

**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 29, 2012.

Met at one minutes past one o'clock P.M. (Mr. Michael O. Moore in the Chair).

#### *Distinguished Guests.*

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Mr. Finegold for the purpose of an introduction. Mr. Finegold then introduced, on the Rostrum, Nick Theodore from Dracut. Nick was being recognized for heroically rescuing his grandfather from a fire in his garage a few weeks ago. Nick was presented with a Senate citation on the rostrum.. The Senate applauded his heroic efforts and he withdrew from the Chamber. He was accompanied by his father, Dino.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Chang-Diaz for the purpose of an introduction. Ms. Chang- Diaz then introduced, in the rear of the Chamber, the Brookline-JP Patriots. The team was recognized for finishing their season with a 12-0 record and did not let up a single point throughout the season. They were accompanied by Coach Ian Cotterell, who was nominated for the 2011 Don Shula NFL Coach of the Year Award and Team President Thomasina Cole. The Senate wished them luck as they advance to the Pop Warner Super Bowl and they withdrew from the Chamber. They were also guests of Senator Creem.

#### *Petition.*

Mr. Tarr presented a petition (subject to Joint Rule 12) of Bruce E. Tarr, Bradley H. Jones, Jr., Frederick E. Berry, Theodore C. Speliotis and others for legislation relative to the Essex regional retirement system;

**Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

#### *Reports of Committees.*

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill further clarifying the preservation of the Blackstone River and Canal (Senate, No. 362);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill relative to the study of electronic ticketing (Senate, No. 1222); and

By Mr. Rush, for the committee on Veterans and Federal Affairs, on Senate, Nos. 1819, 1822, 1823, 1825, 1831 and 1835 and House, Nos. 961, 963, 965, 3307, 3323, 3425 and 3658, a Bill relative to veterans' access, livelihood, opportunity and resources (Senate, No. 2193);

**Severally read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.**

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill to promote healthy communities and the environment (Senate, No. 343);

By the same Senator, for the same committee, on petition, a Bill to protect children from bisphenol-A (Senate, No. 382); and

By Ms. Fargo, for the committee on Public Health, on petition (accompanied by bill, Senate, No. 1136), a Bill relative to disciplinary actions under the Board of Registration in Medicine (Senate, No. 2195);

**Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.**

By Ms. Chang-Diaz, for the committee on Education, on petition, a Bill relative to out of state price authorization for chapter 766 students (Senate, No. 180);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 182), a Bill relative to geography education in Massachusetts (Senate, No. 2194);

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill relative to water conservation (Senate, No. 327);

By the same Senator, for the same committee, on petition, a Bill to protect public water supply lands (Senate, No. 328);

By the same Senator, for the same committee, on petition, a Bill relative to the forest products trust fund (Senate, No. 331);

By the same Senator, for the same committee, on petition, a Bill to advance the redevelopment of brownfields (Senate, No. 339);

By the same Senator, for the same committee, on petition, a Bill to revitalize urban centers (Senate, No. 340);

By the same Senator, for the same committee, on petition, a Bill requiring notification of tenants about oil and hazardous waste material release (Senate, No. 348);

By the same Senator, for the same committee, on petition, a Bill to require recycling in public buildings (Senate, No. 379);

By the same Senator, for the same committee, on petition, a Bill relative to the feeding of wildlife (Senate, No. 2028);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill amending the enclosure for public and semiprivate outdoor inground swimming pools (Senate, No. 1181);

By the same Senator, for the same committee, on petition, a Bill relative to trenches on private property (Senate, No. 1185);

By the same Senator, for the same committee, on petition, a Bill relative to fire training (Senate, No. 1995); and

By Mr. Brownsberger, for the committee on Public Service, on petition, a Bill establishing a sick leave bank (Senate, No. 2188);

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

By Ms. Chang-Diaz, for the committee on Education, on petition, a Bill to maintain short term objectives for students with disabilities (Senate, No. 193);

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill relative to the Charles L. Bowley Memorial Bridge (Senate, No. 358);

By the same Senator, for the same committee, on petition, a Bill designating a certain node of the Blackstone River and Canal Heritage State Park in the town of Uxbridge as the Effingham Capron Memorial Park (Senate, No. 361);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition, a Bill relative to the interstate compact warrant (Senate, No. 1200); and

