was then adopted.

The bill (Senate, No. 2799, amended) was then ordered to a third reading.

The rules were suspended, on motion of Ms. Tucker, and the bill was read a third time.

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at six minutes past four o'clock P.M., on motion of Ms. Tucker, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 283**]:

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

	36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

**The yeas and nays having been completed at nine minutes past four o'clock P.M., the bill was passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act further regulating publicly-assisted affordable housing for certain low income residents".
Sent to the House for concurrence.**

The Senate Bill relative to nonpublic school service (Senate, No. 1631, amended) (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 Senate Bill relative to the retirement benefits of emergency medical technicians (Senate, No. 2659, amended),— **was read a third time and, after remarks, was passed to be engrossed.
Sent to the House for concurrence.**

The Senate Bill relative to the Massachusetts Convention Center Authority (Senate, No. 2793) (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.
Sent to the House for concurrence.**

The Senate Bill relative to election day registration (Senate, No. 2807),— **was read a third time.
Pending the question on passing the bill to be engrossed, Mr. Tisei moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.**

The House Bill relative to clean energy biofuels (House, No. 4951),— **was read a third time.**
Pending the question on passing the bill to be engrossed, Mr. Panagiotakos moved that the bill be amended in section 1, by striking out the first paragraph in proposed section 1A of chapter 64A of the General Laws and inserting in place thereof the following paragraph:—
"Notwithstanding the definition of 'tax per gallon' in section 1 and subject to section 20 of chapter 29, for fuel consisting of eligible cellulosic biofuel or of a blend of gasoline and eligible cellulosic biofuel, the tax per gallon shall be reduced in proportion to the percentage of the fuel content consisting of eligible cellulosic biofuel, measured by available energy content, as determined by the division of energy resources, hereinafter referred to as the division."
The amendment was adopted.

Mr. Tarr moved that the bill be amended in section 2, in subsection (c) of proposed section 249H½, by striking out the fourth paragraph and inserting in place thereof the following paragraph:—
"The division may proceed with these implementation dates only upon written certification by the commissioner of energy resources, in consultation with the department of environmental protection and the executive officer of energy and environmental affairs, that providing sufficient supplies of the required eligible petroleum distillate substitute fuel to end-use consumers is feasible, taking into consideration supply, blending facilities and costs. If the department of energy resources fails to certify implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days after such decision with the clerks of the house of representatives and the senate, to 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 decline to certify implementation."; and

In section 3, in subsection (c), by striking out the second paragraph and inserting in place thereof the following paragraph:—
"The division may proceed with these implementation dates only upon written certification by the commissioner of energy resources, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible diesel substitute fuel to end-use consumers is feasible, taking into consideration supply, blending facilities and costs. If the department of energy resources fails to certify implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days after such decision with the clerks of the house of representatives and senate and to 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 decline to certify implementation."

Ms. Menard in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twelve minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 5 — nays 31*) [**Yeas and Nays No. 284**]:

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.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Timilty, James E.
Fargo, Susan C.	Tolman, Steven A.
Galluccio, Anthony D.	Tucker, Susan C.
Hart, John A., Jr.	Walsh, Marian
Jehlen, Patricia D.	Wilkerson, Dianne — 31.
Joyce, Brian A.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at eight minutes before five o'clock P.M., the amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 1, in the definition of "Low carbon fuel standard", by striking out the words "may apply to the commonwealth or a larger geographic area and";

In section 2, in the definition of "Low carbon fuel standard", by striking out the words "may apply to the commonwealth or a larger geographic area and";

In section 3, in the definition of "Low Carbon Fuel Standard", by striking out the words "may apply to the Commonwealth or a larger geographic area and"; and

By inserting after section 5 the following section:—

"SECTION 5A. The governor and the secretary of energy and environmental affairs shall develop and enter into, to the extent possible, an agreement among those states participating in the Regional Greenhouse Gas Initiative, for the purpose of

implementing a Low Carbon Fuel Standard, or 'LCFS', for transportation fuels; provided, however, that, when 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 an 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 CO₂-equivalent grains 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; and
- 4) the commonwealth shall, with the other 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 in the agreement the life-cycle analysis methods employed by the California Air Resources Board to determine the carbon intensity of fuel."

The amendment was adopted.

Mr. Tarr moved that the bill be amended by inserting after section 5 the following section:—

"SECTION 5A. There shall be a special commission to investigate and develop a strategy to increase the use of advanced biofuels as alternatives to conventional carbon-based fuels by the commonwealth, its agencies and political subdivisions and regional transit authorities.