By the same Senator, for the same committee, on petition, a Bill relative to medical examinations in correctional facilities (Senate, No. 1203);

**Severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

#### **PAPERS FROM THE HOUSE**

A petition (accompanied by bill, House, No. 3937) of John V. Fernandes and Richard T. Moore (by vote of the town) authorizing the town of Hopedale to allow direct deposit of receipts into certain funds,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

A Bill financing improvements to the Commonwealth's Transportation System (House, No. 4000,-- on House, No. 3979 in part), -- **was read and, under Senate Rule 26C, referred to the committee on Bonding, Capital Expenditures and State Assets.**

A Bill establishing a sick leave bank for Janet Ochner, an employee of the Department of Developmental Services (House, No. 3969,-- on petition), -- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

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

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

#### **PAPER FROM THE HOUSE**

The Senate Bill relative to the charter of the town of Norwell (Senate, No. 2186),-- **came from the House, passed to be engrossed, in concurrence, with amendments by adding after section 7 the following paragraph:-**

"If a majority of the votes cast in answer to the question is in the affirmative, this act shall take effect, but not otherwise."; and by

striking out section 8 and inserting in place thereof the following section:

“SECTION 8. This act shall take effect upon its passage.”.

**The rules were suspended, on motion of Ms. Clark, and the House amendment was adopted, in concurrence (as corrected BTR).**

*Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-

Resolutions (filed by Ms. Murray and Mr. Wolf) “congratulating Dr. Kathleen Schatzberg on the occasion of her retirement as President from Cape Cod Community College”; and

Resolutions (filed by Messrs. Pacheco, Joyce, Kennedy, Montigny, Ross, Rodrigues and Timilty) “congratulating Bristol County Agricultural High School on the occasion of its Centennial Celebration.”

*Communication.*

The Clerk read the following communication.

COMMONWEALTH OF MASSACHUSETTS  
THE GENERAL COURT  
STATE HOUSE, BOSTON 02133-1053

William F. Welch  
Clerk of the Senate  
Room 335, State House  
Boston, MA 02133

Dear Mr. Clerk:

On Thursday, March 22, I was unable to be present for the following votes relating to Senate Bill 2184: Roll Call #3; and Roll Call #7. Had I been present, I would have voted as follows:

Roll Call #3: (Affirmative)

Roll Call #7: (Negative)

I respectfully request that this letter be printed in the Senate Journal as part of the official record. Thank you for your assistance in this matter.

*Sincerely,*  
Daniel A. Wolf  
*State Senator*  
*Cape & Islands District*

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

*Orders Adopted.*

Mr. DiDomenico offered the following order:

*Ordered*, that, notwithstanding the provision of Joint Rule 10 the Joint Committee on Community Development and Small Business be granted until April 30, 2012 within which to make its final report on a current Senate document numbered 1843 relative to regulating franchise agreements.

**Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.**

**Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Ms. Spilka, and the order was considered forthwith and adopted.**

**Sent to the House for concurrence.**

Mr. McGee offered the following order:

*Ordered*, that notwithstanding the provisions of Joint Rule 10, the committee on Transportation be granted until Tuesday May 1, 2012 within which to make its final report on current Senate documents numbered 1717, 1728, 1730, 1733, 1746, 1757, 1762, 1772, 1776, 1778, 1780, 1789, 1792, 1793, 1797, 1798, 1801, 1802, 1804, 1805, 2024, 2041.

**Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.**

**Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Ms. Creem, and the order was considered forthwith and adopted.  
Sent to the House for concurrence.**

Ms. Creem offered the following order:

*Ordered*, that notwithstanding the provisions of Joint Rule 10, the Committee on the Judiciary be granted until April 27, 2012, within which time to make its final report on current Senate documents numbered 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 679, 680, 681, 682, 683, 684, 685, 686, 689, 691, 693, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 729, 730, 731, 732, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 755, 756, 757, 758, 759, 760, 761, 762, 763, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 821, 822, 823, 824, 825, 826, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 862, 863, 864, 865, 866, 867, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 976, 1227, 1712, 1859, 1860, 1861, 1862, 1953, 2012, 2040, 2061, and 2160, relative to the Judiciary

**Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.**

**Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.**

**The rules were suspended, on motion of Mr. Tarr, and after remarks, the order was considered forthwith and adopted.  
Sent to the House for concurrence.**

#### *Reports of Committees.*

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Carl Senna, an employee of the Department of Correction (Senate, No. 2131),-- **ought to pass.**

**There being no objection, the rules were suspended, on motion of Mr. Timilty, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.  
Sent to the House for concurrence.**

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Judith Christianson, an employee of the Department of Transitional Assistance (Senate, No. 2161),-- ought to pass, with an amendment striking out, in line 7, the words "department of transitional assistance paid" and inserting in place thereof the following words:- "extended illness"; and by striking out, in line 9, the following words:- "of transitional assistance".

**There being no objection, the rules were suspended, on motion of Mr. Keenan, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**The bill (Senate, No. 2161, amended) was then ordered to a third reading, read a third time and passed to be engrossed.  
Sent to the House for concurrence.**

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick bank for Mary M. Stanton (House, No. 3972),-- ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2196; by striking out the emergency preamble and inserting in place thereof the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of developmental services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and by striking out the title and inserting in place thereof the following title: "An Act establishing a sick leave bank for Mary M. Stanton, an employee of the Department of Developmental Services".

**There being no objection, the rules were suspended, on motion of Mr. Keenan, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**The bill, amended was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment  
Sent to the House for concurrence in the amendment.**

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Therese Murray, Randy Hunt and Viriato Manuel deMacedo for legislation to designate certain bridges in the town of Bourne as the Staff Sergeant Matthew A. Pucino bridges.

**Senate Rule 36 was suspended, on motion of Mr. Hart, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation.  
Sent to the House for concurrence.**

The following report was laid before the Senate, the time within which the said committee was required to report having expired:—

Of the committee on Municipalities and Regional Government, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, Senate, No. 1008) of Harriette L. Chandler and Marc R. Pacheco for legislation relative to land use.

**On motion of Mr. Welch, the bill was recommitted to the Joint Committee on Municipalities and Regional Government.**

Of the committee on Municipalities and Regional Government, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, Senate, No. 1019) of James B. Eldridge, Stephen Kulik, Paul J. Donato, Marc R. Pacheco and other members of the General Court for legislation to comprehensive land use reform and partnership.

**On motion of Mr. Pacheco, the bill was recommitted to the Joint Committee on Municipalities and Regional Government.**

## **PAPERS FROM THE HOUSE**

### *Engrossed Bills.*

The following engrossed bills (the first of which originated in the Senate), 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:

Relative to the Dighton Water District in the town of Dighton (see Senate, No. 2174, amended);

Authorizing the town of Dartmouth to establish a trust fund for police officer medical benefits (see House, No. 2328);

Designating a certain bridge in the town of Dalton as the 2nd Lt. Michael J. Casey, Sr. Memorial Bridge (see House, No. 3638, amended);

Authorizing the town of Harvard to issue one-day liquor licenses (see House, No. 3715, amended); and

Relative to a certain parcel of land in the town of Freetown (see House, No. 3953).

### *Orders of the Day.*

The Orders of the Day were considered, as follows:

The Senate Bill relative to competitively priced electricity in the Commonwealth (Senate, No. 2190),- **was read a second time. The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2161) was considered.**

After debate, Ms. Candaras moved that the bill be amended by adding the following Section:

SECTION XX. Chapter 775 of the Acts of 1975 is hereby further amended by striking out section 6(a), as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 6(a). The corporation, and member and non-member cities and towns having municipal electric departments established under chapter one hundred and sixty-four of the General Laws or by a special act and other utilities, public or private, may enter into energy contracts including, without limiting the generality of the foregoing, contracts providing for the sale or purchase of energy or energy facilities, borrowing by members under a pooled loan program, planning, engineering, design, acquiring sites or options for sites and expenses preliminary or incidental to such facilities. Any such contract (i) may be for the life of a facility or other term or for an indefinite period, (ii) may provide for the payment of unconditional obligations imposed without regard to whether a facility is undertaken, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a facility and (iii) may contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters deemed necessary or desirable to carry out its purposes. Any such contract may also provide, in the event of default by any party thereto in the performance of its obligations thereunder, for other parties to assume the obligations and succeed to the rights and interests of the defaulting party, pro rata or otherwise as may be agreed upon in the contract.