The Commission shall consist of the secretary of Administration and Finance or his designee, the secretary of energy and environmental affairs, who shall serve as the chair, the commissioner of energy resources, the director of telecommunications and energy, the commissioner of revenue or his designee, the general manager of the Massachusetts Bay Transportation Authority or his designee, and 6 members to be appointed by the governor 2 of whom shall represent the Massachusetts Municipal Association, two who shall represent regional transit authorities 1 of whom shall represent environmental organizations in the commonwealth and 1 of whom shall represent suppliers of motor fuels in the commonwealth.

The commission shall develop strategies to increase the use of advanced biofuels by the commonwealth, its agencies and political subdivisions, and regional transit authorities and methods to advance those strategies. Methods to be considered shall include, but not be limited to, financing mechanisms including grants, loans and other incentive programs for group procurement of advanced biofuels, vehicles utilizing advanced biofuels and distribution infrastructure and technical assistance.

The Commission shall file a report detailing its strategies and methods and its recommendations, if any, and cost estimates, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives not later than 8 months following the effective date of this act."

After remarks, the amendment was adopted.

Mr. Tarr moved to amend the bill in section 7 by inserting after the words "production credits" the following words:— " , the production and harvesting of woody biomass or woody residue".

The amendment was adopted.

Mr. Downing moved to amend the bill in section 5, in line 31, by striking out the words "December 3, 2008" and inserting in place thereof the following words:— "March 31, 2009".

The amendment was adopted.

After remarks, the question on passing the bill to be engrossed, in concurrence, with the amendments, was determined by a call of the yeas and nays at six minutes before five o'clock P.M., on motion of Mr. Downing, as follows, to wit (*yeas 36 — nays 0*)

[Yeas and Nays No. 285]:

YEAS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.

Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at four minutes before five o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments [For text of Senate amendments, see the text of Senate, No. 2814]. Sent to the House for concurrence in the amendment.

The President in the Chair, the Senate Bill to create a state 911 department, single 911 surcharge and an enhanced 911 fund (Senate, No. 2808),— was read a third time.

Pending the question on passing the bill to be engrossed, Messrs. Timilty and Morrissey moved to amend the bill in section 2, by striking out, in line 187, the number “10” and inserting in place thereof the following number:— “11”;

In said section 2, by inserting after the words “Advisory Board”, in line 197, the following words “, 1 of whom shall be a nominated representative of the Massachusetts Ambulance Association”;

In section 4, by striking out, in line 457, the words “the requirements of law” and inserting in place thereof the following words:— “the requirements of this chapter”;

In section 8, by striking out, in line 526, the words “commonwealth services provider shall not” and inserting in place thereof the following words:— “communication service provider shall not be”;

In section 9, by inserting after the word “section”, in line 599, the following words:— “or for civil action resulting from or caused by such providers for participation or omissions in the development, installation, operation, maintenance, performance or provision of enhanced 911 service except for wanton or willful misconduct,”;

By inserting after section 10, the following section:—

“SECTION 10A. Said chapter 6A is hereby further amended by inserting after section 18J, as so appearing, the following section:—

Section 18K. Sections 18A to 18J, inclusive, shall not be construed to limit or expand the authority to regulate communication service providers under chapters 159 or 166 nor construed to authorize the department, or any other agency, department or subdivision of government, to regulate the rates, terms or conditions of interconnected VoIP service providers or IP-enabled services, other than for the E911 surcharge or the provision of E911 services under said sections 18A to 18J, inclusive.”;

In section 15, by inserting after the words “IP-enabled service”, in line 717, the following words:— “as defined in section 18A of chapter 6A”;

In said section 15, by striking out, in line 747, the word “telephones”, the first time it appears;

In said section 15, by striking out, in line 748, the words “direct telephone dialing” and inserting in place thereof the following words:— “a direct telephone dialing device”;

In said section 15, by striking out, in line 814, the words “such services” and inserting in place thereof the following words:— “the services specified in subsection (d)”;

In said section 15, by striking out, in line 830, the cite “64.605(b)” and inserting in place thereof the following cite:— “64.606”;

In said section 15, by striking out, in line 839, the words “et. seq.” and inserting in place thereof the following words:— “1.0 to 47, inclusive”;

In section 16, by striking out, in line 868, the word “willfully”; and

In said section 16, in the proposed section 14B of chapter 269 of the General Laws by striking out subsection (a) and inserting in place thereof the following subsection:—

“(a) Whoever willfully and maliciously communicates with a PSAP, or causes a communication to be made to a PSAP, which communication contains information which the person knows or has reason to know is false and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency; or (b) whoever willfully and maliciously, makes or causes to be made 3 or more silent calls to any PSAP and thereby causes emergency services to be dispatched 3 or more times shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$1,000. Whoever commits a second or subsequent violation of this section shall be punished by imprisonment in the house of correction for not more than 2 ½ years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than 5,000 dollars, or by both such fine and imprisonment.”