**After remarks, the amendment was adopted.**

Mr. Wolf moved that the bill be amended in section 25, by striking out, in lines 329 to 331, the following words:- “provided, that a cooperative corporation organized under section 136 that is comprised solely of municipalities or other governmental entities may assign generating capacity to municipalities or other governmental entities with the approval of the department”; and by inserting in place thereof the following words:-“provided that a cooperative corporation organized under section 136 that is comprised solely of municipalities or other governmental entities may qualify as the customer of a net metering facility of a municipality or other governmental entity and such cooperative corporation may allocate the facility's generating capacity to a municipality or other governmental entity with the written assent of (1) such municipality or other governmental entity and (2) the department. A municipality or governmental entity may not exceed 10 megawatts, whether as a customer of a net metering facility or from allocated generating capacity from such cooperative corporation.

**After remarks, the amendment was adopted.**

Ms. Clark and Messrs. Tarr and Finegold moved that the bill be amended by striking out section 34 and inserting in place thereof the following section:-

“SECTION 34. “The department of public utilities shall conduct a study into the financing of low-income electric and gas discount programs. The study shall identify the financing of the existing program at each electric and gas distribution company and shall include consideration of adopting a statewide mechanism for financing low-income discount programs. In addition, the study shall identify and make recommendations as to cost-saving efficiencies that increase accountability. The department shall submit a copy of the study to the clerks of the house of representatives and the senate who shall forward the copy of the study to the joint committee on telecommunications, utilities and energy by January 1, 2014.”

**After remarks, the amendment was adopted.**

Messrs. Knapik and Tarr moved that the bill be amended in section 4, line 26, by striking out the phrase “5 largest electric users” and inserting in place thereof the following phrase: - “20 largest electric users”.

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in section 4, by striking out, in lines 40, 41, and 42, the following sentence:

“Customers opting to receive an accelerated rebate shall be ineligible for other energy efficiency program rebates under said section 21 during the period in which they participate in the pilot program”.

The amendment was *rejected*.

Mr. Downing moved that the bill be amended by striking out section 14 and inserting in place thereof the following section:-

“SECTION 14. Said section 2B of said chapter 59, as so appearing, is hereby further amended by inserting after the word “public”, in line 37, the following words:- , to leases and licenses for renewable generation facilities, defined as eligible under subsection (c) of section 11F of chapter 25A, from which facilities not less than 50 per cent of the energy output is assigned to either the municipality in which the facility is located or to the governmental entity that owns the land on which the facility is located,”; and, in section 15, by inserting, in line 180, the following words:-“, including multiple systems on the same property and on contiguous parcels under common ownership”

**After remarks, the amendment was adopted.**

Messrs. Michael O. Moore, Rodrigues, Eldridge, Pacheco, Finegold and Brownsberger, Ms. Jehlen and Mr. Tarr moved that the bill be amended by inserting after section 20, the following 4 sections:-

“SECTION 20A. Section 138 of said chapter 164, as so appearing, is hereby amended by inserting after the definition of ‘Agriculture’ the following definition:-

‘Anaerobic digestion net metering facility’, a facility that (1) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; and (2) has been determined by the department of energy resources, in coordination with the department of environmental protection, to qualify under the department of energy resources regulations as a Class I renewable energy generating source under section 11F of chapter 25A.

SECTION 20B. Said section 138 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 20-23, the words “and provided further, that credit for a Class I net metering facility not using solar or wind as its energy source shall be the average monthly clearing price at the ISO-NE” and inserting in place thereof the following words:- and provided further, that credit for a Class I net metering facility that is not an agricultural net metering facility or that is not using solar, anaerobic digestion or wind as its energy source shall be the average monthly clearing price at the ISO-NE.

SECTION 20C. Said section 138 of said chapter 164, as so appearing, is hereby further amended by inserting, in lines 36 and 54, after the word ‘facility’, the second time it appears, in each instance, the following words:- , an anaerobic digestion net metering facility.

SECTION 20D. Said section 138 of said chapter 164, as so appearing, is hereby further amended by inserting, in line 60, after the word ‘metering’, the first time it appears, the following words:- , anaerobic digestion net metering.”; and

By inserting after section 25 the following section:-

“SECTION 25A. Said subsection (f) of said section 139 of said chapter 164, as so appearing, is hereby further amended by inserting, in line 76, after the word ‘facility’, the following words:- or an anaerobic digestion net metering facility.”

**After remarks, the amendment was adopted.**

Ms. Chang-Díaz of Boston moved that the bill be amended by inserting the following section:-

“SECTION XX. Section 1J of chapter 164 of the General Laws is hereby amended by adding the following paragraph:-

In the event that more than either (i) 20,000 customers or (ii) 0.8% of the total customers, whichever is fewer, of an electric utility are subjected to a continuous power interruption of 4 hours or more that results in the transmission of power at less than 50% of the standard voltage, or that results in the total loss of power transmission, the utility shall be responsible for reimbursing the affected municipality, county, or other unit of local government in which the power interruption has taken place for all emergency expenses, direct and contingent, incurred as a result of the interruption. A waiver of the requirements of this section may be granted by the department in instances in which the utility can show that the power interruption was a result of any one or more of the following causes:

- (1) Unpreventable damage due to weather events or conditions; or
- (2) Customer tampering; or
- (3) Unpreventable damage due to civil or international unrest, criminal mischief or animals; or

(4) Damage to utility equipment or other actions by a party other than the utility, its employees, agents, or contractors. Loss of revenue and expenses incurred in complying with this section may not be recovered from retail customers.”

**After remarks, the amendment was adopted.**

Mr. Donnelly moved that the bill be amended in section 28 by inserting after the words “financing of renewable energy generation.” the following new sentence:- Distribution companies may also voluntarily solicit additional proposals during that time period.

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 29 by striking the term “15 to 20”, in lines 374 and 375, and replacing it with the following :- “10 to 20”.

**After remarks, the amendment was adopted.**

Mr. Tarr moved that the bill be amended in section 32 by striking the words “unless said programs are separately itemized on a ratepayer’s bill”, in lines 485-486.

**The amendment was adopted.**

Mr. Tarr moved that the bill be amended in section 29, by inserting in the first paragraph, at the end thereof, the following sentence:- “The department of energy resources, in conjunction with the department of public utilities, shall, prior to the solicitation or execution of any long-term contract to facilitate the financing of renewable energy generation provided for in the section, conduct a study on the capacity of the state and the region to meet the renewable energy goals of this section. The study shall include, but not be limited to, an analysis the amount of renewable energy that will be required to comply with this section and a comparison of how that increased requirement compares to currently available and identifiable renewable energy sources in the state and in the region. The study shall analyze the impact of the requirements of this section on the wind energy market, including but not limited to how much energy will need to be produced by wind mills, the capacity of the state and region to locate mills to meet that need, potential municipal resistance to meeting the siting needs, the potential siting would need to be done in state park land, and any legislative changes that may have to be undertaken to reach the energy requirement. The department of energy resources and the department of public utilities shall make the study conspicuously available on their website, submit notice of the completion the report to each distribution company required to comply with this section, and file said report with the clerks of the senate and house of representatives, who should forward a copy to the chairs and ranking members of the joint committee on telecommunications, utilities and energy.”

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 29 by inserting after the word “customers”, in line 436, the following words:- “at the contract price”.

**The amendment was adopted.**

Mr. Downing moved that the bill be amended in section 4, by striking out, in line 31 and 36, the word “department” and inserting in place thereof the following words:-“EEAC criteria”; and, in section 4, by adding to the end thereof, the following sentence:- “Electric and gas distribution companies shall recalibrate their energy efficiency goals, as reviewed by the EEAC under subsection (d) of section 22 of chapter 25, to reflect the rebates provided to any customer electing to participate in this pilot program.”

The amendment was adopted.

Mr. Keenan moved that the bill be amended in section 4 by adding the following sentence:-“This subsection shall not apply to a service territory belonging to a municipally-owned lighting plant.”

After remarks, the amendment was *rejected*.

Mr. Pacheco moved to amend the bill section 33 striking out, in line 489, the words “department of energy resources” and inserting in place thereof the following words:-“executive office of energy and environmental affairs”; and by inserting at the end thereof following words:- “The requirement to conduct a study shall not be construed as a limitation on the authority or obligation of the department of environmental protection to issue regulations pursuant to subsection (c) of section 3 of chapter 21N of the General Laws; nor shall the completion of the study be deemed to be a condition precedent to the issuance of such regulations.”