After remarks, the amendment was adopted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at six minutes past five o'clock P.M., on motion of Mr. Timilty, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 286**]:

YEAS.	
Antonioni, Robert A.	Knapik, Michael R.
Augustus, Edward M., Jr.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tisei, Richard R.
Hart, John A., Jr.	Tolman, Steven A.
Hedlund, Robert L.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at ten minutes past five o'clock P.M., the bill (Senate, No. 2808, amended) was passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to patient safety (House, No. 4783),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Panagiotakos moved to amend the bill in section 4, by inserting after the word “facility”, in line 266, the following words:— “, an inpatient substance abuse facility”;

In said section 4, by inserting after the word “staff” in line 318, the following words:— “and shall be posted in electronic format, as determined by regulation promulgated by the department”;

In said section 4, by striking out, in lines 363 to 364, the words “at the patient care unit for the effective date of that roster”;

In said section 4, by inserting after the word “measurements”, in line 492, the following words:— “, further adjusted for hospitals with fewer than 100 acute care licensed beds,”;

In said section 4, in proposed section 56F of chapter 111, by striking out subsections (b) and (c) and inserting in place thereof the following 2 subsections:—

“(b) For the purposes of complying with the requirements set forth in this section, except in cases of a federal or state government declared public emergency, or a facility-wide emergency, no facility may employ mandatory overtime.

(c) Nothing in this section shall be construed to limit, alter or modify the terms, conditions or provisions of a collective bargaining agreement entered into by the hospital.”;

In section 11, by inserting after the words “3 community hospitals”, in line 619, the following words:— “, as the department may determine”; and

In said section 11, by inserting after the words “Massachusetts Association of Colleges of Nursing”, in line 621, the following words:— “and, as the department may determine, a representative from”.

This amendment was adopted.

After remarks, the question on passing the bill to be engrossed in concurrence, with the amendment, was determined by a call of the yeas and nays, at a half past five o’clock P.M., on motion of Mr. Morrissey, as follows, to wit (*yeas 23 — nays 13*) [**Yeas and Nays No. 287**]:

YEAS.	
Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Panagiotakos, Steven C.
Brewer, Stephen M.	Resor, Pamela
Brown, Scott P.	Rosenberg, Stanley C.
Buoniconti, Stephen J.	Spilka, Karen E.
Candaras, Gale D.	Tarr, Bruce E.
Creedon, Robert S., Jr.	Tisei, Richard R.
Downing, Benjamin B.	Tolman, Steven A.
Fargo, Susan C.	Tucker, Susan C.
Joyce, Brian A.	Wilkerson, Dianne — 23.
Knapik, Michael R.	
NAYS.	
Augustus, Edward M., Jr.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Creem, Cynthia Stone	Morrissey, Michael W.
Galluccio, Anthony D.	O’Leary, Robert A.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Walsh, Marian — 13.
Jehlen, Patricia D.	

ABSENT OR NOT VOTING.	
Marzilli, Jim	Petrucelli, Anthony — 3.
Pacheco, Marc R.	

The yeas and nays having been completed at twenty-seven minutes before six o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.

Matter Taken Out of the Notice Section — Objected.

The President requested that the House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4952),— **be taken out of the Notice Section of the Calendar for consideration forthwith; but objection was made thereto by Mr. Tisei.**

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows: The House Bill conveying land from the town of Plainfield to the Plainfield Congregational Church (House, No. 4474),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Downing moved that the bill be amended in section 2, by adding the following sentence:— “The deed shall also include an easement to the town for parking privileges on the granted premises for town business and the town shall agree to plow the parking lot on the granted premises.”.

This amendment was adopted.

The bill was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Reports of a Committee.

Mr. Downing for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill directing the superintendent of state office buildings to place a monument in honor of African Americans (House, No. 3193, changed) (the committee on Ethics and Rules recommending that the bill be amended by substituting a resolve entitled “A Resolve providing for a plaque at the State House to honor the contributions of African Americans to the Commonwealth” (Senate, No. 2812)).

There being no objection, the rules were suspended, on motion of Ms. Wilkerson, and the bill was read a second time and was amended, as recommended by the committee on Ethics and Rules.

The resolve (Senate, No. 2812) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Mr. Downing for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Resolve creating a special commission on institutional long term care services (Senate, No. 2417) (the committee on Ethics and Rules recommending that the resolve be amended by striking out, in line 32, the words “December 31, 2008” and inserting in place thereof the following words:— “July 1, 2009”).