**After remarks, the amendment was adopted.**

**Pending the question on adoption of the amendment recommended by the committee on Ways and Means and pending the main question on ordering the bill to a third reading, on motion of Mr. Brewer the further consideration thereof was postponed until Thursday, April 5.**

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

#### **PAPERS FORM THE HOUSE**

*Engrossed Bills.*

The following engrossed bills (the first of which originated in the Senate), 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:

Relative to the charter of the town of Norwell (see Senate, No. 2186, amended); and

Relative to the duration of contracts for the position of chief of police in the town of Natick (see House, No. 3333, amended).

*Communication.*

The following communication, which was received in the Office of the Clerk of the Senate at twenty-one minutes before two o'clock P.M. on Thursday, March 29, 2012, was read and placed on file to wit

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

*March 29, 2012*

The Honorable Therese Murray

President  
Massachusetts State Senate  
State House, Room 332  
Boston, MA 02133

Dear Madame President:

Please accept this letter as notice of my resignation from the Massachusetts State Senate representing the First Essex District effective at the close of business on Monday, April 2nd, 2012.

Looking back over the past ten years, I am particularly proud of the contributions I made in reforming our transportation system, improving public safety, keeping government spending in check, and making state government more transparent and accountable. All of these accomplishments would not have been possible without the encouragement, friendship, and support of not only my constituents but you.

Along with the honor of serving the public, I will miss the daily contact with local officials, community and civic leaders, business owners, and my colleagues in the House and Senate. The privilege of representing the First Essex District in the Senate has been a remarkable and challenging experience - one that I will always cherish.

*Sincerely,*  
Steven A. Baddour  
*State Senator*  
*First Essex District*

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

*Orders of the Day.*

The Orders of the Day were further considered, as follows:

The Senate Bill further regulating business practices between motor vehicle dealers, manufacturers and distributors (Senate, No. 1975),-- **was considered, the main question being on ordering the bill to a third reading.**

**The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2162),- was considered.**

Mr. Timilty moved that the bill be amended by adding at the end thereof the following new Section:-

SECTION X. Section 1. Section 58 of Chapter 140 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after clause (8) of subsection (c) the following:

(9) The dealer's business is situated within a permanent building or permanently affixed structure, owned or leased by the dealer for the dealer's exclusive use. Except for a dealer who exchanges vehicles or trailers solely on a wholesale basis, the dealer shall be open to the public. The building, structure, shall have adequate office space to conduct the business and hours of operation shall be posted. If more than one business is located within the same building or structure, the dealer shall maintain a separate and exclusive entrance. Subject to any municipal regulation, ordinance or bylaw, and except for a dealer who exchanges motor



vehicles or trailers solely on a wholesale basis, the dealer shall display a permanently affixed exterior sign of sufficient size and design to give the general public notice of the name, telephone number and nature of the business. Except for a dealer who exchanges motor vehicles or trailers solely on a wholesale basis, the dealer shall have an area to display the vehicles offered for sale, which cannot be shared with any other business unless a clear physical separation exists. Vehicles cannot be offered for sale at any other location; however, this shall not prohibit a dealer from transporting and offering vehicles for sale at a recognized automobile auction facility, or a combined dealer special sale event. A municipal licensing authority shall issue only one Class 2 license for a building at a specific street address.

Section 2. Notwithstanding any general or special law to the contrary the Registry of Motor Vehicles is hereby directed to establish a standard application form for applicants for a Class 2 license pursuant to Section 58 of Chapter 140 which shall be utilized by all licensing authorities issuing said Class 2 license. The application shall include, but not be limited to, the name and address of the applicant, the name and address of the motor vehicle dealership, a box to be checked confirming evidence of a \$25,000 bond and its certificate number or equivalent certificate of deposit or irrevocable letter of credit, and a box to be checked for wholesale dealer which shall include the following text "a checkmark in this box shall prohibit such licensee from selling motor vehicles to the retail public". The municipal licensing authority shall clearly indicate on the Class 2 license for wholesale only. A Class 2 licensee with a wholesale only license who sells at retail shall be subject to a fine of \$5000 payable to the municipal licensing authority and immediate revocation of the Class 2 license by the licensing authority. The municipal licensing authority shall transmit a copy of said completed application to the Registrar of Motor Vehicles and to the Department of Revenue.

Section 3. Section 1 and Section 2 shall become effective on January 1, 2013

The amendment was *rejected*.

**The Ways and Means amendment was again considered, and it was adopted.**

**The bill (Senate, No. 2162) was then ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

*Order Adopted.*

On motion of Mr. Pacheco,--

*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. Brewer, at twelve minutes past four o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.