The rules were suspended, on motion of Ms. Candaras, and the bill was read a second time and, after remarks, was amended, as recommended by the committee on Ethics and Rules.

The bill (Senate, No. 2417, amended) was then ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “A Resolve establishing a special commission on institutional long-term care services”.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The Senate Bill relative to rates for human and social service programs (Senate, No. 2764, amended),— came from the House passed to be engrossed, in concurrence with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4973.

The rules were suspended, on motion of Mr. Berry, and the House amendment was considered forthwith and adopted, in concurrence.

The House Bill relative to early education and care (House, No. 4706, amended),— came from the House with the endorsement that the House had concurred in the Senate amendment with a further amendment in section 36, in subsection 16, by striking out the word “probable” and inserting in place thereof the word “reasonable”; by inserting after section 64 the following four sections:

“SECTION 64A. Section 21 of said chapter 119, as amended by said section 83 of said chapter 176, is hereby further amended by striking out the definition of ‘Qualified expert’.

SECTION 64B. Said Chapter 119 is hereby further amended by striking out section 21A, as appearing in said section 83 of said chapter 176, and inserting in place thereof the following section:—

Section 21A. Evidence in proceedings under section 21 to 51H inclusive, shall be admissible according to the rules of the common law and the General Laws and may include reports to the court by any person who has made an investigation of the facts relating to the welfare of the child and is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children. Such person may file with the court in a proceeding under said sections 21 to 51H, inclusive, a full report of all the facts obtained as a result of such investigation. The person reporting may be called as a witness by any party for examination as to the statements made in the report. Such examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been the in the care of the foster or pre-adoptive parents for 6 months or more, and may include the testimony of the child if the court determines that the child is competent and willing after consultation with counsel, if any, to testify.

SECTION 64C. The fifth paragraph of section 24 of said chapter 119, as appearing in section 84 of said chapter 176, is hereby further amended by striking out the words ‘qualified expert’ and inserting in place thereof the following words:— person qualified under section 21A.

SECTION 64D. Subsection (a) of section 26 of said chapter 119, as appearing in said section 84 of said chapter 176, is hereby further amended by striking out the words ‘qualified expert’ and inserting in place thereof the following words:— person qualified under section 21A.”; and by striking out section 90 and inserting in place thereof the following section:—

“SECTION 90. Sections 63, 64A, 64B, 64C and 64D shall take effect July 8, 2008.”.

The rules were suspended, on motion of Mr. Antonioni, and the House further amendment was considered forthwith.

Mr. Panagiotakos moved that the Senate concur with the further House amendment with a still further amendment, inserting after section 64 the following section:

“SECTION 64½. The first sentence of said section 21 of chapter 119, as amended by said section 83 of said chapter 176, is hereby further amended by striking out the figure ‘55H’ and inserting in place thereof the following figure:— ‘51H’.”

The motion was accepted; and the amendment was adopted (as corrected BTR).

Sent to the House for concurrence in the still further amendment.

Emergency Preambles Adopted.

An engrossed Bill establishing the regional efficiency assistance grant fund (see House, No. 4960), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 3 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill requiring the Department of Revenue to report preliminary tax revenues (see House, No. 4958, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 4 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill requiring a report of expenditure of the Division of Capital Asset Management and Maintenance for fiscal year 2008 (see House, No. 4961), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 3 to 0.**

The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Shannon Crouse, an employee of the Trial Court (see House, No. 4866, amended);

Establishing a sick leave bank for Mary Mercurio, an employee of the Department of Social Services (see House, No. 4868, amended); and

Establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services (see House, No. 4882, amended).

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be re-enacted and were signed by the President and again laid before the Governor for his approbation, to wit:

Requiring the Department of Revenue to report preliminary tax revenues (see House, No. 4958, amended);

Establishing the regional efficiency assistance grant fund (see House, No. 4960); and

Requiring a report of expenditure of the Division of Capital Asset Management and Maintenance for fiscal year 2008 (see House, No. 4961).

Report of a Committee.

Mr. Downing, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill authorizing the State Secretary to place an election on certain state ballots (House, No. 4865).

There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act providing for the elections of school committee members in the Southern Berkshire Regional School District".

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4985) of John J. Binienda and William M. Straus for legislation to provide for a two-day exemption from the sales tax in the month of August in the current year;

Under suspension of Joint Rule 12, to the committee on Revenue.

Joint petition (accompanied by bill, House, No. 4986) of Steven C. Panagiotakos and Robert S. Hargraves for legislation to include the town of Pepperell in the economic target and opportunity areas of the Devins Regional Enterprise Zone;

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

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.

On motion of Mr. Rosenberg, at five minutes past six o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.